

Perth and Kinross Council
Development Management Committee – 18 January 2017
Report of Handling by Interim Head of Planning

Erection of a dwellinghouse (in principle) on land East of 21 Fairmount Terrace,
Barnhill, Perth

Ref. No: 16/01866/IPL
Ward No: N12 – Perth City Centre

Summary

This report recommends **approval** of the application as the development is considered to comply with the relevant provisions of the Development Plan and there are no material considerations apparent which outweigh the Development Plan.

BACKGROUND AND DESCRIPTION

- 1 Planning permission in principle is sought for the erection of a dwellinghouse on land 50 metres east of 21 Fairmount Terrace in Barnhill, Perth. The application site is located in the south east corner of an existing grouping of detached properties set within large garden ground and is located within the settlement boundary of Perth. The plot is similar in size to other plots within the area. The site slopes upwards from north to south and is bound on its west and north by existing residential dwellings. To the south are open fields which form part of Perth's Green Belt. To the east is a narrow access track which is part of the KINL/3 core path which provides a route from Dundee Road onto Kinnoull Hill. This access track is proposed to serve as the vehicular access into the application site. A bellmouth access is proposed at the north east corner of the site.

NATIONAL POLICY AND GUIDANCE

- 2 The Scottish Government expresses its planning policies through The National Planning Framework, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Creating Places, Designing Streets, National Roads Development Guide and a series of Circulars.

DEVELOPMENT PLAN

- 3 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2012-2032 and the Perth and Kinross Local Development Plan 2014.

TAYplan Strategic Development Plan 2012 – 2032 - Approved June 2012

- 4 Whilst there are no specific policies or strategies directly relevant to this proposal the overall vision of the Tay Plan should be noted. The vision states *“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 and visit and where businesses choose to invest and create jobs.”*

Perth and Kinross Local Development Plan 2014

- 5 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.
- 6 The principal policies are, in summary:

Policy PM1A - Placemaking

- 7 Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place. All development should be planned and designed with reference to climate change mitigation and adaption.

Policy PM1B - Placemaking

- 8 All proposals should meet all eight of the placemaking criteria.

Policy PM3 - Infrastructure Contributions

- 9 Where new developments (either alone or cumulatively) exacerbate a current or generate a need for additional infrastructure provision or community facilities, planning permission will only be granted where contributions which are reasonably related to the scale and nature of the proposed development are secured.

Policy RD1 - Residential Areas

- 10 In identified areas, residential amenity will be protected and, where possible, improved. Small areas of private and public open space will be retained where they are of recreational or amenity value. Changes of use away from ancillary uses such as local shops will be resisted unless supported by market evidence that the existing use is non-viable. Proposals will be encouraged where they satisfy the criteria set out and are compatible with the amenity and character of an area.

Policy CF2 - Public Access

- 11 Developments will not be allowed if they have an adverse impact on any core path, disused railway line, asserted right of way or other well used route, unless impacts are addressed and suitable alternative provision is made.

Policy NE2B - Forestry, Woodland and Trees

- 12 Where there are existing trees on a development site, any application should be accompanied by a tree survey. There is a presumption in favour of protecting woodland resources. In exceptional circumstances where the loss of individual trees or woodland cover is unavoidable, mitigation measures will be required.

Policy NE3 - Biodiversity

- 13 All wildlife and wildlife habitats, whether formally designated or not should be protected and enhanced in accordance with the criteria set out. Planning permission will not be granted for development likely to have an adverse effect on protected species.

Policy EP3B - Water, Environment and Drainage

- 14 Foul drainage from all developments within and close to settlement envelopes that have public sewerage systems will require connection to the public sewer. A private system will only be considered as a temporary measure or where there is little or no public sewerage system and it does not have an adverse effect on the natural and built environment, surrounding uses and the amenity of the area.

Policy EP3C - Water, Environment and Drainage

- 15 All new developments will be required to employ Sustainable Urban Drainage Systems (SUDS) measures.

OTHER POLICIES

- 16 Developer Contributions and Affordable Housing Supplementary Guidance

SITE HISTORY

- 17 16/01531/IPL Erection of a dwellinghouse (in principle) 7 November 2016
Application withdrawn to allow for alteration to position of access.

CONSULTATIONS

EXTERNAL

- 18 **Scottish Water** – no response within statutory period

INTERNAL

- 19 **Environmental Health** – no objection subject to an Informative relating to contaminated land
- 20 **Transport Planning** – no objection subject to conditions
- 21 **Contributions Officer** – condition recommended to ensure compliance with policy
- 22 **Community Greenspace** – no objections relating to impact on core path subject to conditions

REPRESENTATIONS

- 23 A total of six letters of representation were received for the application.

The representations have raised the following relevant issues: -

- Impact on residential amenity
 - Impact on core path use
 - Visual and landscape impact
 - Impact of construction traffic on core path
 - Surface water drainage
 - Tree Loss
 - Bio diversity impact
 - Loss of view
- 24 All the relevant planning issues which have been raised are covered in the Appraisal section of this report.

ADDITIONAL STATEMENTS

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Environment Statement	Not required
Screening Opinion	Not required
Environmental Impact Assessment	Not required
Appropriate Assessment	Not required
Design Statement / Design and Access Statement	Planning Statement submitted
Reports on Impact or Potential Impact	Not required

APPRAISAL

Policy Appraisal

- 26 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. The determining issues here are whether the proposals comply with Development Plan policy or if there are other material considerations, which justify a departure from policy. The relevant policy considerations are outlined in the policy section above and will be considered in more detail below.

Principle

- 27 The application site is located within the settlement boundary of Perth where policy RD1 of the Local Development Plan (LDP) applies. This states that residential development on infill sites will generally be encouraged where the proposed development relates to the established character of the area and respects its environs. In this instance the surrounding area is generally characterised by low density development of detached properties. Generally given the size of the site I consider the development of a single dwelling on this site would reflect the low density character of development in the locality and as such the principle of development meets the criteria outlined in policy RD1. The policy also requires new development to ensure that the residential amenity of the area is not detrimentally affected. As such the detailed design of a dwelling, its location on the plot, its size and scale and the position of windows would be a key considerations in any detailed application. A further assessment of other relevant policies is outlined below.

Residential Amenity

- 28 As described above the application site is elevated above the adjacent dwellings and as such there is potential for a new dwelling to overlook the properties to the north and west of the site. It is noted, however, that the site is large in footprint and there is an opportunity to position the dwelling in a location which ensures that the neighbouring properties are not overlooked given the distance which would be apparent between windows of the new house and the existing properties. Furthermore, boundary planting can be provided to provide some screening and containment for the site which can be secured by condition at this stage. As this application is only in principle there is no opportunity to assess this in detail, at this stage, however this can be assessed when a detailed application is received. I share the views and concerns of the local community regarding the possibility of new development overlooking their property. However I am satisfied that the scale of the site allows for the house to be positioned in a location which would not impact detrimentally on the neighbouring properties. The orientation of the house, together with the window positions will be an important consideration in the detailed application. Overall this issue can be addressed at the detailed application stage, but the principle of erecting a dwelling on this site is considered acceptable and in accordance with LDP policy.

Core Path

- 29 The KINL/3 core path is located on the proposed vehicular access to the application site. Policy CF2 of the LDP requires that new development should not obstruct or compromise the use of the core path. It was clear from my site visit that the access track/core path is narrow and that there would be limited ability for pedestrians/recreational users to utilise the track at the same time as a vehicle without stepping into the adjacent drainage ditch. As such it was noted from an application further up this track (13/02186/AML) that pedestrian refuges/step off areas are proposed to allow pedestrians and other recreational users to move off the access track to allow cars or other vehicles to pass safely and allow multi purpose use of the track. On that basis a revision to the position of the access bellmouth into the site was sought from the applicant to ensure that it is located at approximately the halfway point between the bound road to the north (downhill) and the turn in the access to go up Kinnoull Hill to the south. This will therefore allow for a pedestrian refuge at roughly the halfway point of the access with reasonable visibility both up and down the track. I intend to request full details of the pedestrian refuge as part of the detailed application. I am satisfied that, whilst there will be a small increase in vehicular traffic on the core path, the safety and use of the core path can be considered acceptable through the provision of the pedestrian refuge. The proposal has been discussed with Community Greenspace to ensure that they are comfortable with the proposal. The solution is considered to be an appropriate one and therefore in accordance with Policy CF2. Furthermore a condition is recommended to ensure the core path is not obstructed at any time during construction operations. The impact on the core path during construction operations will be looked at in more detail below.

Construction Vehicle Impact

- 30 The access track to the site, which is part of the core path is narrow and relatively steep with over hanging trees. There is also a drainage ditch located immediately adjacent to the track. This is the sole vehicular access into the site and construction vehicles will have to navigate the track. There is therefore potential for the track and the adjacent drainage ditch to be damaged and disturbed during construction. As such a condition is recommended to ensure that a detailed construction management plan is provided to ensure use of the track is controlled and that any damage to the track is repaired and the track reinstated to its pre construction condition following the completion of the development. The plan shall include detail of timings of deliveries to the site, which shall be restricted to agreed times, to limit the impact on users of the path. The document shall also include measures to ensure the repair and reinstatement of the path/track and the adjacent drainage ditch to its original condition following completion of the development which shall be to the satisfaction of the Planning Authority. A condition will also ensure that the pedestrian refuge is formed in advance of works beginning on the erection of a dwelling on site. This will ensure it can be utilised by recreational users during construction of the dwelling. It should also detail that no material storage or vehicle parking is permitted within the newly formed pedestrian refuge. I am satisfied that these measures will ensure that the impact on the core path during construction is limited as much as possible and as such meets the requirements of Policy CF2. The content of the management plan can be considered further at the detailed application stage.

Access

- 31 As outlined above, the vehicular access is proposed along the core path which leads northwards (downhill) to a bound road which turns westwards leading eventually to Dundee Road. I consider the road network to be capable of accommodating the additional traffic associated with a single dwelling and Transport Planning have shared this view, offering no objection, subject to conditions. It is noted that concerns have been expressed by neighbours regarding the ownership and maintenance responsibility of the bound road to the north of the site and whether this is part of the public road network. Regardless of this I consider the road to be sufficient to cater for the additional traffic. If there are private legal issues associated with a right of access or use of this road these will require to be resolved between the parties involved. The granting of planning consent does not override any existing private civil matters which may be apparent. Subject to conditions the proposal is considered to be in accordance with Policy TA1B of the LDP.

Drainage

- 32 The application form indicates that the site is to connect to the public drainage system with surface water system catered for through a SUDS system. This is in accordance with Policy EP3B and C of the LDP. I consider the proposed introduction of a sustainable urban drainage system to be sufficient to cater for surface water drainage at the site and the detailed design will require to take into account the sloping nature of the site. The position of the system will require to be indicated in the detailed application and the detailed design secured through the building warrant process.

Trees

- 33 It is noted that there are trees on the application site which contribute to the visual amenity of the area and provide containment along the settlement boundary and screening to neighbouring properties. As such and in accordance with policy NE2B a tree survey will be requested as part of the detailed application to demonstrate that the dwelling can be accommodated without impact on the trees. This will include those trees which overhang the access track.

Natural Heritage and Bio Diversity

- 34 Given the grassland nature of the site and the presence of trees the site has the potential to be a habitat for protected species and this has been identified in representations from neighbours to the site. In order to consider this further an ecology survey of the site will be requested by condition and considered at the detailed application stage. This will ensure that protected species are identified and appropriate mitigation provided included timing of works to ensure compliance with Policy NE3 of the LDP and protection of any identified protected species.

Developer Contributions

- 35 As the application is in principle a condition is recommended to ensure compliance with Policy PM3 and the associated supplementary guidance relating to education and transportation contributions. It should be noted that the site is located within the full contribution area for transport infrastructure contributions. The site is within the catchment area for Kinnoull Primary School.

Loss of View

- 36 Letters of representation raise concerns regarding the loss of view which may result from development of this site. The loss of a view is not a material planning consideration and therefore cannot be taken into account in the determination of this application.

LEGAL AGREEMENTS

- 37 None required

DIRECTION BY SCOTTISH MINISTERS

- 38 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

- 39 In conclusion, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, the proposal is considered to comply with the approved TAYplan 2012 and the adopted Local Development Plan 2014. I have taken account of material considerations and find none that would justify overriding the adopted Development Plan. On that basis the application is recommended for approval subject to conditions.

RECOMMENDATION

A Approve the application

Conditions and Reasons for Recommendation

- 1 The development shall not commence until the following matters have been approved by the Planning Authority through the submission of an application or applications for approval of matters specified in conditions:
 - a) A detailed levels survey (existing and proposed) and cross sections showing proposed finished ground and floor levels of all buildings forming part of the development, relative to existing ground levels and a fixed datum point;
 - b) The siting design, height and external materials of all buildings or structures;
 - c) Details of vehicular access to the site and the provision of two car parking spaces and turning facilities.
 - d) Details of all landscaping, planting, screening and boundary treatment.
 - e) A detailed tree survey to the requirements of BS 5837 2012 to indicate those trees required for removal and those to be retained.
 - f) A protected species survey of the entire site
 - g) Details of a pedestrian refuge on the access road accommodated within the bellmouth access into the site to allow pedestrians and other recreational users to step off the KINL/3 core path to allow vehicles to pass which shall be formed prior to the commencement of any built development on site.

- h) A construction management plan to ensure the protection and continued use of the KINL/3 core path during construction operations which shall include detailed repair and reinstatement measures for the core path following completion of construction operations.

Reason - This is a Planning Permission in Principle under Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended by Section 21 of the Planning etc. (Scotland) Act 2006.

2 In pursuance of condition 1c) the scheme shall include:

- i) Turning facilities to enable all vehicles to enter and leave in a forward gear which shall be formed prior to the occupation of the dwellinghouse
- ii) A layout to accommodate a minimum of two car parking spaces which shall be formed prior to the occupation of the dwellinghouse
- iii) Suitable storage for waste disposal/collection which shall be formed prior to the occupation of the dwellinghouse

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

3 In pursuance of condition 1d) the scheme shall include:

The location of new trees, shrubs, hedges, grassed areas and water features.

- i) A schedule of plants to compromise species, plant sizes and proposed numbers and density including robust planting on the north and west boundaries to provide privacy to neighbours and planting on the south boundary to allow a robust planting edge to the settlement to be formed.
- ii) The location design and materials of all hard landscaping works including walls, fences, gates, any other means of enclosure.
- iii) All soft and hard landscaping proposals shall be carried out in accordance with the approved scheme and shall be completed during the planting season immediately following the commencement of the development, or such date as may be agreed in writing with the planning authority.
- iv) Any planting which, within a period of 5 years from the completion of development, in the opinion of the planning authority is dying, has been severely damaged or is becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted.

Reason - In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.

4 In pursuance of condition 1(f) the scheme shall include:

- a) A detailed tree survey and tree constraints plan in accordance with BS5837:2012 Trees in Relation to Design, Demolition and Construction. This survey shall ensure the retention of trees along the boundaries of the site to provide screening and containment to the site. The survey shall include all trees overhanging the access/core path.
- b) The tree survey shall clearly indicate the location of trees and their crown spread which are within or bordering the site on a scalable plan, allocate them a reference number, provide an assessment of their general state of health and stability and provide details of any topping, lopping or felling required. Trees and shrubs on the north boundary should be retained to provide a landscape boundary to the edge of the settlement.
- c) The tree constraint plan shall clearly detail the trees to be retained and identify their root protection area (RPA) on a scalable plan, the location of protective fencing for the retained trees shall be marked on this plan and a specification of the protective fencing provided. Any works required to be undertaken within the RPA of the retained trees shall be detailed. The tree constraint plan shall also show details of those trees proposed for removal.
- d) That the erection of protective fencing shall be undertaken in accordance with the plan and fencing specification approved under section (b) of this condition before any equipment, machinery or materials are brought on to the site for the purposes of the development. Thereafter the fencing shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced and the ground levels within those areas shall not be altered nor shall any excavation be made unless details have been approved under paragraph (b) or written consent from the Planning Authority has been sought.

Reason - To ensure the protection of existing trees on site and to retain the landscape character of this edge of building group/settlement location.

5 In pursuance of condition 1(f) the scheme shall include:

- a) A full protected species survey of the entire application site which shall be carried out by a suitably qualified ecologist and shall include detailed mitigation measures for any protected species identified.

Reason - In the interests of protecting environmental quality and of biodiversity.

- 6 Prior to the commencement of the development hereby approved, a management plan indicating any temporary diversions and signage needed to facilitate the development and/or any works proposed to the right of way/core path as part of the development shall be submitted for the further agreement of the Council as Planning Authority. The plan as agreed shall be implemented in accordance with the timings identified in the plan.

Reason - To ensure that public access is maintained at all reasonable times, to the local path network.

- 7 The asserted right of way/core path (KINL/3) located along the vehicular access to the site and on the eastern boundary must not be obstructed during building works or on completion of the development. Any damage done to the route and/or the associated signage during building works must be made good before the development is completed or brought into use, whichever is the earlier.

Reason - To ensure continued public access to the public paths and in the interests of public safety within the site.

- 8 In pursuance of condition 1(h) the scheme shall include:

A detailed Construction Management Plan which provides detail on how construction vehicles will utilise the core path/access track in conjunction with recreational users. The plan shall include detail of timings of deliveries to site, which shall be limited to agreed times. The document shall also include measures to ensure the repair and reinstatement of the path/track and the adjacent drainage ditch to its original condition following completion of the development. It should also detail that no material storage or vehicle parking is permitted within the newly formed pedestrian refuge. The plan shall also detail upgrades and works required to the track to allow access for construction vehicles to ensure there is no impact on the stability of the track and adjacent banking. The plans, as approved by the Planning Authority shall be strictly adhered to during the development of the site.

Reason - To ensure continued public access to the public paths and in the interests of public safety within the site.

- 9 The development shall be in accordance with the requirements of Perth & Kinross Council's Developer Contributions and Affordable Housing Supplementary Guidance 2016 in line with Policy PM3: Infrastructure Contributions of the Perth & Kinross Local Development Plan 2014 with particular regard to primary education infrastructure, unless otherwise agreed in writing with the Council as Planning Authority.

Reason - To ensure the development is in accordance with the terms of the Perth and Kinross Council Local Development Plan 2014 and to comply with the Council's policy on Developer Contributions and Affordable Housing Supplementary Guidance 2016.

- 10 The development shall be in accordance with the requirements of Perth & Kinross Council's Developer Contributions and Affordable Housing Supplementary Guidance 2016 in line with Policy PM3: Infrastructure Contributions of the Perth & Kinross Local Development Plan 2014 with particular regard to transport infrastructure, unless otherwise agreed in writing with the Council as Planning Authority.

Reason - To ensure the development is in accordance with the terms of the Perth and Kinross Council Local Development Plan 2014 and to comply with the Council's policy on Developer Contributions and Affordable Housing Supplementary Guidance 2016.

B JUSTIFICATION

The proposal is in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

C PROCEDURAL NOTES

None.

D INFORMATIVES

- 1 Application for the approval of matters specified in conditions shall be made before the expiration of 3 years from the date of the grant of planning permission in principle, unless an earlier application for such approval has been refused or an appeal against such refusal has been dismissed, in which case application for the approval of all outstanding matters specified in conditions must be made within 6 months of the date of such refusal or dismissal.

The approved development shall be commenced not later than the expiration of 3 years from the date of grant of planning permission in principle or 2 years from the final approval of matters specified in conditions, whichever is later.

- 2 Applicants are advised that should their application for Approval of Matters specified be refused and/or their appeal against such refusal dismissed outwith the three year time limit they are entitled to submit a revised application for Approval of Matters specified within six months after the date of refusal of the earlier application or of the dismissal of an appeal against such refusal.
- 3 No work shall be commenced until an application for building warrant has been submitted and approved.
- 4 A watching brief during redevelopment is required in relation to contaminated land. The Council shall be immediately notified in writing if any ground contamination is found during construction of the development, and thereafter a

scheme to deal with the contamination shall be submitted to and agreed in writing by the Council as Planning Authority.

Background Papers: Six letters of representation
Contact Officer: John Williamson – Ext 75360
Date: 21 December 2016

NICK BRIAN
INTERIM HEAD OF PLANNING

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