

Perth and Kinross Council
Development Management Committee –10 August 2016
Report of Handling by Development Quality Manager

**Erection of a dwellinghouse (in principle) at Land to the South of Witchhill,
Kinnoull Terrace, Perth**

Ref: No: 16/00863/IPL
Ward No: 12 – Perth City Centre

Summary

This report recommends refusal of a planning in principle application for a residential development on the grounds that the proposal is contrary to the Local Development 2014, and National Planning Guidance by virtue of its adverse impact on the visual amenity of the local area, its adverse impact on the character of the Conservation Area and setting of listed buildings.

LOCATION AND DESCRIPTION OF SITE

1. The site comprises an area of approximately 600 sq metres of former garden ground associated with a large Category 'B' listed building located on Kinnoull Terrace, known as 'Witchhill'. The site lies within the Kinnoull Conservation Area and is surrounded by a series of listed buildings including Kinnoull Primary School, which is adjacent to the eastern boundary. The site sits on an elevated sloping knoll, on the rock outcrop associated with the former Kinnoull quarry which sits approximately 3-5 metres above the street level of Dundee Road. The site is currently overgrown with several mature trees scattered across the site and along its boundaries. The natural topography of the site is a steep slope, running roughly from east to west

PROPOSAL

2. The proposal seeks to establish the principle for residential development on the site. Indicative elevations and footprint plans, what appear to be existing sections and a site plan showing basic access and parking arrangements have been submitted by the applicant in support of this planning application. No specific details of the scale or elevational details of the building have been submitted, to establish how the associated site challenges would be overcome, although the approximate footprint appears to extend to approximately 220 sqm. The application form indicates that a single building would accommodate two floors of accommodation, a detached garage plus a pedestrian stairway to Dundee Road. In terms of the scale of the building, the indicative elevation appears to be two storeys; 9.5m in height and 12.3m in length with a pitched roof.
3. Vehicular access to the site would be taken from Kinnoull Terrace which is a long narrow street that has a junction onto Bowerswell Road. Parking provision is marked on the indicative site plan.

SITE HISTORY & BACKGROUND

4. This site has a prolonged planning history of outline planning applications (by the same applicant), all of which have been either consistently refused consent by the Council, or by the Scottish Ministers on appeal, or by both.
5. The first notable application was submitted in 1996 which was for the erection of 4 flatted dwellings (PK96/0697). After this application was refused by the Council, the application was appealed to Scottish Ministers. Following a public local inquiry, the reporter dismissed the appeal on the grounds that the proposal would be contrary to the development plan, inconsistent with government guidance and likely to be a hazard to traffic and pedestrian safety. In addition, the Reporter also noted that in his opinion, the proposal would be unlikely to preserve the setting of the group of listed buildings around the site or to preserve (or enhance) the character or appearance of the conservation area.
6. In 2000, another application for the erection of 4 flats and associated car parking (00/01466/OUT) was refused planning permission. The applicant again appealed the decision to Scottish Ministers. The appeal was again dismissed, with the Reporter concluding that the proposal was contrary to the Development Plan notably policies 41, 58 and 59 in the Perth Area Local Plan 1995 (Incorporating Alteration No1, Housing Land 2000).
7. Planning application 07/01745/OUT was submitted, for a residential flatted development with an indicative number of 6 residential units proposed. This application was refused planning permission under delegated powers (as per the Council's approved scheme of delegation) principally on the grounds that the proposal was contrary to the Development Plan, a safe access could not be achieved and the detrimental impact the proposal would have on the setting of both the Conservation Area and the surrounding group of listed buildings.
8. Planning application 08/00248/OUT was submitted, for a residential flatted development with an indicative number of 4-6 units proposed. This application was refused planning permission under delegated powers (as per the Council's approved scheme of delegation); principally on the grounds that the proposal was contrary to the Development Plan, a safe access could not be achieved and the detrimental impact the proposal would have on the setting of both the Conservation Area and the surrounding group of listed buildings. The applicant again appealed the decision to Scottish Ministers (08/00074/REF). The appeal was dismissed, with the Reporter concluding that the proposal was contrary to the Development Plan.
9. A pre-application enquiry 12/00687/PREAPP was submitted in 2012. Consistent planning advice was provided to the applicant, highlighting key policy issues, but also including a recommendation that due to the understood constraints of the site, it was strongly recommended that any future application be made in full to allow all aspects of the proposals to be considered in detail.
10. Following the above pre application enquiry an application in principle (13/00698/IPL) was made for four flatted residential units. This application was refused by the Development Management Committee on 17 July 2013 as being

contrary to the Development Plan, Proposed Local Development Plan and National Planning Policy on the grounds of a safe access not being achievable and the detrimental impact the proposal would have on the setting of both the Conservation Area and surrounding group of listed buildings. The applicant again appealed the decision to the Scottish Ministers (PPA-340-2079). The appeal was again dismissed, with the Reporter concluding that the proposal was contrary to the Development Plan, stating that the development failed to respect the density, character and amenity of the surrounding area and would have a detrimental impact on character of the Conservation Area and failed to preserve the setting of adjacent listed buildings. It was concluded that the access arrangements were acceptable.

11. A pre-application enquiry was submitted in March 2016 which indicated a reduced proposal for a single dwellinghouse. Similar to the previous enquiries, consistent planning advice was provided to the applicant, highlighting key policy issues, but also including a recommendation that due to the understood constraints of the site, it was strongly recommend that any future application be made in full to allow all aspects of the proposals to be considered in detail.

NATIONAL PLANNING GUIDANCE

12. The Scottish Government expresses its planning policies through The National Planning Framework 1 & 2, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Designing Places, Designing Streets, and a series of Circulars. Of particular relevance to this planning application are:-

Scottish Planning Policy 2014 (SPP)

13. The SPP is a statement of Scottish Government policy on land use planning and contains:
 - the Scottish Government's view of the purpose of planning,
 - the core principles for the operation of the system and the objectives for key parts of the system,
 - statutory guidance on sustainable development and planning under Section 3E of the Planning etc. (Scotland) Act 2006,
 - concise subject planning policies, including the implications for development planning and development management, and
 - the Scottish Government's expectations of the intended outcomes of the planning system.
14. Of relevance to this application are paragraphs:-
 - Paragraphs 32-35: Development Management
 - Paragraphs 109-134: Enabling Delivery of New Homes
 - Paragraphs 135-151: Valuing the Historic Environment
 - Paragraphs 193-218: Valuing the Natural Environment
 - Paragraphs 269-291: Promoting Sustainable Transport and Active Travel

Historic Environment Scotland Policy Statement (June 2016)

15. Sets out Scottish Ministers' policies, providing direction for Historic Environment Scotland and a policy framework that informs the work of a wide range of public sector organisations.

DEVELOPMENT PLAN

16. The Development Plan for the area consists of the Approved TAYPlan June 2012 and the Perth and Kinross Local Development Plan 2014

TAYPlan June 2012

17. TAYPlan sets out a vision for how the region will be in 2032 and what must occur to bring about change to achieve this vision. The vision for the area as set out in the plans states that:
 - *“By 2032 the TAYplan region will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice where more people choose to live, work, study and visit, and where businesses choose to invest and create jobs”*
18. The following policies of the TAYplan 2012 are of particular importance in the assessment of this application.

Policy 2: Shaping Better Quality Places

19. Part F of Policy 2 seeks to 'ensure that the arrangement, layout, design, density and mix of development and its connections are the result of understanding, incorporating and enhancing present natural and historic assets, the multiple roles of infrastructure and networks and local design context, and meet the requirements of Scottish Government's 'Designing Places' and 'Designing Streets' and provide additional green infrastructure where necessary'.

Policy 3: Managing Tayplan's Assets

20. This policy seeks (amongst other things) to protect our cultural heritage from inappropriate developments.

Perth and Kinross Local Development Plan 2014

21. The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
22. The LDP sets out a vision statement for the area and states that:

“Our vision is of a Perth and Kinross which is dynamic, attractive and effective which protects its assets whilst welcoming population and economic growth.”

- 23 Under the LDP, the following policies are of particular importance in the assessment of this application:

Policy PM1: Placemaking

24. This policy requires that all development must contribute positively to the quality of the surrounding built and natural environment. All development should be planned and designed with reference to climate change, mitigation and adaption. The design and siting of development should respect the character and amenity of the place and should create and improve links within and, where practical, beyond the site. Proposals should also incorporate new landscape and planting works where appropriate to the local context and the scale and nature of the development.

Policy RD1: Residential Areas

25. This policy seeks to protect and improve existing residential amenity. Proposals will be encouraged where they are compatible with the amenity and character of an area and where they improve the character and environment of the area.

Policy PM2: Design Statements

26. Design statements will normally need to accompany a planning application if the development:

(c) affects the character and/or appearance of a Conservation Area, Historic Garden, Designed Landscape, or the setting of a Listed Building or Scheduled Monument.

Policy PM3: Infrastructure Contributions

27. Planning permission will only be granted where contributions which are reasonably related to the scale and nature of the development are secured.

Policy HE2: Listed Buildings

28. States that there will be a presumption in favour of the retention of listed buildings, and the protection of their settings.

Policy HE3: Conservation Areas

29. States that the Council will encourage proposals which preserve or enhance the character or appearance of the Conservation Area.

Policy NE2B: Tree Surveys

30. Tree surveys should accompany all applications for planning permission where there are trees on site.

Policy NE3: Bio Diversity

31. The Council will seek to protect and enhance wildlife and wildlife habitats, whether formally designated/protected or not.

OTHER COUNCIL POLICIES

Developer Contributions and Affordable Housing Supplementary Planning Guidance

32. Sets out the Council's Policy for securing contributions from developers of new homes towards the cost of meeting appropriate infrastructure improvements necessary as a consequence of development.

Kinnoull Conservation Area Appraisal (April 2010)

33. This is a management tool, which helps to identify the special interest and changing needs of an area. It serves as supplementary planning guidance to the Local Plan.

Perth and Kinross Community Plan 2013-2023

34. The draft community plan is a long term strategy which will provide strategic direction for the Perth & Kinross Council until 2023, setting out what the view of what the Council wants for the area in terms of communities and individual people and identities how these visions can be achieved.

CONSULTATIONS

EXTERNAL

35. **Bridgend, Gannochy & Kinnoull Community Council:** Objected to the proposal on the grounds of:
 - Lack of detail, with no significant detail to contain no significant material to overcome the reasons for refusal in earlier applications.
 - Highly visual development in the conservation area, the proposed development would be inappropriate and harmful to the amenity of the location and the surrounded listed buildings both visually and in terms of building density, building line – in conflict of policy HE3A of the Local Development Plan.
 - Failure to conform to required levels of safe access for both vehicle and pedestrian traffic via Kinnoull Terrace and Dundee Road.
 - No spare road capacity and concerns relating to traffic congestion and relationship to Cross Tay Link Road.
 - Air quality issues.
36. **Scottish Water:** No response within statutory period.

INTERNAL

37. **Environmental Health:** No response within statutory period.
38. **Waste Services:** No objection – bins should be presented at road end on Bowerswell Road
39. **Developer Negotiations Officer:** This development falls within the Kinnoull Primary School catchment area. As this application is only “in principle” it is not possible to provide a definitive answer at this stage however it should be noted that the Developer Contributions Policy would apply to all new residential units with the exception of those outlined in the policy. The determination of appropriate contribution, if required, will be based on the status of the school when the full application is received.
40. **Bio Diversity Officer:** Tree survey and bat survey requested. Conditions also recommended.
41. **Transport Planning:** Substandard junction between Kinnoull Terrace and Bowerswell Road with extremely restricted visibility in both directions due to presence of stone walls. Object on grounds of intensification of use of sub-standard access which would constitute an increased risk to pedestrian and traffic safety.

REPRESENTATIONS

40. 15 letters of representation have been received, eight in support of the proposal and seven objecting.
41. The grounds of support are as follows:
 - Proposal would be in keeping with the surrounding area
 - Enhances the Conservation Area and fully accords with the aims of sustainability and policies, including TAYPlan, PKC community Plan, development and transport plans
 - Supports sustainable economic development
 - No objective reason for refusal
 - More homes are required and area has already been spoilt.
 - The building is suggested to be visually insignificant compared with the main road and the associated heavy traffic.
 - The site characteristics are seen to support residential development.
42. In terms of the submitted seven objections, the issues are summarised as:
 - Access arrangements
 - Excessive height
 - Out of character/over-intensive development
 - Inappropriate land use
 - Potential visual impact of the proposal.
 - Impact on character of Conservation Area and setting of listed buildings

- Poor quality of submission
- Impact on trees
- Impact on private property (including drainage and landscaping and use of access road) – not a material planning consideration

43. These matters are addressed in the Appraisal section of this report.

ADDITIONAL STATEMENTS

44.	Environment Statement	Not required
	Screening Opinion	Not required
	Environmental Impact Assessment	Not required
	Appropriate Assessment	Not required
	Design Statement / Design and Access Statement	None
	Report on Impact or Potential Impact	Background correspondence

APPRAISAL

Government Policy & Advice

45. Whilst it is acknowledged and accepted that the site is centrally located within Perth City, and therefore broadly meets some of the sustainability criteria which the applicant has reinforced in his correspondence as to why the site is suitable for development, this on its own does not necessarily deem a site appropriate for development. The planning application is 'in principle' and therefore falls to be fully assessed on the merits of the detail provided. Not enough detail or substantial evidence exists to objectively and comprehensively assess the full merits of the site within the individual site context provided.

Development Plan

46. Section 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 requires the determination of the proposal to be made in accordance with the provisions of the development plan unless material considerations indicate otherwise.
47. In terms of the Development Plan, the applicant has previously indicated that, as the relevant Local Plan for this area dates back to 1995, its content should not be a material consideration in the determination of planning applications. In this instance the 1995 Perth Area Local Plan has now been superseded by the Perth and Kinross LDP. Therefore significant weight must be given to the contents and policies of the LDP in accordance with the requirements of Section 25 and 37(2) of the Planning Act. The policies contained within the LDP reflect the same objectives of the Act and seek to protect the character of Conservation Areas and the setting of listed buildings and retain the character and amenity of the existing residential areas.

48. Accordingly, the key two tests of the acceptability of this proposal are: a) whether or not the proposed residential land use is acceptable and b) whether or not the proposal will have an adverse impact on setting of the listed building and the character of the Conservation Area. For reasons stated elsewhere, I consider the proposal to be unacceptable on both counts and contrary to a number of Council policies.

Land Use

49. The application site is an area of land which lies within the settlement boundary of the City of Perth in an area zoned for residential and compatible uses. Any proposal must therefore meet the criteria for infill opportunities as indicated in this policy. The site is physically restricted in size through the overall area, its irregular shape, associated topography, and with regards to the overall developable site area. The applicant has sought to reduce the level of development on the site from four flatted dwellings to a single detached dwellinghouse and detached garage. It remains unproven through the associated planning submission that a development of the scale proposed (or any scale for that matter) could be adequately accommodated within this site, without having an adverse impact on the visual amenity of the area and the character of the surrounding residential area, including the setting of key, landmark listed buildings. Looking at the site shape and its associated topographical constraints, any physical development on this site would have to take place in front of the well-established building line of Kinnoull Terrace facing towards Dundee Road and therefore would be very prominent. Whilst some detail has been provided relating to the layout and sections of the site, the submission fails to provide any factual evidence that these matters could be satisfactorily overcome. The applicant has been consistently advised to make a full application so all of these matters could be understood.
50. In addition to siting challenges, it remains unclear through the lack of associated detail provided, how an appropriate level of private amenity space could be facilitated for a single dwelling, including appropriate car parking and vehicle turning facilities. The layout submitted, albeit indicative, does not clearly demonstrate how the site challenges could be satisfactorily overcome, being both brief and sketchy in nature. It is considered that a conflict therefore remains in meeting the aims of this policy as there is no substantive proof any associated residential development would either provide a suitable environment for any future occupants or preserve the character, density and amenity of the existing area. The applicant makes mention of the type of amenity space and refers to other properties in Perth having larger areas of amenity space. It is considered to be clear from site visits that the topography of the site will provide significant challenges in providing even a small area of amenity space. Furthermore given the size of the site in comparison to the surrounding plots, development on this site will fail to reflect the established character and density levels in the area. The applicant contends that the area of private open space for a dwelling is a "private choice so not a legitimate planning issue". Conversely the residential amenity of the future occupier of any residential development is a key material consideration in the planning process and this is clearly indicated through previous decisions on this application site and others

throughout Perth and Kinross. To this end, I consider the proposed residential land use to be unacceptable and contrary to Policy RD1 of the LDP.

Impact on Cultural Heritage

51. In addition to the relevant Development Plan policies, and National guidance, which seeks to protect our cultural heritage assets, Section 59(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires the Council to have special regard to the desirability of preserving the setting of a listed building when exercising its planning functions. In addition, section 64(1) requires the Council to have special attention to the desirability of preserving or enhancing the character or appearance of Conservation Areas when exercising its planning function.
52. In terms of the impact on the character of the Conservation Area, a development on this site of any nature would materially alter the established building pattern of development and the appearance of this part of the Conservation Area, which is characterised by large Victorian houses set within extensive gardens, in direct contrast with the proposal. The separation element associated with the existing villas is a strong character for the area. The associated development impact of even a modest building would result in a prominent and conspicuous feature that would be detrimental to the appearance and character of the Conservation Area, particularly when viewed from Dundee Road.
53. The site plan and illustrative information indicate a two storey building which is approximately 6m from the edge of Dundee Road, its building line thus being further forward than both Witchhill and Kinnoull Primary School. The Kinnoull Conservation Area Appraisal makes specific mention of Kinnoull Parish Church, Kinnoull Primary School and the contribution of Victorian villas to the character of the area. The contribution of mature tree belts is also highlighted. The applicant appears to suggest that the immediate area surrounding the site has been ruined by the erection of new buildings and alterations of older buildings. Whilst examples of modern development of varying quality and context are mentioned in the appraisal, as is street furniture and signage, there is no indication in the appraisal that the area has been significantly damaged by these features.
54. In terms of the impact on the setting of adjacent listed buildings, this is an elevated site within the original curtilage of Witchhill and the proposed development through its prominent situation, would have an irrefutable impact on the setting of the three listed buildings immediately surrounding the site. It is assessed that any development of the scale proposed will be inter-visible with and visually dominate the setting of the affected listed buildings. The proposed building would sit forward of the building line thus would obscure the façade of Witchhill when viewed from Dundee Road and the front of Kinnoull Primary School. Factors to consider when assessing impact on setting are outlined in Historic Scotland's Managing Change in the Historic Environment – Setting Guidance Document.

55. The site sits within a sensitive historic area in terms of the appearance of the area collectively (the Conservation Area) and the individual settings of the historic listed buildings which immediately surround the application site. The quality of the planning submission and associated background detail make it impossible to fully assess the potential impact of any built form on this site. While elevations have been included in this application, it is noted that this is an application in principle, and it is therefore not possible to fully assess the impact of the development. The submitted sketch elevations show a boxy design with no indication of materials and finishes or associated landscaping. Again, this is at odds with the existing context, specifically the architectural quality of the neighbouring buildings. The accompanying design statement does not adequately explain and illustrate the design principles and how the proposal has been developed as the best response to the context, as set out in PAN 68: Design Statements. However considering its elevated nature, it is considered practically impossible to erect any form of building (over single storey) on this prominent, elevated site that would not result in a significant and detrimental impact upon the setting of all the neighbouring listed buildings and on the character and appearance of the conservation area. Policy HE3A also makes it clear that applications for planning permission in principle in Conservation Areas will not be considered acceptable without detailed plans, including elevations, which show the development in its setting. On that basis the proposal is considered to be contrary to Policy HE2 which seeks to protect the setting of listed buildings and to HE3A which requires new development to preserve or enhance the character or appearance of a Conservation Area.

Relevance of Site History

56. All planning applications must be assessed on their own merits in terms of the provisions of the development plan, as well as any other material considerations and individual site circumstances. There are two main tests in deciding whether a consideration is material and relevant:
- it should serve or be related to the purpose of planning - it should therefore relate to the development and use of land; and
 - it should fairly and reasonably relate to the particular application.
57. It is for the Council as Planning Authority to assess both the weight to be attached to each material consideration and whether individually or together, they are sufficient to outweigh the provisions of the Development Plan. Where Development Plan policies are not directly relevant to a development proposal or where there is conflict with declared policy objectives, material considerations will be of particular importance.
58. As the location and the residential nature (albeit reduced from four flats to a single dwelling) of this planning application is the same as previous applications which have been considered by both the Council and the Scottish Ministers, remains consistent and appropriate that the extensive planning history of the site be taken as a significant material consideration which the committee should take into account before making a decision on this planning application. As

referred to earlier in this report, the history of decisions on applications on this site is a consistent one of refusal, by both the Council and the Scottish Ministers.

Sustainable Development

59. The concept of sustainability is an embedded element of the planning process, which has been clearly identified through representative supporting comments and the applicant's e-mail correspondence.
60. In terms of assessing the merits of the application, the applicant has submitted additional information in relation to sustainable development, and, in principle, the proposal does meet with some of the broader aims of sustainable development, such as providing new housing within an urban area as opposed to a developing a 'greenfield' site and creating residential development within a short walking distance from existing public amenities associated with a city locale.
61. However, the perceived compatibility of this development with broader sustainability aims needs to be assessed against other material considerations, such as the policies contained in the Development Plan and other relevant considerations. These include the site history, the individual site characteristics and the lack of detailed, site specific design in proving that some form of development is appropriate at this location.
62. In this context, it remains the view that the potential adverse visual impact on the setting of both the Conservation Area and neighbouring listed buildings, (alongside the resultant impact of the amenity and character of the existing area and the challenging individual site characteristics) remain as a justifiable material reason to off-set the wider sustainability criteria presented.

Access Provision

63. In addressing previous concerns regarding the access difficulties to the site, the applicant has indicated in his background correspondence that vehicle speeds are low on Bowerswell Road and that visibility is adequate and also traffic volumes are low. The applicant also contends that most trips to/from the property would be on foot or bicycle but no evidence of this has been provided.
64. Whilst there are good walking and cycle routes into the city centre from the site, it remains extremely unlikely in the current context that low vehicular movements would be generated by this proposal, with most domestic households continuing to have access to at least one vehicle. It is appropriate to consider the full implications of typical vehicular provision for a proposal of this nature.
65. The proposed development site takes vehicular access from the end of Kinnoull Terrace. The junction of Kinnoull Terrace with Bowerswell Road is restricted in terms of geometry and visibility by existing stone walls. Given the visibility, the Council previously recommended refusal on the grounds of poor access and the resultant detrimental impact on pedestrian and traffic safety. The

Reporter's decision on the previous application noted that there were some difficulties in obtaining access to the site but did not consider the limited additional traffic generated by a proposal for four flats to result in a significant adverse impact on road safety. On that basis and that the proposal now relates to only a single dwellinghouse, and despite the recommendation from Transport Planning, I conclude that the access arrangements for the site for a development of this scale to be acceptable, subject to conditions to ensure that adequate parking and turning facilities could be accommodated on site. There are some concerns regarding the legal right of access of the applicant to utilise Kinnoull Terrace, however this is a private civil matter and not a consideration of the Planning Authority. On the basis of the above, the proposed development would not have a significant adverse impact on pedestrian and traffic safety. This does not, however, outweigh the harm to the character and appearance of the area, the Conservation Area and the setting of nearby listed buildings which are identified elsewhere in this report.

Visual Impact

66. As this application is for planning in principle, is it not possible at this stage to fully evaluate the potential visual impact of this proposal, despite the site being within a Conservation Area. The indicative sketches submitted highlight that significant adverse visual impact would be experienced, albeit the sketches are of poor quality. Due to the elevated nature of the site which is in a prominent location, and the likely probability that due to individual site characteristics any building will be sited in front of the rear building line of Kinnoull Terrace, I am concerned that any scale of building (even single storey) would have a detrimental visual impact on the character of this sensitive area, particularly if some of the large trees are removed as part of any detailed submission to facilitate development. It is impossible to fully consider and assess the impact on the visual amenity of any residential development at this site, based on the quality and detail of what has been submitted. However notwithstanding this it is considered that the proposal will have a significant adverse visual impact on the area and is therefore contrary to Policy PM1B, criteria (b) and (d) of the Local Development Plan.

Education Provision

67. The site lies within the catchment area of Kinnoull Primary School. The developer contributions policy, outlined within Policy PM3 of the Local Development Plan seeks a financial contribution of £6,460 per mainstream residential unit in areas where the local primary school is operating at over its 80% capacity (not formally applied at principle stage of consent). In this case, no contribution can be applied as the planning application remains 'in principle' or where an extant planning consent with no material change exists. I would therefore recommend in the event that the Committee wish to support this application, an appropriate planning condition is attached which requires the applicant to fully meet with the terms of the contribution policy.

Bio Diversity

68. Policy NE3 of the LDP requires the Council to consider the potential impact of new development on all wildlife and wildlife habitats. On that basis the Council's Bio Diversity Officer has been consulted on the proposal as the site presents a significant opportunity for the presence of wildlife habitats given the number of mature trees present. The consultation response requests a tree survey to be undertaken, together with a bat survey and also recommends timings in relation to any tree, shrub and hedgerow removal to avoid bird breeding season. I do not intend to request this information given the recommendation of refusal on other grounds.

Other Matters

69. The applicant has submitted supporting correspondence concerning this application. The salient additional points that have not been addressed within the main appraisal section of the report are summarised and addressed below.

Kinnoull Conservation Area Appraisal 2010

70. The applicant has suggested that as this document constitutes "supplementary guidance" it cannot be legitimately used to negate any provision of the development plan. Contrary to this suggestion, Scottish Government Guidance "A Guide to Conservation Areas in Scotland" makes it clear that "*An Appraisal provides the basis for the development of a programme of action that is compatible with the sensitivities of the historic area and enables a planning authority to fulfil its statutory duty to preserve and enhance conservation areas. Appraisals also inform policy and assist development control*".

Public Interest

71. The applicant has indicated in correspondence that there is a public interest in this site to be developed for residential use which based on wider sustainable benefits. It is acknowledged that by approving this application there would be the potential to augment local housing stock and the site is centrally located within the City of Perth. It is however deemed that the overall benefit to the community, even at a local level, would be negligible and consequently there is not considered to be an overriding public interest position to support a residential proposal at this site, which would otherwise have a potential detrimental impact on a visually sensitive area with identified pedestrian and traffic safety implications, all of which is contrary to the development plan.

Planning officers and reporters commenting on subjective planning matters

72. The applicant suggests it is highly inappropriate for planning officers to comment on subjective matters such as the perceived impact of the development on existing setting and character. As the application is in outline, and limited detailed supporting information has been submitted with this application, there is no other option than to apply a degree of subjectivity to comment on the perceived visual impact that the proposal may have on the

area. The only way to fully assess all the subjective matters would be the submission of a fully detailed submission for consideration and the applicant has consistently been provided with advice from the Planning Authority to do this.

Weight to the Development Plan and other material considerations

73. The applicant suggests that previous planning decisions for this proposal have been made on the back of 'personal opinions' by the case officer and Reporter, rather than fully considering the proposal against the Development Plan and other material considerations. However, throughout the decision making process, the Development Plan has remained the primary planning consideration.

Community Plan

74. In terms of the community plan, there are elements referred to which supports opportunity sites for sustainable development. However, the wider strategic aims of the plans do need to be considered in the context of national guidance and at a localised level through policies contained in the Local Development Plan. Through recommending a refusal of this application the broader aims of the Council are not considered to have been compromised in this context.

LEGAL AGREEMENTS

75. No legal agreement is required for this proposal.

DIRECTION BY SCOTTISH MINISTERS

76. 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.

CONCLUSION AND REASONS FOR RECOMMENDATION

77. Notwithstanding the applicant's background correspondence to the application highlighting the site's history, there remains to be no overriding material reason on planning grounds to support the principle of residential development at this sensitive location. All the previous applications which have been presented for similar proposals have failed to obtain any support from either the Council as Planning Authority or the Scottish Ministers at the appeal stage. With no detailed, site specific proposal presented for consideration, including detailed site investigations, the application has failed to justify that the principle of any form of development in this sensitive location is either acceptable or appropriate. The site is therefore assessed as unsuitable for a single residential development for the reasons stated elsewhere in the report, and is recommended for refusal.

A RECOMMENDATION

Refuse the application on the following grounds.

- 1 The proposal will adversely affect the density, character and visual amenity of the existing area by virtue of the physical limitations of the site to satisfactorily accommodate the development and associated requirements for access, parking, and turning and private amenity space. The proposal is therefore contrary to Policy RD1 and PM1B (b) and (d) of the Perth and Kinross Local Development Plan 2014 and Policy 2 of TAYPlan, which seeks to ensure development is compatible with the amenity and character of the area, considers and respects site topography and important views together with respecting an existing building line.
- 2 The prominent situation of the site and the associated density of the development in relation to adjacent residential properties would result in development that would have a detrimental impact on the character and appearance of the Kinnoull Conservation Area. The proposal is therefore contrary to Policy HE3 of the Perth and Kinross Local Development Plan 2014, Policy 3 of TAYPlan 2012 and salient guidance contained within Historic Environment Scotland Policy Statement June 2016, which all seek to ensure that the architectural and historic character of Conservation Areas will be preserved or enhanced, including protecting our existing cultural heritage from inappropriate development.
- 3
- 4 The proposal will have a detrimental impact on the setting of neighbouring listed buildings. The proposal is therefore contrary to Policy HE2 of the Perth and Kinross Local Development Plan 2014, Environment & Resource Policy 3 of TAYPlan 2012 and guidance contained in Historic Environment Scotland Policy Statement June 2016, which seeks to ensure that the setting of listed buildings are safeguarded and our cultural heritage is protected from inappropriate development.

B JUSTIFICATION

The proposal is considered to be contrary to the Development Plan and there are no material considerations which justify approval of the application.

C PROCEDURAL NOTES

None.

D INFORMATIVES

None.

Nick Brian
Development Quality Manager

Background Papers: 15 letters of representations
Contact Officer: John Williamson – Ext 475360
Date: 27 July 2016

If you or someone you know would like a copy of this document in another language or format, (on occasion, only a summary of the document will be provided in translation), this can be arranged by contacting the Customer Service Centre on 01738 475000.

You can also send us a text message on 07824 498145.

All Council Services can offer a telephone translation facility.