

TCP/11/16(194)

Planning Application 12/00117/FLL – Erection of one pair of semi-detached dwellings on site east of 9 Friar Place, Scotlandwell

**PAPERS SUBMITTED
BY THE
APPLICANT**

CHIEF EXECUTIVES
DEMOCRATIC SERVICES
19 JUN 2012
RECEIVED

Notice of Review

NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN
RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE)
(SCOTLAND) REGULATIONS 2008

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

**IMPORTANT: Please read and follow the guidance notes provided when completing this form.
Failure to supply all the relevant information could invalidate your notice of review.**

Use BLOCK CAPITALS if completing in manuscript

Applicant(s)

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Mark this box to confirm all contact should be
through this representative: ☒ Yes ☐ No

* Do you agree to correspondence regarding your review being sent by e-mail?

Yes ☒ No ☐

Planning authority

PERTH + KINROSE COUNCIL

Planning authority's application reference number

12/00117/FLL

Site address

DERELICT LAND TO EAST OF 9 FRIAR PLACE, SCOTLANDWELL

Description of proposed
development

ERECTION OF ONE PAIR OF SEMI-DETACHED DWELLINGS

Date of application

21/01/12

Date of decision (if any)

04/04/12

Note. This notice must be served on the planning authority within three months of the date of the decision
notice or from the date of expiry of the period allowed for determining the application.

Nature of application

1. Application for planning permission (including householder application) ☒
2. Application for planning permission in principle ☐
3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition) ☐
4. Application for approval of matters specified in conditions ☐

Reasons for seeking review

1. Refusal of application by appointed officer ☒
2. Failure by appointed officer to determine the application within the period allowed for determination of the application ☐
3. Conditions imposed on consent by appointed officer ☐

Review procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

1. Further written submissions ☒
2. One or more hearing sessions ☒
3. Site inspection ☒
4. Assessment of review documents only, with no further procedure ☐

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

FURTHER SUBMISSIONS AND HEARING DESIRABLE TO DEBATE MERITS OF PROPOSAL AND TO ANSWER ANY QUERIES RAISED BY ELECTED MEMBERS OR OTHER THIRD PARTY OBJECTORS.

Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- | | Yes | No |
|--|-------------------------------------|--------------------------|
| 1. Can the site be viewed entirely from public land? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

Statement

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

PLEASE REFER TO ATTACHED STATEMENT.

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes ☐ No ☒

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

N/A

List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

PLEASE REFER TO ATTACHED STATEMENT

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

Checklist

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

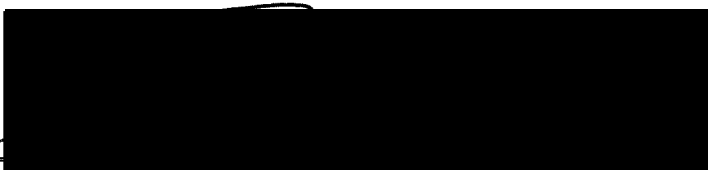
- ☒ Full completion of all parts of this form
- ☒ Statement of your reasons for requiring a review
- ☒ All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

Declaration

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed



Date

18/06/12.

Review Request

12/00117/FLL

ERECTION OF ONE PAIR OF SEMI-DETACHED DWELLINGS

on

DERELICT LAND TO EAST OF 9 FRIAR PLACE - SCOTLANDWELL

Prepared by

**Derek Scott Planning
Planning and Development Consultants**



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On behalf of

MRS MARGARET PATERSON



Executive Summary

12/00117/FLL - ERECTION OF ONE PAIR OF SEMI-DETACHED DWELLINGS ON DERELICT LAND TO EAST OF 9 FRIAR PLACE - SCOTLANDWELL

- The application site consists of a derelict unkempt parcel of land located between Nos. 9 and 11 Friar Place, Scotlandwell. It is bounded to the north by Friar Place beyond which there exists an electricity sub-station and beyond that by a historical burial ground. To the south it is bounded by a maturing hedge and open agricultural land.
- The application site is in an overgrown and unkempt condition and is incapable in its present condition of being used for open space purposes as it is not accessible, safe, welcoming, appealing, distinctive or well connected. These are attributes required of open space as defined in Scottish Planning Policy.
- The application site was identified as an area of open space in a planning application approved by the Council in 1994 under Planning Application Reference Number PK/93/0251. Conditions imposed on that permission which required the site to be made accessible to the public, laid out as public open space; landscaped; and maintained thereafter were not complied with by the original developer and through the passage of time have become immune from enforcement action as a result of the 'ten year' rule.
- The planning application submitted seeks detailed planning permission for the erection of a pair of semi-detached dwelling houses on the site which are of a design which is in keeping and character with other dwelling houses on Friar Place.
- The village of Scotlandwell already benefits from a significant area of open space at 'The Green' which provides a range of amenity facilities for use by the local population. The use of our client's site for residential purposes as applied for will not lead to a deficiency in the provision of open space in the village as it is clearly surplus to requirements.
- It is not considered that the site contributes in any meaningful or positive way to the setting of the village or to the ancient burial area to the north on the opposite side Friar Place. That setting as acknowledged by a former Director of Planning in the Council has already been destroyed through the presence of a large electricity sub-station.
- The erection of the two dwelling houses on the site will remove this unkempt area of land from the settlement and result in a significant improvement to its character and appearance.
- A petition in support of the proposal has been signed by 72 local residents in the village.

REVIEW STATEMENT

12/00117/FLL

ERECTION OF ONE PAIR OF SEMI-DETACHED DWELLINGS

on

DERELICT LAND TO EAST OF 9 FRIAR PLACE - SCOTLANDWELL

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Appendix 1 - Copy of Planning Application

Appendix 2 - Copy of Decision Notice

Appendix 3 - Copy of Report of Handling

Appendix 4 - Copy of Petition in Support of Proposal

Review Statement

12/00117/FLL

ERECTION OF ONE PAIR OF SEMI-DETACHED DWELLINGS

on

DERELICT LAND TO EAST OF 9 FRIAR PLACE - SCOTLANDWELL

1. INTRODUCTION

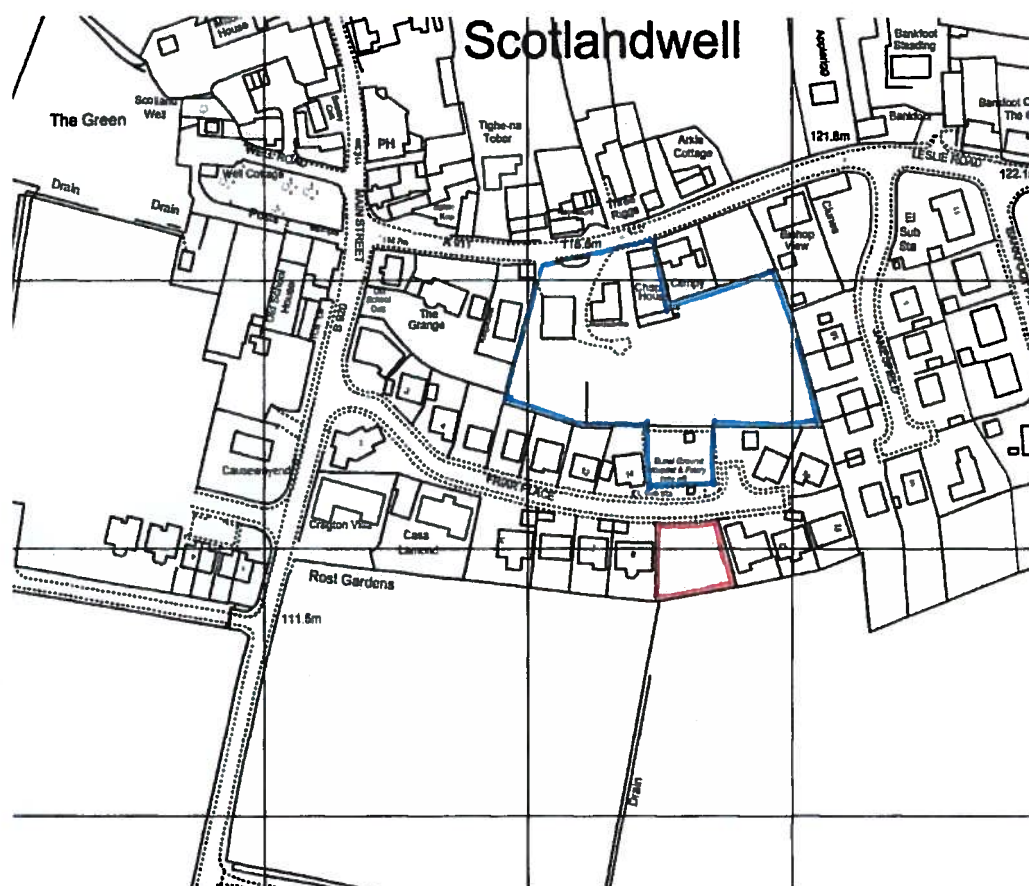
- 1.1 This statement has been prepared by Derek Scott Planning, Chartered Town Planning and Development Consultants and is in support of a Request to Review a Planning Application for the proposed erection of one pair of semi-detached dwellings on a derelict parcel of land located to the east of No. 9 Friar Place, Scotlandwell which was refused permission by Perth & Kinross Council under delegated powers on 04th April 2012 (Planning Application Reference Number 12/00117/FLL). The Review Request has been prepared on behalf of our client, Mrs Margaret Paterson, who is the owner of the application site.



View of Application Site

2. LOCATION AND DESCRIPTION OF SITE

- 2.1 The application site which measures 0.073 hectares (730 sq. metres) comprises of an area of derelict and unkempt land situated on the southern side of Friar Place, Scotlandwell between two existing bungalows at Nos. 9 and 11. On the opposite side of Friar Place there exists an electricity substation and a fenced burial ground and beyond that an area of open ground formerly used as a caravan park fronting onto Leslie Road. The burial ground and former caravan park referred to are also owned by our client, Mrs Margaret Paterson.



Location Plan

- 2.2 The current application site forms part of a housing development originally consented in 1993 under Planning Application Reference Number PK/93/0251 on what was then part of the caravan park previously referred to. From an investigation of available records it would appear that the current planning application site was originally proposed for residential purposes but was amended at the request of the Council to an area of open space within the development. However it has never been laid out for such purposes some seventeen years since the scheme was originally granted permission. Condition



Nos 4 & 10 on Planning Application Reference Number PK/93/0251 stated the following:

'The landscaping works and open space provision indicated on the approved plans shall be implemented concurrently with the progress of housing completions to the satisfaction of the District Council, as Planning Authority.'

Reason – In the interests of the visual amenity of the area.'

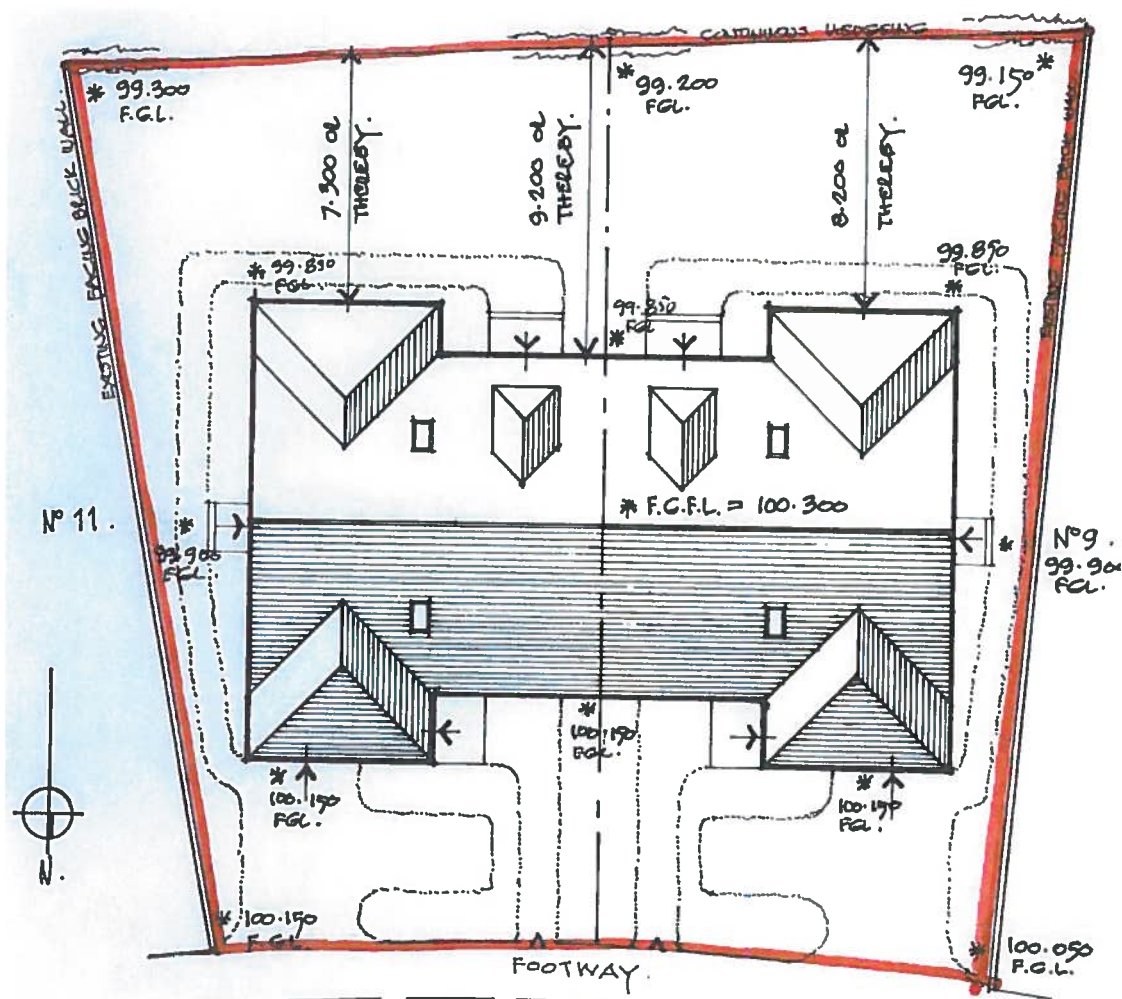
'The open space areas, including the burial ground, shall be made accessible to the public and maintained to the satisfaction of the District Council, as Planning Authority.'

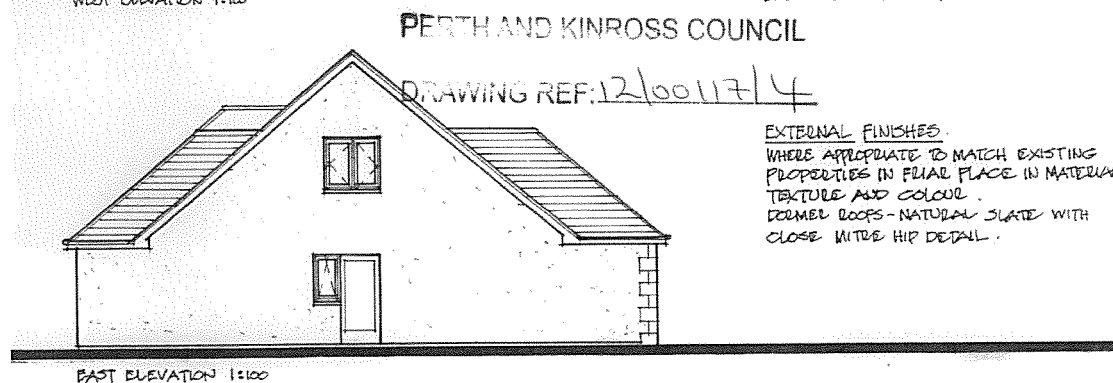
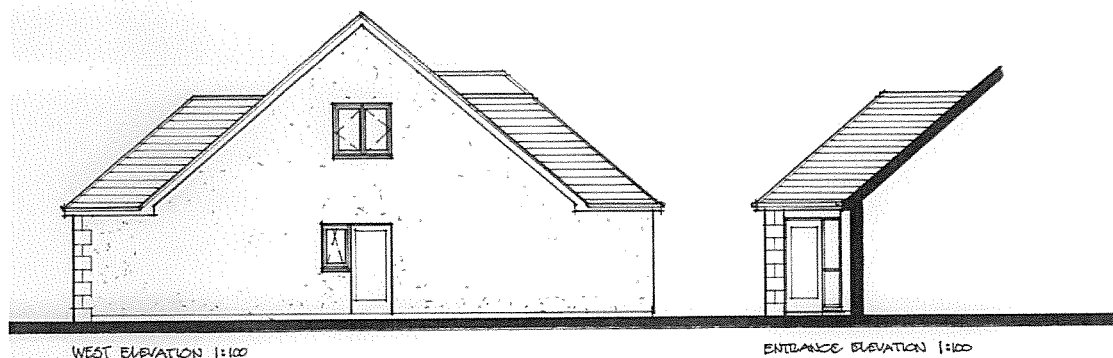
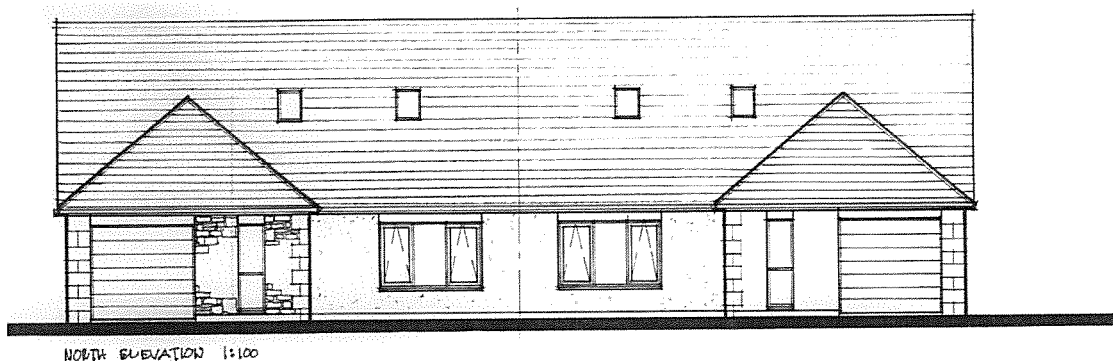
Reason – In order to protect the residential amenity of the surrounding area.'

- 2.3 Neither of the above conditions were complied with by the original developer and through the passage of time have become immune from enforcement action under the 'ten year' rule. The application site as it exists today therefore comprises of an area of unmaintained derelict land bordered to the south by a hedge and used indiscriminately for dog fouling purposes. It is not used for play or any other form of recreational purposes by local residents.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1 The application submitted to the Council sought detailed permission for the erection of 2 no. semi detached 1.5 storey dwelling houses on the site with dormers/velux on the rear elevations and velux to the front so as to facilitate the creation of accommodation on the second floor level. Materials proposed include slate to the roofs and render to the external walls to match and harmonise with the existing properties on Friar Place. A copy of the planning application as submitted to the Council is contained in **Appendix 1**.

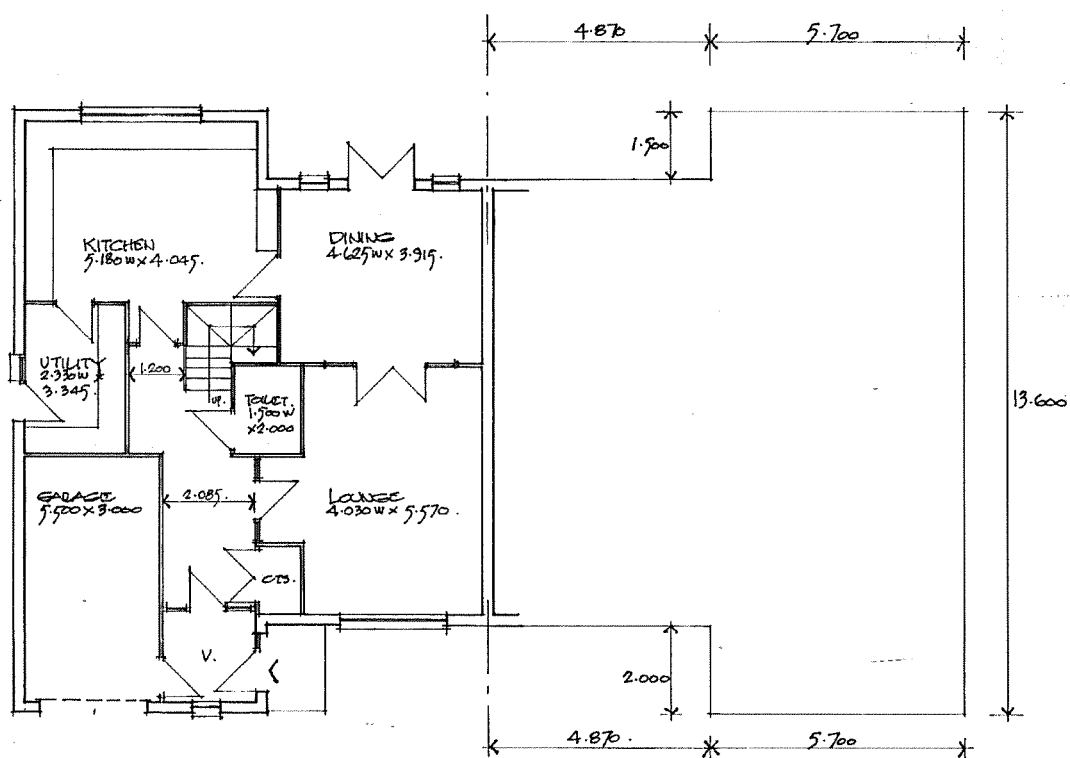




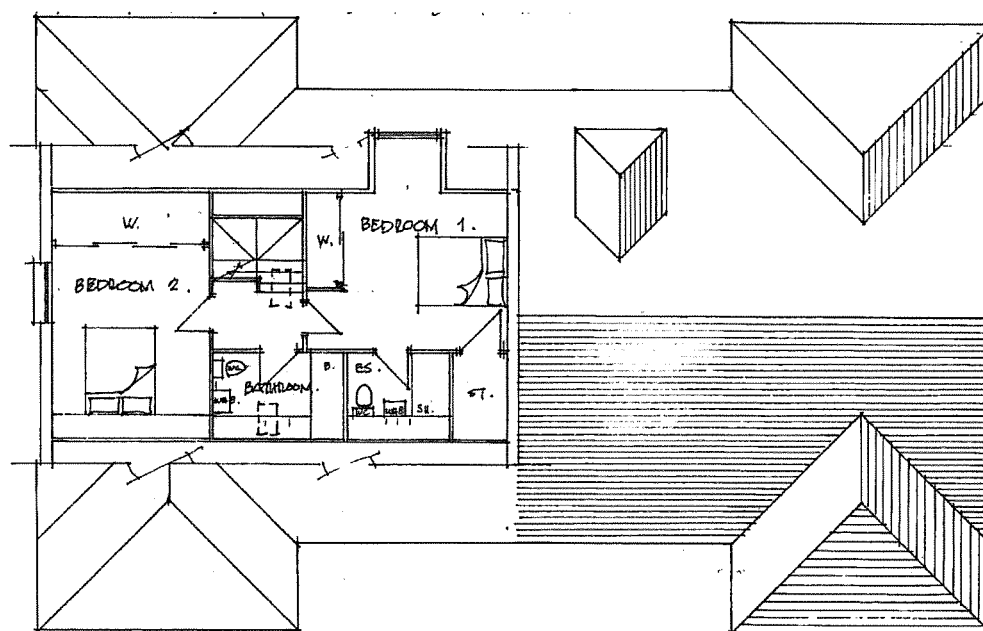
PERTH AND KINROSS COUNCIL

DRAWING REF: 12/00117/4

EXTERNAL FINISHES
WHERE APPROPRIATE TO MATCH EXISTING
PROPERTIES IN FINAL PLACE IN MATERIAL
TEXTURE AND COLOUR
DORMER ROOFS - NATURAL SLATE WITH
CLOSE WHITE HIP DETAIL.



GROUND FLOOR PLAN 1:100



ATTIC FLOOR PLAN 1:100

4. PLANNING POLICY

- 4.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) states that:

'where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the development plan unless material considerations indicate otherwise.'

- 4.2 In the context of the above it is worth making reference to the House of Lord's Judgement on the case of the City of Edinburgh Council v the Secretary of State for Scotland 1998 SLT120. It sets out the following approach to deciding an application under the Planning Acts:

- identify any provisions of the development plan which are relevant to the decision;
- interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
- consider whether or not the proposal accords with the development plan;
- identify and consider relevant material considerations, for and against the proposal; and
- assess whether these considerations warrant a departure from the development plan.

- 4.3 The relevant development plan for the area comprises the Perth and Kinross Structure Plan; and the Kinross Area Local Plan. Other material considerations in the determination of the application include, inter-alia, Scottish Planning Policy; Planning Advice Note No. 65 (PAN 65); the Scotlandwell Conservation Area Appraisal; consultation responses; and third party representations.

Perth and Kinross Structure Plan

- 4.4 The Perth and Kinross Structure Plan was approved by Scottish Ministers on 13th June 2003 and provides strategic guidance for the preparation of local plans and the determination of planning applications. Given its strategic nature the plan contains no specific policies or proposals which are considered to be of direct relevance to either the site or the proposed development.

Kinross Area Local Plan

- 4.5 The Kinross Area Local Plan was adopted by Perth & Kinross Council on 31st July 2004. The application site is located in an area identified as 'Public and Private Open Space' where Policy 88 on 'Conservation Areas' and Policy 91 on 'Public & Private Open Space' apply.

- 4.6 Policy 88 on 'Conservation Areas' states the following:

'Inset Maps 5, 12 and 13 identify areas in Cleish, Wester Balgedie and the proposed Scotlandwell Conservations Areas where there will be a presumption against built development in order to safeguard the setting of the village.'

- 4.7 We are of the opinion that the inclusion of the application site, which comprises of an area of derelict land between two quite modern dwelling houses, within the Scotlandwell Conservation Area, is entirely unjustified and not in the best interests of the planning and development of the area. As noted previously the application site was originally envisaged as an area of open space to be used by residents of the Friar Place housing development but has not been developed as such in the seventeen years since the planning permission for that development was approved by the Council. Whilst it is noted and accepted that the historical burial place on the opposite side of Friar Place provides some justification for its inclusion within the Conservation Area we are very firmly of the opinion that the unkempt nature of the application site detracts from rather than contributes to the setting of the village and the burial area adjacent as does the electricity sub station lying between the two. The removal of the unkempt area of ground and its replacement with a set of dwelling houses in keeping with both neighbours would make an unmeasurable improvement to the area's character and should clearly be supported.



Condition of site detracts from character and appearance of area

- 4.8 Policy 91 on 'Public and Private Open Space' states the following:

'Inset Maps identify areas of public and private open space, woodland and recreation areas which are to be retained. Any development proposals which erode these areas will be resisted. Encouragement will be given to proposals which improve these areas.'

- 4.9 Whilst the Inset Map in the Local Plan identifies the application site as an 'Area of Public and Private Open Space' it also somewhat surprisingly identifies the two existing dwelling houses to the east of the application site within an identically zoned area. An inspection of the application site on the ground will reveal that it displays none of the characteristics associated with public or private open space. As noted previously the original developers were required under the terms of Condition Nos 4 and 10 on Planning Application Reference Number PK/93/0251 to provide, maintain and make accessible to the general public an area of public open space. These conditions were never complied with and are now clearly immune from enforcement action under the 'ten year' rule. In such circumstances it is quite incorrect to regard the site as an area of public or private open space. It is as noted previously an area of unkempt land which is detrimental to the character and appearance of the area which if developed for the pair of semi-detached properties proposed would result in a substantial improvement to that character and appearance.

Other Material Considerations

- 4.10 In addition to the development plan as addressed above, there is, as noted previously, a requirement to assess other material considerations in the determination of a planning application. Such other material considerations in this particular instance include Scottish Planning Policy (SPP); Planning Advice Note 65 (PAN65) on Planning & Open Space; the Scotlandwell Conservation Area Appraisal; consultation responses; and third party representations which have been made to the Council in connection with the planning application.

Scottish Planning Policy (SPP)

- 4.11 The Scottish Planning Policy Document (SPP) was published by the Scottish Government in February 2010 and is defined as a statement of '*the Scottish Government's policy on nationally important land use planning matters.*' Paragraphs 149-158 of the SPP Document deal specifically with the subjects of '*Open Space and Physical Activity.*'
- 4.12 The strong message emanating from these paragraphs is that Planning authorities should support, protect and enhance open space and opportunities for sport and recreation in their areas. It encourages authorities to undertake an audit of the open space resource and to measure how well that provision meets the needs of the community. Such audits are required to cover all types of open space public and privately owned, including spaces owned by schools and voluntary clubs and should also take account of the quality, community value, accessibility and use of existing open space, not just the quantity.
- 4.13 Paragraph 153 of the SPP states that
- 'Open spaces which are identified in the open space audit and strategy as valued and functional, or which are capable of being brought into functional use to meet a need identified in the open space strategy, should be identified and protected in the development plan. There is a presumption against development of these open spaces. Open space which is not identified in the strategy but which is valued and functional or*

contributes to local amenity or biodiversity should also be protected. Only where there is strong justification should open space be developed either partly or fully for a purpose unrelated to use as open space. Justification should include evidence from the open space audit that the development will not result in a deficit of open space provision of that type within the local area and that alternative sites have been considered.'

4.14 Paragraph 155 of the SPP states:

'Open spaces should be accessible, safe, welcoming, appealing, distinctive and well connected. Within settlements there should be spaces that can be used by everyone regardless of age, gender or disability.'

4.15 Whilst we have established from Mr. Andy Clegg in the Council's Leisure and Parks Department that some work has been undertaken on the preparation of an Open Space Audit there are no timescales within which that audit might be completed or placed in the public domain as required by the terms of the SPP Document. Even if one had been completed we would not expect the application site at Friar Place to have been included as it is clearly not accessible, safe, welcoming, appealing, distinctive or well connected as required by the terms of Paragraph 155 of Scottish Planning Policy.

Planning Advice Note 65 (PAN 65)- Planning & Open

4.16 PAN 65 was published by the Scottish Government in May 2008 and gives advice on the role of the planning system in protecting and enhancing existing open spaces and providing high quality new spaces. Paragraph 7 of the Document states the following:

'Well-managed and maintained spaces can create opportunities for all sections of the community to interact. They can promote a sense of place and be a source of community pride, and also offer opportunities for people to play an active part in caring for the local environment. Well-designed spaces can reduce opportunities for crime and the fear of crime. Open space provides opportunities for sport and recreation, helping to promote active and healthy lifestyles, and can open up opportunities for environmental education for local groups, schools and individuals.'

4.17 Paragraph 18 of the PAN states that:

'Open space should be:

- *well-located – linking into the open space network, connecting into well used routes and overlooked by buildings, helping to foster a feeling of safety and discourage anti-social behaviour as well as being easily accessible to all.*
- *well-designed – designed to reduce vandalism and, where appropriate, maintenance, with the use of high quality durable materials and incorporating elements of interest, for example through public art.*
- *well-managed – covered by a management and maintenance regime attuned to the type of space, durability, wildlife habitats present, level of usage and local interests.*
- *adaptable – be capable of serving a number of functions and adapting to*

different uses while promoting a range of benefits such as biodiversity, flood control or environmental education.

- 4.18 The application site exhibits none of the characteristics referred to in Paragraphs 7 and 18 of PAN 65 and as a consequence of this is of very low quality and rarely used for any purposes other than dog fouling. To be retained as such is clearly not in the best interests of the proper planning and development of the area.

Scotlandwell Conservation Area Appraisal

- 4.19 The Council has produced a Conservation Area Appraisal Document for the Scotlandwell Conservation Area. Paragraph 9.2 of this document states the following in relation to the application site:

'There is a gap site below the burial ground which could come under pressure for Development. This is identified as 'private and public open space' and it is vital that this area is left undeveloped to aid the setting of the burial ground and continue the key views through and beyond.'

- 4.20 We fundamentally disagree with the conclusions of the Appraisal Document as we do not accept that the application site contributes either in its present unkempt condition or as an area of managed open space to the setting of the burial ground on the opposite side of Friar Place. The setting of that burial ground has, as previously noted, been detrimentally compromised by the electricity sub-station immediately to its south which has destroyed the potential of any positive relationship between it and our client's site. In further support of this position we would draw attention to a letter written by the Director of Planning to Scottish Hydro Electric on 23rd January 1995 in connection with the sub-station, within which the following is stated

'It is a matter of some concern that it has been installed without affording me the opportunity to comment it is extremely obtrusive and will be ultimately detrimental to the visual amenities of the area.'



Existing Sub-station detracts from the amenity of the area and destroys setting of burial ground

We also disagree with the assertion that our client's site facilitates key views from the burial ground southwards. It is evident from the photograph below that those views referred to are far from distinguished in appearance. They are already seriously compromised by dwellings on Friar Place and could in our opinion be improved substantially through the erection of the pair of dwelling houses proposed.



View from burial ground south towards application site

Consultation Responses

- 4.21 Insofar as we can establish the Council's Planning Department has consulted the Portmoak Community Council; Perth & Kinross Council Conservation Section; Perth & Kinross Council Education Department; Perth & Kinross Heritage Trust; Kinross-shire Civic Trust; Scottish Water; and Perth & Kinross Transportation Department in connection with the application who have responded in the following terms:

Portmoak Community Council

- 4.22 The Community Council has objected to the application on the following grounds:

- *In seeking to build on this particular plot, this development proposal is contrary to the adopted Kinross Area local Plan 2004 (Policies 81 and 91). These provide for public and private open space within settlements and require that that any development proposal that will erode this is to be resisted. The Council notes that encouragement is to be given to proposals that will improve these areas.*

Response – As previously stated the application site is not accessible, safe, welcoming, appealing, distinctive or well connected and as such should not be regarded as an area of open space in the local plan. Its change of use to residential and the erection of the dwelling houses proposed on it will result in a significant improvement to its character and appearance.

- *The housing development proposed (one pair of semi-detached dwellings of one and half stories) is incongruous and would jar with the other properties in Friar Place where all properties are single story individual dwellings each in plots allowing sizeable gardens and off-street parking and/or garage. The proposed development of a one and half story semi-detached building with limited gardens and car parking would be intrusive and an ill fit.*

Response – The proposed dwelling houses are entirely in keeping with the established pattern of development in the area. The suggestion that they are in anyway incongruous is absurd.



Proposal in keeping with scale and design of other dwellings in Friar Place

Perth & Kinross Council Conservation Section

4.23 The Council's Conservation Section has referred to Paragraph 9.2 of the Scotlandwell Conservation Area which we have addressed in Sections 4.19 and 4.20 above. The following has also been stated:

- *Although within an area of modern built development, the existing space provides an important break and area of green space within the developed building line, as well as a valuable view corridor north-south between the former caravan site south of Leslie Road, the historic open space of the burial ground and the rural, agricultural setting of the village to the south. The open character reflects its historic role as part of the priory hospital grounds and provides an appropriate setting to the remaining fragment of this historic area, at the burial ground. Its current informal condition and the presence of the electricity substation do not substantially erode the amenity value of the space.*

Response – We do not accept that the application site provides an ‘important break and area of green space’ within the developed building line and a valuable north-south view corridor between the village and agricultural fields beyond. The site is, as noted previously, an area of unkempt derelict land lying between two modern houses which the Council has failed to enforce the developer of the original scheme to develop as an area of open space. The setting of the burial ground has already been destroyed by the electricity sub station. This is acknowledged by the Director of Planning in his letter to Scottish Hydro Electric on 23rd January 1995 referred to in Paragraph 4.20 above. It is remarkable in the circumstances referred to that the Conservation Section are now claiming that the sub-station does not substantially erode the amenity value of the space.

Perth & Kinross Council Education Department

- 4.24 The Education Department has confirmed that the site falls within the catchment area for the Portmaok Primary School and that there are currently no capacity constraints in the school preventing the site being developed for two dwelling houses.

Perth & Kinross Heritage Trust

- 4.25 The Perth & Kinross Heritage Trust have stated that the site lies within an archaeologically sensitive area and have recommended in the vent of planning being granted that a condition be imposed requiring the implementation of a programme of archaeological works prior to any development commencing on a site. It is more than significant to note that the Heritage Trust have not objected to the application and clearly do not share the views of others insofar as they relate to the value of the site to the setting of the village or the perceived link with the past.

Kinross-shire Civic Trust

- 4.26 Kinross-shire Civic Trust has objected to the application on grounds that the proposal is contrary to the Public and Private Open Space designation pertaining to the Kinross Area Local Plan and that the style of the houses are out of context with the present houses in Friar Place.

Response – Both of the above concerns have been responded to previously within this statement.

Scottish Water

- 4.27 Scottish Water has raised no objections to the planning application.

Perth & Kinross Council Transportation Department

- 4.28 The Transportation Department has no objections to the planning application but have recommended the imposition of a number of conditions to be imposed in the event of planning permission being granted.

Third Party Representations

- 4.29 Only six objections have been submitted to the planning application raising in summary the following points:

- *Contrary to Kinross Area Local Plan*

Response – These considerations have been previously addressed in Paragraphs above.

- *The proposal is incongruous with other properties in Friar Place*

Response – As noted in the Planning Officer’s Report of Handling on the application – ‘it is considered that the scale and design of the proposed houses would be acceptable under different circumstances and context, for example if the site was outwith the conservation area and not zoned for open space, they would not be out of character with the houses in Friar Place.’

- *There would be a loss of sunlight to existing properties.*

Response – The proposed dwelling houses share an identical relationship to their neighbours to the relationship shared between all other neighbouring dwelling houses in Friar Place. It is entirely unreasonable to suggest in such circumstances that there would be an unacceptable loss of light to existing properties.

- *The proposal would result in a loss of open space.*

Response – Whilst the application site was originally envisaged as an area of open space serving the Friar Place Development compliance with the conditions imposed was not enforced by the Council. As the site is unkempt and is not accessible, safe, welcoming, appealing, distinctive and well connected it should no longer be regarded as an area of open space if due cognisance is given to the terms of Scottish Planning Policy.

- *The proposal would constitute overdevelopment of the site.*

Response – The drawings submitted with the application clearly demonstrate that the proposed dwelling houses are entirely complimentary with the established pattern and spatial density of development in the area. Both houses have acceptable plot ratios and can be provided with satisfactory levels of private amenity space.

- *Impact on Road Safety*

Response – The introduction of an additional two houses within this development will not have a detrimental impact on road safety as confirmed by the Council’s Transportation Department who did not object to the application on road safety grounds.

- 4.30 In addition to the six letters of objection submitted to the Council we would wish to draw attention to the fact that 72 local residents have signed a petition in support of the proposed development; a copy of which we attach in **Appendix 4**.
- 4.31 Having considered the proposed development against the terms of the development plan and all other material considerations as required under the terms of Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) we are firmly of the opinion that there are no justifiable reasons for its refusal.

5. COMMENTS ON REASONS FOR REFUSAL

5.1 Our client's planning application was refused under delegated powers for the following reason:

1. *The proposed development is contrary to policies 88 and 91 of the Kinross Area Local Plan 2004 as the development of the site for housing would remove a designated area of open space within the Conservation Area which it is considered would be detrimental to the character and appearance of Scotlandwell.*

Copies of the Decision Notice and the Planning Officer's Report of Handling are contained in **Appendix 2 and 3** respectively.

5.2 Whilst the fact that the proposals contained in the planning application are contrary to the terms of the Kinross Area Local Plan where the site is zoned for Public and Private Open Space is not disputed we remain firmly of the opinion that the zoning provisions pertaining to the site and the inclusion of the site within the Scotlandwell Conservation Area are not in the best interests of the proper planning and development of the area. Scottish Planning Policy clearly requires areas of open space to be accessible, safe, welcoming, appealing, distinctive and well connected. The application site which is a parcel of derelict unkempt land displays none of these characteristics and should clearly not be designated as such in the Local Plan. We would also strongly dispute the assertions that the application site contributes to the setting of the village and facilitates north-south views from the burial ground and former caravan park to the north. The setting to the burial ground is already seriously compromised by the electricity substation to the south and by other housing in Friar Place both previously approved by the Council. An objective examination of the application site will also clearly reveal that the north-south view has been previously compromised by the existing housing and the maturing hedge along the southern boundary. In further support of our client's position and in response to the refusal reason we would also draw attention to the fact that there is an existing area of public open space at 'The Green' in Scotlandwell which provides adequate and very acceptable playing facilities for the needs of the settlement. The site at Friar Place is considered to be entirely surplus to such requirements.



Existing Facilities at the Green

6. SUMMARY AND CONCLUSIONS

6.1 Having considered the proposed development against the terms of both the development plan and other material considerations we are firmly of the opinion that the application as submitted on behalf of our client should be granted planning permission. We would summarise our client's case in the following terms:

- The application site consists of a derelict unkempt parcel of land located between Nos. 9 and 11 Friar Place, Scotlandwell. It is bounded to the north by Friar Place beyond which there exists an electricity sub-station and beyond that by a historical burial ground. To the south it is bounded by a maturing hedge and open agricultural land.
- The application site is in an overgrown and unkempt condition and is incapable in its present condition of being used for open space purposes as it is not accessible, safe, welcoming, appealing, distinctive or well connected. These are attributes required of open space as defined in Scottish Planning Policy.
- The application site was identified as an area of open space in a planning application approved by the Council in 1994 under Planning Application Reference Number PK/93/0251. Conditions imposed on that permission which required the site to be made accessible to the public, laid out as public open space; landscaped; and maintained thereafter were not complied with by the original developer and through the passage of time have become immune from enforcement action as a result of the 'ten year' rule.
- The planning application submitted seeks detailed planning permission for the erection of a pair of semi-detached dwelling houses on the site which are of a design which is in keeping and character with other dwelling houses on Friar Place.
- The village of Scotlandwell already benefits from a significant area of open space at 'The Green' which provides a range of amenity facilities for use by the local population. The use of our client's site for residential purposes as applied for will not lead to a deficiency in the provision of open space in the village as it is clearly surplus to requirements.
- It is not considered that the site contributes in any meaningful or positive way to the setting of the village or to the ancient burial area to the north on the opposite side Friar Place. That setting as acknowledged by a former Direct of Planning in the Council has already been destroyed through the presence of a large electricity sub-station.
- The erection of the two dwelling houses on the site will remove this unkempt area of land from the settlement and result in a significant improvement to its character and appearance.



- A petition in support of the proposal has been signed by 72 local residents in the settlement.

6.2 In view of the above considerations it is respectfully requested that planning permission be granted for the pair of semi-detached dwelling houses as applied for. We reserve the right to respond to any representations made to the Council's Review Body by any other parties.

Signed

A solid black rectangular box used to redact the signature of Derek Scott.

Derek Scott

Date 18th June 2012



APPENDIX 1

Derek Scott Planning

26 JAN 2012

12/00117/FLY 638-00
21736 26/1/12**APPLICATION FOR PLANNING PERMISSION**

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008

Please refer to the accompanying **Guidance Notes** when completing this application
**PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS
 ELECTRONICALLY VIA <https://eplanning.scotland.gov.uk>**

1. Applicant's Details		2. Agent's Details (if any)	
Title	MRS	Ref No.	
Forename	MARGARET	Forename	JOHN
Surname	PATERSON	Surname	THOMSON
Company Name		Company Name	
Building No./Name		Building No./Name	
Address Line 1	MARDABRIKA	Address Line 1	34, HUNTINGTOWER
Address Line 2	LESLIE ROAD	Address Line 2	PARK
Town/City	SCOTLANDWELL	Town/City	GLENDOTHES
Postcode	KY13 9JE	Postcode	KY6 3QE
Telephone		Telephone	01592 742115
Mobile		Mobile	
Fax		Fax	01592 742115
Email		Email	
3. Postal Address or Location of Proposed Development (please include postcode)			
GAP SITE EAST OF NO 9 FRIAR PLACE SCOTLANDWELL KY13 9WN			
NB. If you do not have a full site address please identify the location of the site(s) in your accompanying documentation.			
4. Type of Application			
What is the application for? Please select one of the following:			
Planning Permission	<input checked="" type="checkbox"/>		
Planning Permission in Principle	<input type="checkbox"/>		
Further Application*	<input type="checkbox"/>		
Application for Approval of Matters Specified in Conditions*	<input type="checkbox"/>		
Application for Mineral Works**	<input type="checkbox"/>		
NB. A 'further application' may be e.g. development that has not yet commenced and where a time limit has been imposed a renewal of planning permission or a modification, variation or removal of a planning condition.			
*Please provide a reference number of the previous application and date when permission was granted:			
Reference No:	09/00149/FLY	Date:	REFUSED 1/12/2009

**Please note that if you are applying for planning permission for mineral works your planning authority may have a separate form or require additional information.

5. Description of the Proposal

Please describe the proposal including any change of use:

ERRECTION OF ONE SEMI-DETACHED
DOMESTIC PROPERTY ON GAP SITE -

Is this a temporary permission?

Yes ☐ No ☒

If yes, please state how long permission is required for and why:

Have the works already been started or completed?

Yes ☐ No ☒

If yes, please state date of completion, or if not completed, the start date:

Date started:

Date completed:

If yes, please explain why work has already taken place in advance of making this application

6. Pre-Application Discussion

Have you received any advice from the planning authority in relation to this proposal?

Yes ☐ No ☒

If yes, please provide details about the advice below:

In what format was the advice given?

Meeting ☐ Telephone call ☐ Letter ☐ Email ☐

Have you agreed or are you discussing a Processing Agreement with the planning authority? Yes ☐ No ☐

Please provide a description of the advice you were given and who you received the advice from:

Name:

Date:

Ref No.:

7. Site Area

Please state the site area in either hectares or square metres:

Hectares (ha):

Square Metre (sq.m.)

733.1 m²

8. Existing Use

Please describe the current or most recent use:

GAP SITE REMAINING FROM
PREVIOUS DEVELOPMENT.

9. Access and Parking

Are you proposing a new altered vehicle access to or from a public road?

Yes ☒ No ☐

If yes, please show in your drawings the position of any existing, altered or new access and explain the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any changes to public paths, public rights of way or affecting any public rights of access?

Yes ☐ No ☒

If yes, please show on your drawings the position of any affected areas and explain the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application site?

NONE

How many vehicle parking spaces (garaging and open parking) do you propose on the site? (i.e. the total number of existing spaces plus any new spaces)

4 (2 EACH UNIT)

Please show on your drawings the position of existing and proposed parking spaces and specify if these are to be allocated for particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, etc.)

10. Water Supply and Drainage Arrangements

Will your proposals require new or altered water supply or drainage arrangements?

Yes ☒ No ☐

Are you proposing to connect to the public drainage network (e.g. to an existing sewer?)

Yes, connecting to a public drainage network

No, proposing to make private drainage arrangements

Not applicable – only arrangement for water supply required

☒
☐
☐

What private arrangements are you proposing for the new/altered septic tank?

Discharge to land via soakaway

Discharge to watercourse(s) (including partial soakaway)

Discharge to coastal waters

☐
☐
☐

Please show more details on your plans and supporting information

What private arrangements are you proposing?

Treatment/Additional treatment (relates to package sewer treatment plants, or passive sewage treatment such as a reed bed)

Other private drainage arrangement (such as a chemical toilets or composting toilets)

☐
☐

Please show more details on your plans and supporting information.

Do your proposals make provision for sustainable drainage of surface water?

Yes ☐ No ☒

Note:- Please include details of SUDS arrangements on your plans

Are you proposing to connect to the public water supply network?

Yes ☒ No ☐

If no, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site)

11. Assessment of Flood Risk

Is the site within an area of known risk of flooding?

Yes ☐ No ☒

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your planning authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? Yes ☐ No ☒ Don't Know ☐

If yes, briefly describe how the risk of flooding might be increased elsewhere.

12. Trees

Are there any trees on or adjacent to the application site?

Yes ☐ No ☒

If yes, please show on drawings any trees (including known protected trees) and their canopy spread as they relate to the proposed site and indicate if any are to be cut back or felled.

13. Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste? (including recycling)

Yes ☒ No ☐

If yes, please provide details and illustrate on plans.

If no, please provide details as to why no provision for refuse/recycling storage is being made:

14. Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats?

Yes ☒ No ☐

If yes how many units do you propose in total?

2

Please provide full details of the number and types of units on the plan. Additional information may be provided in a supporting statement.

15. For all types of non housing development – new floorspace proposed

Does your proposal alter or create non-residential floorspace?

Yes ☐ No ☒

If yes, please provide details below:

Use type:

If you are extending a building, please provide details of existing gross floorspace (sq.m):

Proposed gross floorspace (sq.m.):

Please provide details of internal floorspace(sq.m)

Net trading space:

Non-trading space:

Total net floorspace:

16. Schedule 3 Development

Does the proposal involve a class of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008?

Yes ☐ No ☒ Don't Know ☐

If yes, your proposal will additionally have to be advertised in a newspaper circulating in your area. Your planning authority will do this on your behalf but may charge a fee. Please contact your planning authority for advice on planning fees.

17. Planning Service Employee/Elected Member Interest

Are you / the applicant / the applicant's spouse or partner, a member of staff within the planning service or an elected member of the planning authority?

Yes ☐ No ☒

Or, are you / the applicant / the applicant's spouse or partner a close relative of a member of staff in the planning service or elected member of the planning authority?

Yes ☐ No ☒

If you have answered yes please provide details:

DECLARATION

I, the applicant/agent certify that this is an application for planning permission The accompanying plans/drawings and additional information are provided as part of this application.

I, the applicant/agent hereby certify that the attached Land Ownership Certificate has been completed ☒

I, the applicant /agent hereby certify that requisite notice has been given to other land owners and /or agricultural tenants

Yes ☐ No ☐ N/A ☒

Signature:



Name:

JOHN M. THOMSON

Date:

21-Jan-2012

Any personal data that you have been asked to provide on this form will be held and processed in accordance with the requirements of the 1998 Data Protection Act.

FOR OFFICIAL USE ONLY

Reference no:

LAND OWNERSHIP CERTIFICATES

Town and Country Planning (Scotland) Act 1997
Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland)
Regulations 2008

FORM 1 OR FORM 2 MUST BE COMPLETED BY ALL APPLICANTS

FORM 1

Form 1 is for use where the applicant is the only owner of the land to which the application relates and none of the land is agricultural land.

I hereby certify that -

- (1) No person other than ~~myself~~/the applicant* was an owner of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the application.
- (2) None of the land to which the application relates constitutes or forms part of agricultural land.

Signed

On behalf of*

Date

MRS MARGARET PATERSON

19 Jan 2012

* Delete where appropriate

FORM 2

I hereby certify that -

- (1) No person other than myself/the applicant* was an owner of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the application.
- or
- (1) I have/The applicant has* served notice on every person other than myself/the applicant* who, at the beginning of the period of 21 days ending with the date of the application was owner of any part of the land to which the application relates. These persons are:

Name	Address	Date of Service of Notice

- (2) None of the land to which the application relates constitutes or forms part of agricultural land
- or
- (2) The land or part of the land to which the application relates constitutes or forms part of agricultural land and I have/the applicant has* served notice on every person other than myself/the applicant* who, at the beginning of the period of 21 days ending with the date of the application was an agricultural tenant. These persons are:

Name	Address	Date of Service of Notice

- (3) I have/The applicant has* been unable to give notice to every person other than myself/the applicant* who, at the beginning of the period of 21 days ending with the date of the application was owner of any part of the land to which the application relates.
- (3) I have/The applicant has* taken reasonable steps, as listed below, to ascertain the names and addresses of the other owners or agricultural tenants and have/has been* unable to do so.

Steps taken:

Signed

On behalf of*

Date

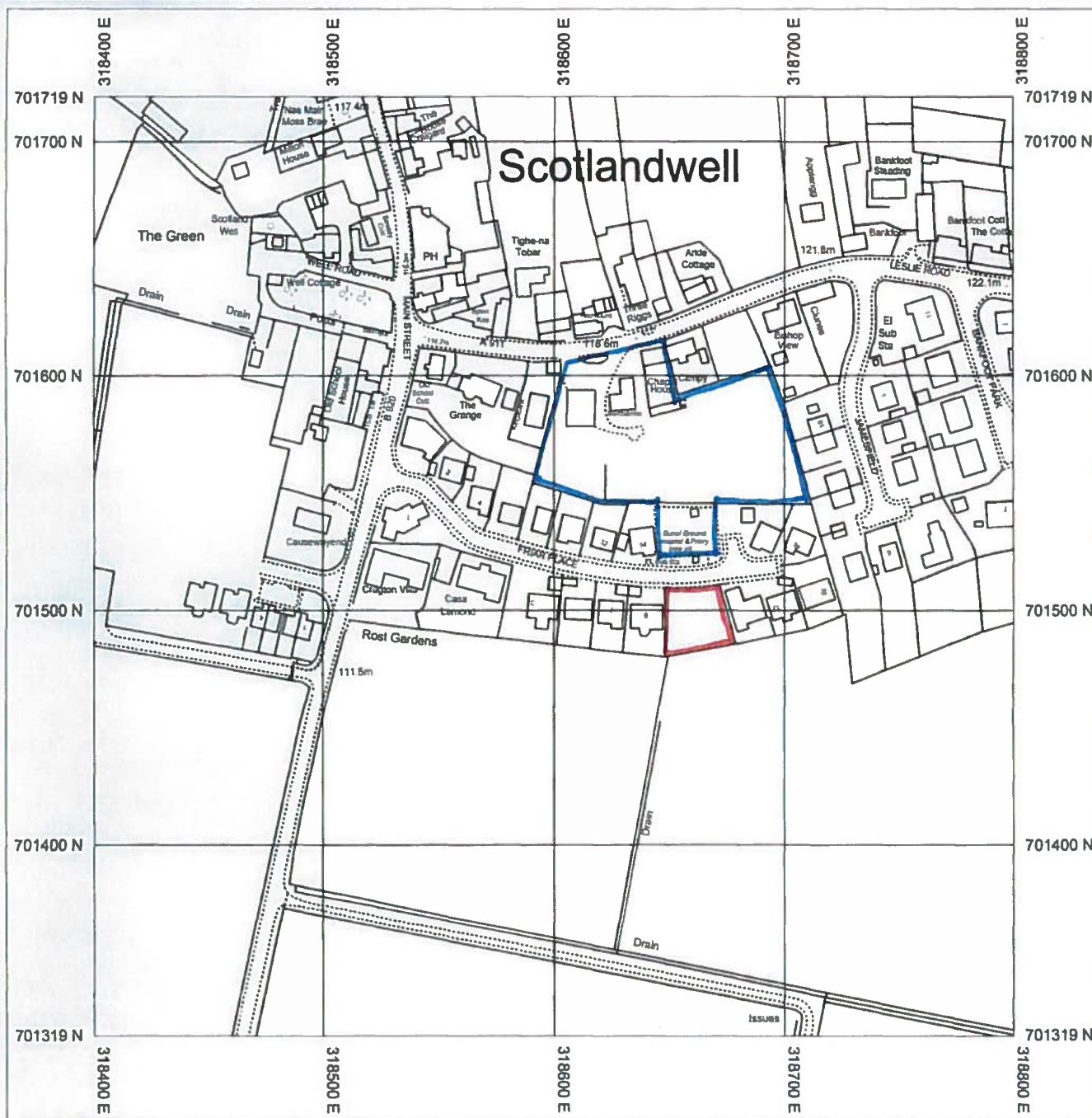
* Delete where appropriate

Mapping
sourced from

OS Ordnance
Survey®



Location Map



PERTH AND KINROSS COUNCIL

Produced 19/01/2012 from the Ordnance Survey
National Geographic Database and incorporating
surveyed revision available at this date. © Crown
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trademarks of Ordnance Survey, the national mapping
agency of Great Britain.

The representation of a road, track or path is no
evidence of a right of way.

The representation of features as lines is no evidence
of a property boundary.

DRAWING REF: 12/0017/1



Scale 1:2500

Supplied By: **Masonmap Dunfermline**

Serial number: 001020203

Plot Centre Coordinates: 318600, 701519

PEPTH AND MINROSS COUNCIL

DRAWING REF. 12/0017/3

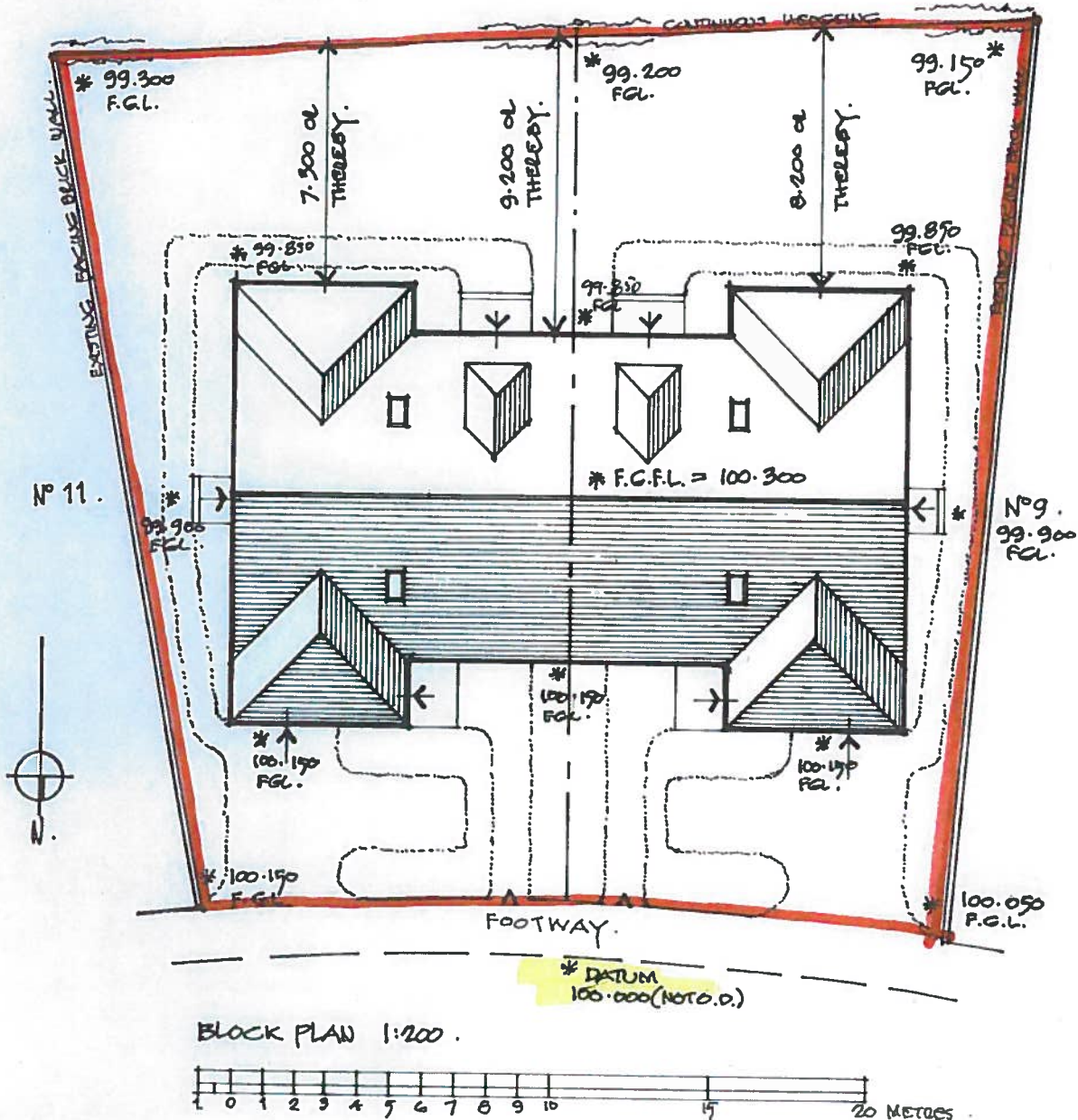
PLOT 2.

- A. PLOT AREA = 370 m²
- B. HOUSE FOOTPRINT = 126.707 m²
- C. REAR GARDEN = 190.14 m²

HOUSE TYPE - 1 1/2 STOREY - 2 BEDROOM.

PLOT 1

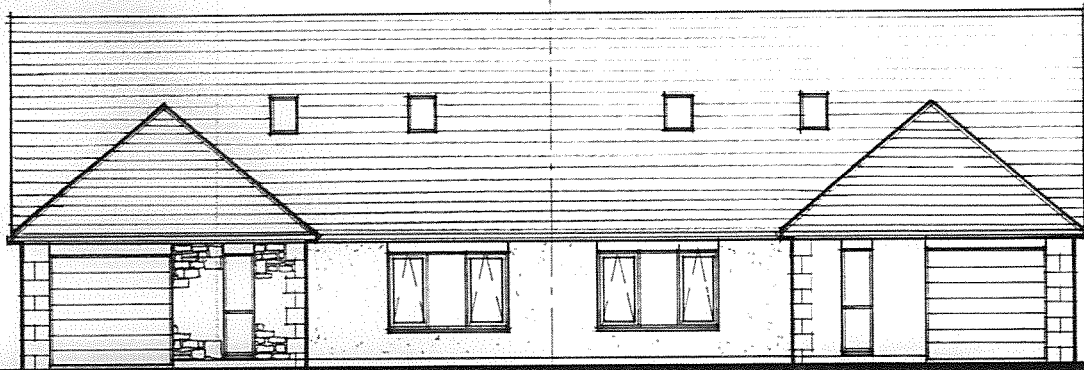
- A. PLOT AREA = 363.1 m²
- B. HOUSE FOOTPRINT = 126.707 m²
- C. REAR GARDEN = 126.34 m²



PROPOSED GAP SITE DEVELOPMENT AT
FRIAR PLACE, SCOTLANDWELL.

19. Jan. 2012.

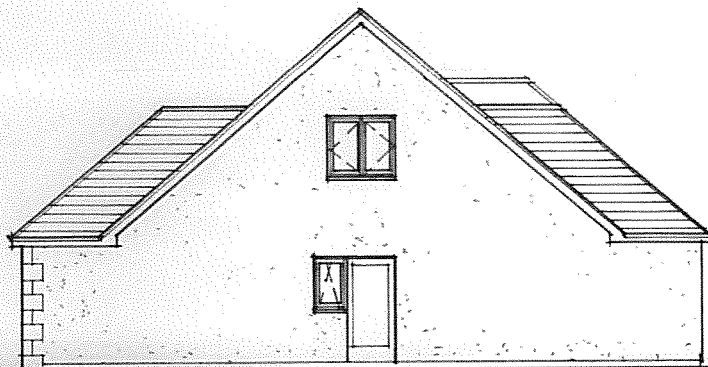
DRG. N° HPS/1.



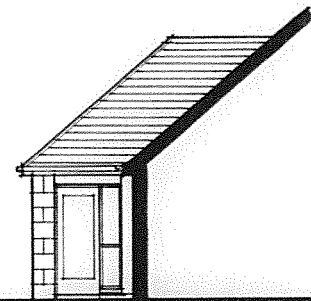
NORTH ELEVATION 1:100



SOUTH ELEVATION 1:100



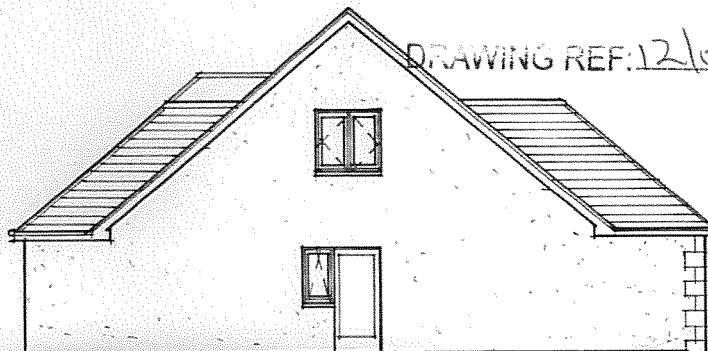
WEST ELEVATION 1:100



ENTRANCE ELEVATION 1:100

PERTH AND KINROSS COUNCIL

DRAWING REF: 12/00117/4

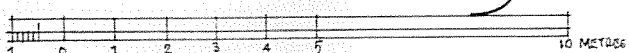


EAST ELEVATION 1:100

EXTERNAL FINISHES.
WHERE APPROPRIATE TO MATCH EXISTING
PROPERTIES IN FRIAR PLACE IN MATERIAL
TEXTURE AND COLOUR.
DORMER ROOFS - NATURAL SLATE WITH
CLOSE MITRE HIP DETAIL.

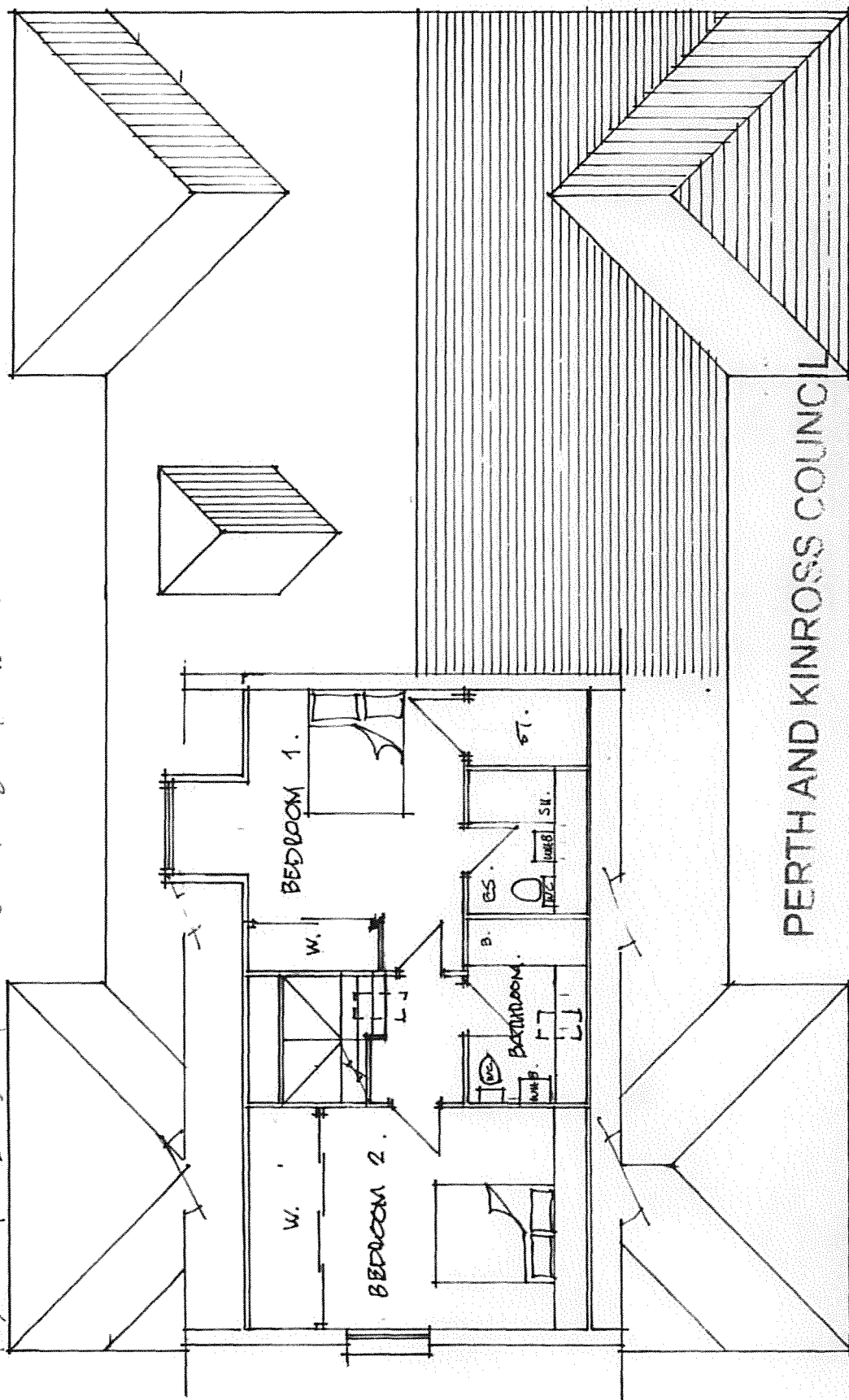
PROPOSED GAP SITE DEVELOPMENT AT FRIAR PLACE,
SCOTLANDWELL. 21. Jan. 2012.

DWG. N° HPS/4.



PROPOSED GAP SITE DEVELOPMENT, FLAR PLACE, SCOTLANDWELL.

18. JAN. 2012. DRG. NO HPS/3.



ATTIC FLOOR PLAN 1:100.

DRAWING REF: 12/0017/5



APPENDIX 2

Derek Scott Planning

PERTH AND KINROSS COUNCIL

Mrs Margaret Paterson
c/o John Thomson
34 Huntingtower Park
Glenrothes
KY6 3QF

Pullar House
35 Kinnoull Street
PERTH
PH1 5GD

Date 4th April 2012

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT

Application Number: **12/00117/FLL**

I am directed by the Planning Authority under the Town and Country Planning (Scotland) Acts currently in force, to refuse your application registered on 6th February 2012 for permission for **Erection of one pair of semi-detached dwellings Site East Of 9 Friar Place Scotlandwell** for the reasons undernoted.

Development Quality Manager

Reasons for Refusal

1. The proposed development is contrary to policies 88 and 91 of Kinross Area Local Plan 2004 as the development of the site for housing would remove a designated area of open space within the conservation area which it is considered would be detrimental to the character and appearance of Scotlandwell.

Justification

The proposal is not in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan

Notes

The plans relating to this decision are listed below and are displayed on Perth and Kinross Council's website at www.pkc.gov.uk "Online Planning Applications" page

Plan Reference

12/00117/1

12/00117/2

12/00117/3

12/00117/4

12/00117/5

12/00117/6



APPENDIX 3

Derek Scott Planning

REPORT OF HANDLING

DELEGATED REPORT

Ref No	12/00117/FLL
Ward No	N8- Kinross-shire

PROPOSAL: Erection of one pair of semi-detached dwellings.

LOCATION: Site East of 9 Friar Place Scotlandwell

APPLICANT: Mrs Margaret Paterson

RECOMMENDATION: REFUSE THE APPLICATION

SITE INSPECTION:

OFFICERS REPORT:

Brief Description

The application site is a 0.073 hectare area of open ground situated on the south side of Friar Place, Scotlandwell between 2 bungalows which are part of a wider housing development consented in 1993. The application site is designated as open space in the adopted Kinross Area Local Plan 2004 and is within Scotlandwell Conservation Area. There is a fenced burial ground and open area of land around it to the north of the site across the road. Beyond this to the north is an area of private open ground which is zoned for housing under H15 in the local plan and it is within the Conservation Area. There is open farmland and countryside directly to the south of the site. The area of ground was included as an area of open space in the original planning consent for the houses at Friar Place granted in September 1993. Planning consent was refused in December 2009 for the variation of condition 10 of planning consent PK93/0251 in order to remove that part of the condition which refers to the area of open space. The reason for refusal was that:-

"The variation of the condition to remove the area of open space for housing is contrary to Policy 91 of the Kinross Area Local Plan 2004 and would be detrimental to the character and appearance of Scotlandwell".

An appeal was made to the Local Review Body which was dismissed on 21 of April 2010.

This is a detailed proposal for the erection of 2 semi-detached 1.5 storey houses with dormers/velux on the front elevation and velux to the rear to allow accommodation in the roof. Materials include slate to the roof and render to the external walls to match the existing properties in Friar Place.

Assessment

Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) requires the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. In this instance the relevant policies are 88 and 91 of the Kinross Area Local Plan 2004.

The application site is within Scotlandwell Conservation Area and is also designated as an area of public open space in the Kinross Area Local Plan 2004. The local plan denotes this area as 'public and private open space' to be retained and where development proposals which erode the area will be resisted. The Scotlandwell Conservation Area Appraisal also identifies this open space as important to the character of the area, and recommended for protection and enhancement.

Although within an area of modern built development, the existing space provides an important break and area of green space within the developed building line, as well as a valuable view corridor north-south between the former caravan site south of Leslie Road, the historic open space of the burial ground and the rural, agricultural setting of the village to the south. The open character reflects its historic role as part of the priory hospital grounds and provides an appropriate setting to the remaining fragment of this historic area, at the burial ground. Its current informal condition and the presence of the electricity substation do not substantially erode the amenity value of the space.

Paragraph 9.2 of the conservation area appraisal states that "...This is identified as 'private and public open space' and it is vital that this area is left undeveloped to aid the setting of the burial ground and continue the key views through and beyond."

It is therefore considered that the proposed development of two houses, or the departure from the adopted local plan designation as open space, would be harmful to the character and appearance of Scotlandwell.

It is considered that the scale and design of the proposed houses would be acceptable under different circumstances and context, for example if the site was outwith the conservation area and not zoned for open space, they would not be out of character with the houses in Friar Place. This, however is not the case and the proposed houses within the conservation area on an area of open space is not acceptable and the proposal is recommended for refusal. There are no objections on access and parking subject to conditions and there is adequate capacity at the local primary school. The proposal would connect to the public sewer and there are no objections from Scottish Water.

DEVELOPMENT PLAN

Kinross Area Local Plan 2004

The application site is within the village of Scotlandwell in an area designated for open space within the newly designated Scotlandwell Conservation Area.

Policy 81: Residential Amenity _ Village Character

Policy 88: Conservation Areas

Policy 91: Public and Private Open Space

Other Policies:

Developer Contributions Primary Education and New Housing Development 2009

SITE HISTORY

PK93/0251 planning consent for residential development at Friar Place granted in September 1993.

09/00149/FLL Alteration to condition 10 from previous consent (PK/93/0251) 2 December 2009 Application Refused

Appeal to the Local Review Body of the above refusal was dismissed on 21 April 2010.

CONSULTATIONS/COMMENTS

Education And Children's Services	No objections
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Perth And Kinross Area Archaeologist	No objections
--------------------------------------	---------------

Scottish Water	No objections
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TARGET DATE: 6 April 2012

REPRESENTATIONS RECEIVED:

Number Received: 6

Summary of issues raised by objectors:

Six letters of representation have been submitted including one from Portmoak Community Council. Main issues raised:-

- contrary to Kinross Area Local Plan policies 81 and 91
- the proposal is incongruous with other properties in Friar Place
- there would be a loss of sunlight to existing properties
- the proposal would result in a loss of open space
- there would be a loss of open space
- the proposal would constitute overdevelopment of the site
- impact on road safety

Response to issues raised by objectors:

In report

Additional Statements Received:

Environment Statement

Not required

Screening Opinion

Not required

Environmental Impact Assessment

Not required

Appropriate Assessment

Not required

Design Statement or Design and Access Statement

Not required

Report on Impact or Potential Impact eg Flood Risk Assessment

Not required

Legal Agreement Required:

Not required

Direction by Scottish Ministers

Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, regulations 30 – 32 there have been no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in or notification relating to this application.

Reasons:-

- 1 The proposed development is contrary to policies 88 and 91 of Kinross Area Local Plan 2004 as the development of the site for housing would remove a designated area of open space within the conservation area which it is considered would be detrimental to the character and appearance of Scotlandwell.

Justification

The proposal is not in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan

Notes



APPENDIX 4

Derek Scott Planning

FRIAR PLACE GAP SITE, SCOTLANDWELL

I/We the undersigned believe that it would be beneficial to the village and council alike to build on the gap site in Friar Place as it would finish off the estate, and feel that it would not be detrimental in any way to the character of the village.

Name	Address
	THE CLUNCS S/WELL
	FAIRDENE LESLIE ROAD S/WELL
	2. Friar Place, S/WELL:
	1 Jamesfield S/WELL.
	1 Bankfoot Park S/WELL.
	2 BANKFOOT PARK S/WELL
	— — — — —
	7 Bankfoot Park, Scotlandwell
	7 Bankfoot Park, Scotlandwell
	3 Bankfoot Park, Scotlandwell
	3 Bankfoot Park Scotlandwell
	Applebriggy Leslie Road S/WELL
	Leslie Bnd House Leslie Rd.
	1 LESLIE ROAD SCOTLANDWELL.
	2 Silverbank Leslie Rd, Scotlandwell
	Fairdene, Leslie Rd Scotlandwell
	1 Botts Acre Leslie Rd.
	— ditto —
	Bears House, Scotlandwell.
	CRATON Villa S/WELL
	CRATON Villa S/WELL

FRIAR PLACE GAP SITE, SCOTLANDWELL

I/We the undersigned believe that it would be beneficial to the village and council alike to build on the gap site in Friar Place as it would finish off the estate, and feel that it would not be detrimental in any way to the character of the village.

Name	Address
	HOWGAT MAIN ST SCOTLANDWELL
	SCREEL COTTAGE, THE BUTTS, SCOTLANDWELL
	Kingsbank, Leslie Rd Scotlandwell
	Kingsbank, Leslie Rd, Scotlandwell.
	SPION KOP, LESLIE RD, SCOTLANDWELL
	SPION KOP, LESLIE RD, SCOTLANDWELL
	The Grange Leslie Rd Scotlandwell
	Well Cottage, Scotlandwell.
	" " "
	The Well Cottage Inn.
	10 THE CRESCENT SCOTLANDWELL
	CLIMBY COTTAGE, SCOTLANDWELL
	Smiddy Cottage, Scotlandwell
	TREETOPS MAIN ST SCOTLANDWELL
	THE CREFT, MAIN ST. SCOTLANDWELL
	HIGHRIE, SANDY LANE SCOTLANDWELL
	HIGHRIE, SANDY LANE - SCOTLANDWELL
	LEA RIG SANDY ROAD SCOTLANDWELL
	11 BANK FOOT PARK, SCOTLANDWELL
	The Cottage, Leslie Rd. "
	1 THE CRESC. SCOTLANDWELL.

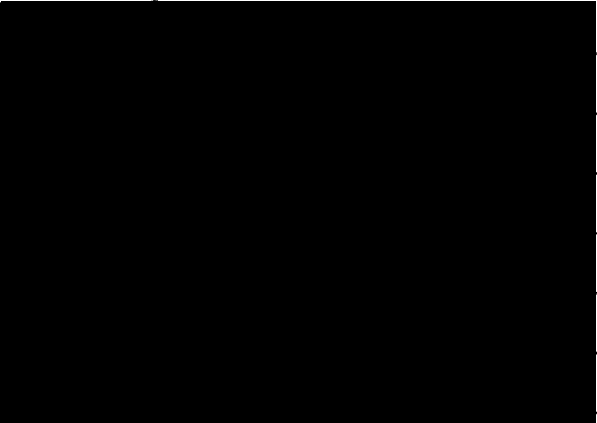
FRIAR PLACE GAP SITE, SCOTLANDWELL

I/We the undersigned believe that it would be beneficial to the village and council alike to build on the gap site in Friar Place as it would finish off the estate, and feel that it would not be detrimental in any way to the character of the village.

Name	Address
	1 The crescent Scotlandwell
	Scotlandwell
	SCOTLANDWELL.
	SCOTLANDWELL
	Scotlandwell
	SCOTLANDWELL.
	4 FRIAR PLACE
	TIGH NA TOBAR
	APPLEG, LESLIE RD, SCOTLANDWELL.
	4, THE crescent Scotlandwell
	5 THE crescent, Scotlandwell.
	7 THE crescent SCOTLANDWELL
	Nether Rig, Leslie Rd S/well
	ROSE COTTAGE SCOTLANDWELL
	9 JAMESFIELD "
	6 JAMESFIELD. S/well
	5. JAMESFIELD, SCOTLANDWELL
	4 Jamesfield S/well.
	Main St. Scotlandwell
	Orange Cottage Scotlandwell
	Orange Cottage Scotlandwell
	9 Bankfoot PR S/well.

FRIAR PLACE GAP SITE, SCOTLANDWELL

I/We the undersigned believe that it would be beneficial to the village and council alike to build on the gap site in Friar Place as it would finish off the estate, and feel that it would not be detrimental in any way to the character of the village.

Name	Address
	THE BIRKS LOCHGELLY RD
	—— 11 ——
	c/o —— 11 —— 111
	Rose Gardens.
	ROSE GARDENS.
	The Chapel House, Scotlandwell
	The Chapel House, Scotlandwell

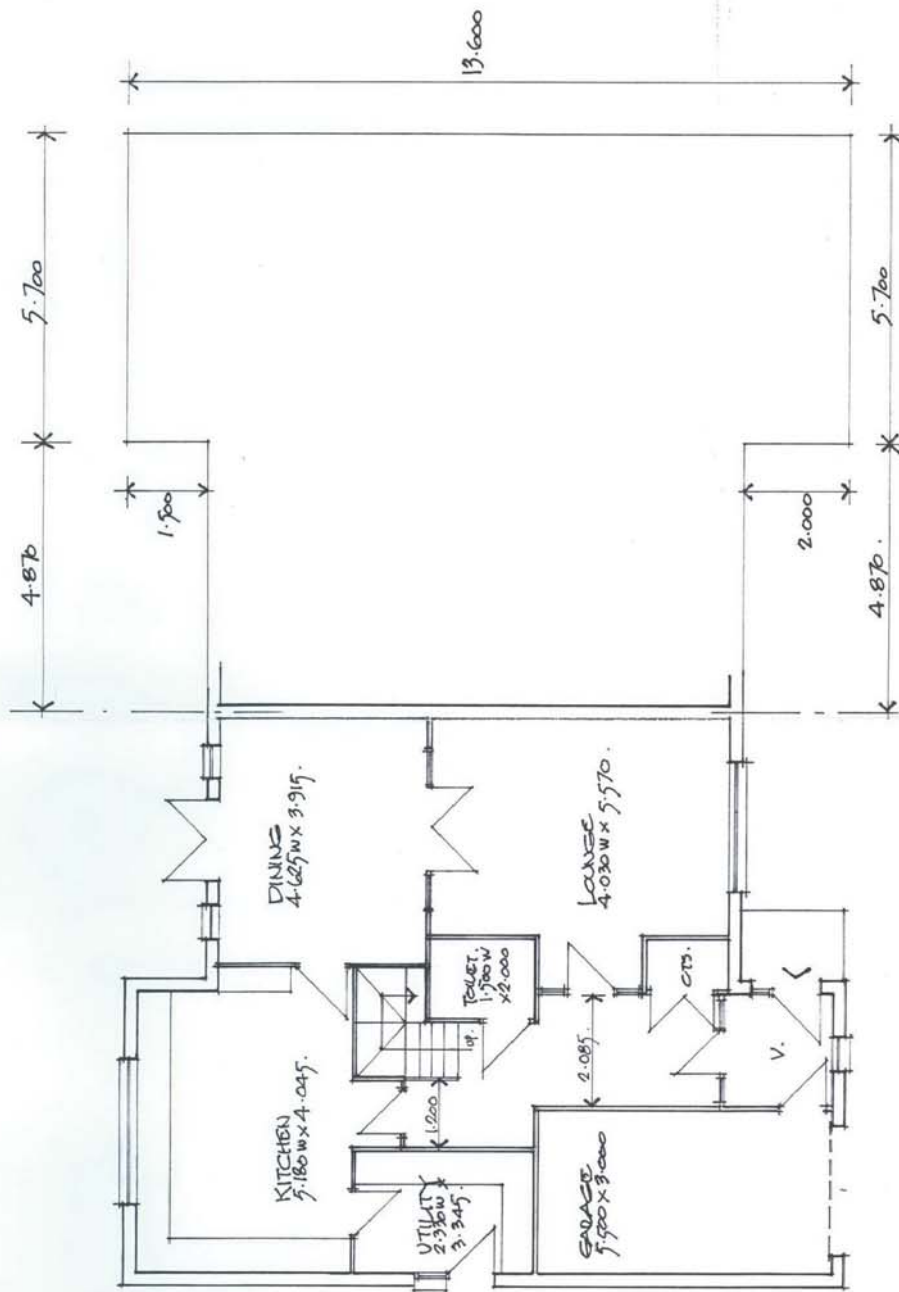
TCP/11/16(194)

Planning Application 12/00117/FLL – Erection of one pair of semi-detached dwellings on site east of 9 Friar Place, Scotlandwell

PLANNING DECISION NOTICE (included in applicant's submission, see pages 191-192)

REPORT OF HANDLING (included in applicant's submission, see pages 195-199)

REFERENCE DOCUMENTS (part included in applicant's submission, see pages 183-187)



GROUND FLOOR PLAN. 1:100

PERTH AND KINROSS COUNCIL

DRAWING REF: 12/0017/6

PROPOSED GAP SITE DEVELOPMENT AT FRIAR PLACE,
SCOTLANDWELL DEC. NO HPS/2. 18 Jan 2012.

John McArthur



TCP/11/16(194)

Planning Application 12/00117/FLL – Erection of one pair of semi-detached dwellings on site east of 9 Friar Place, Scotlandwell

REPRESENTATIONS

- Objection from Mr J Beales, dated 15 February 2012
- Objection from Mr S Garvie, dated 20 February 2012
- Objection from Mr D Eadie, dated 20 February 2012
- Representation from Transport Planning, dated 23 February 2012
- Representation from Perth and Kinross Heritage Trust, dated 23 February 2012
- Objection from Mr and Mrs Brown, dated 24 February 2012
- Objection from Conservation/Design, dated 24 February 2012
- Objection from Kinross-shire Civic Trust, dated 27 February 2012
- Objection from Portmoak Community Council, dated 28 February 2012
- Representation from Mr D Eadie, dated 22 June 2012
- Agent's response to representation, dated 11 July 2012

Mr John Beales (Objects)

Comment submitted date: Wed 15 Feb 2012

I am an adjoining neighbour to this application, but omitted from notification and the notification list which I do not understand.

Condition 10 of PK/93/0251 required this space to be retained as open public amenity space for the adjoining development.

The prior application was correctly refused under policy 91 of the local plan and should be upheld.

The new Tayplan H54 site development may require direct connection and further open space allocation to the South, adjoining this specific open space.

This application is invalid on the above grounds and should be denied.

Mr Stuart Garvie (Objects)

Comment submitted date: Mon 20 Feb 2012

This piece of land is not as described in the Planning Application a 'gap site remaining from previous development?'. This land was deliberately left un-built on and planned for landscaping as scrutiny of the Planning Approval for the development of Friar Place will testify PK/93/0251 Condition 10.

This land is also part of the Scotlandwell Conservation Area and should remain so especially as there are plans under Tayplan H54 for a building development directly south of Friar Place.

This piece of land is used by the children who live in the street for games (there are ten children, the majority of whom are under 12). At the moment we have a building-free area in the street, comprising of the burial ground, a strip of unfenced ground belonging to me and this land protected under Condition 10 of PK/93/0251. Any building on the site in question would change the nature of the street completely.

A building of two households would raise the amount of cars using and parking in the street. Due to the rural situation, households in Scotlandwell have an average of 2 cars each. I can only see one practical car parking space on the attached plans.

All houses in Friar Place are individual dwellings in a plot allowing sizeable gardens and off-street car parking and/or garage. This planned building has two houses crammed into one plot with limited garden and car parking. It is therefore not in keeping with other houses in Friar Place.

I should like to point out the the Applicant has never maintained the land and any attempt by neighbours to maintain it has been forbidden by the Applicant. To grant planning permission to the Applicant would be to reward deliberately flouting the original planning conditions.

Mr David Eadie (Objects)

Comment submitted date: Mon 20 Feb 2012

Dear Sirs,

I am writing again to formally object to this planning application. The reasoning and rationale behind the objection remain as per my original objection dated 24th February, 2009, Reference 09/00149/FUL.

The situation remains as per last objection. The Condition 10 status has not been enforced and now the owners of the land refuse the other residents permission to maintain the appearance and upkeep of the area. This is done in the belief that this will drive a decision in favour of the applicant, as highlighted in their agent's correspondence, referenced above.

If anything, we now need the Condition 10 enforced due the increased number of children now residing within Friar Place. This area is the only area where the children can safely play without the need to cross major roads.

I would like to know, what is the purpose of the application, given application 09/00149/FUL was rejected and the Condition 10 applied as part of 93/0251/FUL upheld. How is it possible to apply for planning permission on land that has an outstanding Condition 10 associated to it?

I have consulted with my neighbours again, who are happy with for me to write this objection on their behalf.

I look forward to hearing from you.

Yours Sincerely

David Eadie



MEMORANDUM

To	Planning Officer Development Management	From	Niall Moran Transport Planning Technician Transport Planning
Our ref:	NM	Tel No.	Ext 76512
Your ref:	12/00117/FLL	Date	23 February 2012

Pullar House, 35 Kinnoull Street, Perth, PH1 5GD

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997, - ROADS (SCOTLAND) ACT 1984

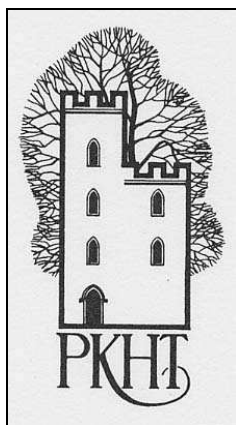
With reference to the application 12/00117/FLL for planning consent for:- **Erection of one pair of semi-detached dwellings Site East Of 9 Friar Place Scotlandwell for Mrs Margaret Paterson**

Insofar as the Roads matters are concerned I do not object to the proposed development provided the conditions indicated below are applied, in the interests of pedestrian and traffic safety.

- Prior to the occupation or use of the approved development the vehicular accesses shall be formed in accordance with specification Type A, Fig 5.5 access detail to the satisfaction of the Planning Authority.
- Prior to the occupation or use of the approved development turning facilities shall be provided within the site to enable all vehicles to enter and leave in a forward gear.
- Prior to the occupation or use of the approved development a minimum of 2 No. car parking spaces per dwelling shall be provided within the site.

The applicant should be advised that in terms of Section 56 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environmental Protection Agency.

I trust these comments are of assistance.



Memorandum

To: Development Management, TES

From: Sarah Malone, PKHT

Date: 23 February 2012

Tel: 01738 477080

*Perth and Kinross Heritage Trust.
The Lodge, 4 York Place, Perth
PH2 8EP.*

12/00117/FLL: Erection of one pair of semi-detached dwellings at site east of 9 Friar Place, Scotlandwell.

Thank you for consulting PKHT on the above application. I can confirm that the proposed development area is considered archeologically sensitive as it lies within the suspected location of St Mary's Hospital / Scotlandwell Priory. The original foundation of Scotlandwell was the hospital of St Mary. It was in existence c.1214 but was granted to the Trinitarians in 1250-1. The family of Arnot occupied the priory in 1543 and ejected the community. It had become secularised by 1591-2 and it is mentioned as in the King's hands in 1606. The ruins of the building were in existence in Spottiswoode's time (d.1637) but have since disappeared.

An small scale archaeological assessment was carried out prior to a housing development in the area directly to the north, northeast and northwest of the proposed development site. The evaluation found significant medieval remains probably associated with the Priory. These remains included a cobbled surface, a wall, a possible timber structure and drainage features. There is a possibility that archaeological remains associated with St Mary's Hospital / Scotlandwell Priory survive within the proposed development site.

Recommendation

In line with Scottish Planning Policy (Historic Environment sections 110 and 123), it is recommended that an archaeological evaluation (consisting of a 6% trenched sample) should be carried out to determine the presence/absence of archaeology on the development site. The results of this evaluation will inform a mitigation strategy, if required. An appropriate negative suspensive condition would be:

No development shall take place within the development site as outlined on the approved plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by Perth and Kinross Heritage Trust, and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with the Perth and Kinross Heritage Trust.

Please do contact me should you wish to discuss further.

Should consent (incorporating a suitable archaeological condition) be given, it is important that the developer, or his agent, contact me a.s.a.p. I can then explain the procedure for work required and prepare for them written Terms of Reference.

Notes:

1. This advice is based on information held on the Perth and Kinross Historic Environment Record. This database of archaeological sites and historic buildings is regularly updated.

From: Lynda Brown **Sent:** 24 February 2012 12:15
To: Development Management - Generic Email Account
Subject: 12/0011/FLL
Importance: High

Mr & Mrs Brown
11 Friar Place
Scotlandwell
Perth & Kinross
KY13 9WN

Ref: 12/00117/FLL

Site East of 9 Friar Place Scotlandwell.

Dear Nick

I am writing in conjunction to the planning application that is currently taking place on **Site East of 9 Friar Place Scotlandwell**. I would like to advise I highly object to this planning application for a number of different reasons.

Originally I purchased **Plot 11** to build my family home and the reason why I done so is due to the fact that the plot in question was under the condition that no property would be built on it, with this in mind I designed my property with the sun room, kitchen, garage and upstairs bedroom all having windows overlooking the adjacent plot.

If for talking terms the planning application went through and a pair of semi-detached dwellings was built then this would affect my property dramatically. This reason why I say this is because no natural light will get into that side of my property, leaving me no choice but to use more electricity and how the climate is at the moment it is already cost effective.

Also after future investigation it has turned out that this too can de-value the property, I mean who is there right mind would want to stare into a wall whilst looking out their windows. If I knew this was the case I would have never purchased **Plot 11**. My back garden would become affected as well, for example a wall or fence would have to be built to section of privacy within the gardens, if this was to be done then again no light will get in causing major shade causing dampness in the garden.

I really cannot stress enough about my concerns, I am furious to even hear this is all taking place. I have lived her now for 13 years and have a family that will be living here for years to come, the last thing I want is my family and property to be affect.

Please do take the time to look into this as this would be much appreciate, if you need any more information then please do not hesitate to get in contact.

Kind Regards

Memorandum

To		From	Rachel Haworth
Your ref	12/00117/FLL	Our ref	*
Date	24/02/11	Tel No	75357

The Environment Service

Pullar House, 35 Kinnoull Street, Perth PH1 5GD

Conservation/Design comments

Site east of 9 Friar Place, Scotlandwell – Erection of one pair of semi-detached dwellings

I commented previously on a proposal to alter a condition requiring the maintenance of the site now proposed for development as open space (09/00149/FLL). This application was refused and the decision upheld at appeal. The policy context for the proposal has not significantly changed in the interim: the Scotlandwell Conservation Area and associated Appraisal are now in place (approved June 2009); while the proposed local development plan retains the area as open space. The requirement to retain its open space character therefore remains.

My comments therefore remain the same as in the previous application:

The Kinross Local Plan denotes this area as ‘public and private open space’ to be retained and where development proposals which erode the area will be resisted. The Scotlandwell Conservation Area Appraisal also identifies this open space as important to the character of the area, and recommended for protection and enhancement (see www.pkc.gov.uk/scotlandwellconservationarea).

Although within an area of modern built development, the existing space provides an important break and area of green space within the developed building line, as well as a valuable view corridor north-south between the former caravan site south of Leslie Road, the historic open space of the burial ground and the rural, agricultural setting of the village to the south. The open character reflects its historic role as part of the priory hospital grounds and provides an appropriate setting to the remaining fragment of this historic area, at the burial ground. Its current informal condition and the presence of the electricity substation do not substantially erode the amenity value of the space.

Paragraph 9.2 of the conservation area appraisal states that “...*This is identified as ‘private and public open space’ and it is vital that this area is left undeveloped to aid the setting of the burial ground and continue the key views through and beyond.*”

I would therefore consider the proposed development of two houses, or the departure from the adopted and local plan designation as open space, would be harmful to the character and appearance of Scotlandwell, and I strongly object to the proposal.

KINROSS-SHIRE CIVIC TRUST

Helping protect, conserve and develop a better built and natural environment

Ashtrees
Wester Balgedie
KINROSS
KY13 9HE
01592 840215

e-mail: moiraandal@balgedie.fsnet.co.uk

27th February 2012.

Mr Nick Brian
Perth and Kinross Council
Development Control
Pullar House
35 Kinnoull Street
PERTH
PH1 5GD

Dear Mr Brian

12/00117/FLL Erection of one pair of semi-detached dwellings Site East Of 9 Friar Place Scotlandwell

The Civic Trust would wish to lodge an objection to this Planning Application as it is contrary to the Kinross area Local Plan 2004.

This is the second application for development on this site and the Trust objected to the first application for the same reasons. The first application was rejected under Delegated Powers and after appeal was rejected after consideration by Local Review.

The site is covered under Policy 91 of the KALP which identifies land that is to be retained. This is part of an historic site in Scotlandwell and hence the reason for protecting it by the Policy 91. In the Proposed Local Development Plan, which is at present out for consultation, the same piece of land is identified as an important open space for retention.

As an additional comment, the housing proposal for 2 two storey semi-detached houses is completely out of context with the present houses, which are all single storey dwellings as required by the Council.

For all these reasons, the Trust would wish to lodge its objection

Yours sincerely

For and on behalf of Kinross-shire Civic Trust
Cc PKC Local Members

Chairman – Mr Alistair Smith, Treasurer – Mr Ken Miles, Secretary - Mrs Eileen Thomas
http://planningapps.pkc.gov.uk/online-applications/files/F3621A8FEABB82E9BEB3CB850D766FC4/12_00117_FLL-OBJECTION_COMMENT_KINROSS-SHIRE_CIVIC_TRUST_-444864.doc

Portmoak Community Council

c/o Kantara
Wester Balgedie
Kinross KY13 9HE

28th February, 2012

Mr Nick Brian
Perth and Kinross Council
Development Control
Pullar House
35 Kinnoull Street
PERTH
PH1 5GD

Dear Mr Brian

12/00117/FLL: Site East of 9 Friar Place, Scotlandwell; Erection of One Pair of Semi-detached Dwellings

This planning application is for the erection of one pair of semi-detached dwellings on a plot in Friar Place within the village of Scotlandwell.

The Community Council is aware of the designated open space areas adjacent to Friar Place including this plot and the extensive site history in relation to it. In particular it notes two conditions placed on these open space areas at the time of consent for the original residential development in 1993 (PK/93/0251):

Condition 4 "The landscaping works and open space provision indicated on the approved plans shall be implemented concurrently with progress of housing completions in the satisfaction of the District Council, as Planning Authority"; and

Condition 10 "The open space areas, including the burial ground, shall be made accessible to the public and maintained to the satisfaction of the District Council, as Planning Authority."

The Council is also aware that:

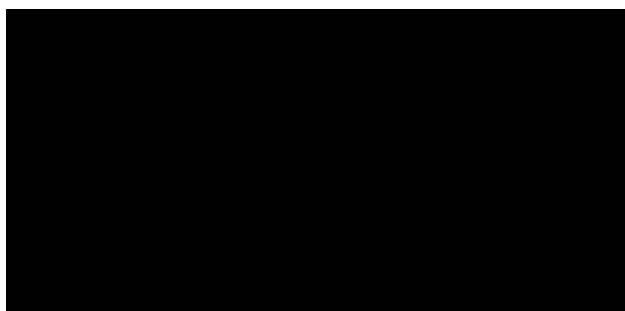
1. An application to alter condition 10 from the previous consent (*PK/93/0251*) was refused in November 2009 (*Planning application 09/00149/FUL*) and that a subsequent appeal before the Local Review Body was dismissed in April 2010 (*Ref TCP/11/16/(11)*); and that
2. In 2009 these open areas were included within the Scotlandwell Conservation Area. The Appraisal for the Conservation Area made the following comments:
 - "The burial ground in Friar Place and the land to the south are both used for informal recreation. The burial ground appears to be well maintained. The area to the south however is not and has no real definition or purpose. It does allow for long important views over the flat farmland beyond....";
 - "There is a gap site below the burial ground which could come under pressure for development This is identified as 'private and public open space' and it is vital that this area is left undeveloped to aid the setting of the burial ground and continue the key views through and beyond"; and

- “The area of open space to the south of the burial ground would benefit from a maintenance plan that would in turn improve the setting of the burial ground.”
3. The original application for the Friar Place development for 15 houses (*PK/92/0927*) was refused as it would “constitute over-development of the site to the detriment of the village.” The proposed layout “was unsatisfactory as it would cause a solid ‘wall’ along the southern boundary and have an adverse effect on the appearance of the village.” In giving consent to the subsequent application (*PK/93/0251*) the appraisal noted that the “solid ‘wall’ effect has been broken up by removing two houses i.e. by reducing the proposal from 15 to the amended proposal of 13 houses, and creating the open space corridor..... This also satisfies the [then] Local Plan requirement of providing an open aspect for the burial Ground.”
 4. The proposed Local Plan (January 2012) for Scotlandwell identifies and supports as open spaces both the burial ground and the adjacent open space to the south of it (*Policy CF1 Open Space Retention and Provision*).

The Community Council objects to this application as:

1. In seeking to build on this particular plot, this development proposal is contrary to the adopted Kinross Area local Plan 2004 (Policies 81 and 91). These provide for public and private open space within settlements and require that any development proposal that will erode this is to be resisted. The Council notes that encouragement is to be given to proposals that will improve these areas.
2. The housing development proposed (*one pair of semi-detached dwellings of one and half stories*) is incongruous and would jar with the other properties in Friar Place where all properties are single story individual dwellings each in plots allowing sizeable gardens and off-street parking and/or garage. The proposed development of a one and half story semi-detached building with limited gardens and car parking would be intrusive and an ill fit.

Yours sincerely,



Robert G Cairncross
for
Portmoak Community Council

Audrey Brown - Democratic Services

From: Eadie, David [REDACTED]
Sent: 22 June 2012 12:00
To: CHX Planning Local Review Body - Generic Email Account
Subject: RE: TCP/11/16(194) - Site east of 9 Friar Place, Scotlandwell

Gillian,

Thank you for the update, my original objection still stands. I have also spoken to my neighbours at number 18 and 9, and they have given me their approval to respond.

I do know that Mrs Patterson has been collecting signatures on a petition to repeal the decision, but not from people who live at the top end of Friar Place so I'm not sure what influence this petition will have.

The area is now becoming a bit of an eyesore, since Mrs Patterson has stopped the locals from maintaining the area, I'm sure this is a deliberate ploy as referenced in her agents correspondence. So, if anything, I'm now looking at the council to see when the enforcement of the original land condition (10) will be up held.

Regards

David Eadie

TCP/11/16(194)

Our Ref: ep374/let009/DS

11th July 2012

Ms. Gillian A Taylor
Clerk to the Local Review Body
Perth and Kinross Council
Committee Services
Council Building
2 High Street
PERTH PH1 5PH



Dear Ms. Taylor

NOTICE OF REVIEW – TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)

12/00117/FLL – ERECTION OF ONE PAIR OF SEMI-DETACHED DWELLINGS OPN SITE TO EAST OF 9 FRIAR PLACE, SCOTLANDWELL

We refer to your letter of 09th July 2012 inviting comments on an e-mail you had received from a Mr. David Eadie in connection with the above-mentioned review request.

We note with interest the admission by Mr Eadie that the area is now becoming somewhat of an eyesore which of course is one of the principle reasons for granting planning permission for the erection of two semi detached houses as they would considerably improve the character and appearance of the area.

Mr Eadie has also made reference to the possibility of the Council upholding the enforcement of the original condition. This is not possible as the condition has become immune from enforcement action under the 'ten' year rule.

Please acknowledge receipt of this letter at your earliest convenience.

Yours sincerely

Derek Scott

