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Council Building  
2 High Street  
Perth  
PH1 5PH

Wednesday, 09 November 2016

A Meeting of the **Development Management Committee** will be held in the **Gannochy Suite, Dewars Centre, Glover Street, Perth, PH2 0TH** on **Wednesday, 16 November 2016** at **10:00**.

If you have any queries please contact Committee Services on (01738) 475000 or email [Committee@pkc.gov.uk](mailto:Committee@pkc.gov.uk).

**BERNADETTE MALONE**  
Chief Executive

***Those attending the meeting are requested to ensure that all mobile phones and other communication devices are in silent mode.***

**Members:**

Councillor Tom Gray (Convener)  
Councillor Bob Band (Vice-Convener)  
Councillor Henry Anderson  
Councillor Michael Barnacle  
Councillor Ian Campbell  
Councillor Dave Cuthbert  
Councillor Ann Gaunt  
Councillor Joe Giacobazzi  
Councillor Callum Gillies  
Councillor John Kellas  
Councillor Alan Livingstone  
Councillor Murray Lyle  
Councillor Gordon Walker



**Development Management Committee**

**Wednesday, 16 November 2016**

**AGENDA**

***MEMBERS ARE REMINDED OF THEIR OBLIGATION TO DECLARE ANY FINANCIAL OR NON-FINANCIAL INTEREST WHICH THEY MAY HAVE IN ANY ITEM ON THIS AGENDA IN ACCORDANCE WITH THE COUNCILLORS' CODE OF CONDUCT.***

- 1 WELCOME AND APOLOGIES/SUBSTITUTES**
- 2 DECLARATIONS OF INTEREST**
- 3 MINUTE OF MEETING OF THE DEVELOPMENT MANAGEMENT COMMITTEE OF 19 OCTOBER 2016 5 - 30**
- 4 DEPUTATIONS**
- 5 APPLICATIONS FOR DETERMINATION**
  - (1) MAJOR APPLICATIONS**
    - (i) 16/01307/FLM - BANKFOOT - ERECTION OF A POULTRY LAYER BREEDING FARM ON LAND SOUTH EAST OF TULLYBELTON LODGE, BANKFOOT 31 - 54**

Report of Handling by Interim Head of Planning (Recommendation - Approve) (copy herewith 16/508)
  - (2) LOCAL APPLICATIONS**
    - (i) 16/01097/FLL - BURRELTON - ERECTION OF 4 DWELLINGHOUSES ON LAND NORTH EAST OF MILLSTEAD, BURRELTON 55 - 76**

Report of Handling by Interim Head of Planning (Recommendation - Approve) (copy herewith 16/509)
    - (ii) 16/01357/FLL - PITLOCHRY - ALTERATIONS AND EXTENSION TO COFFEE SHOP AT MACKENZIE'S COFFEE HOUSE, 115 ATHOLL ROAD, PITLOCHRY 77 - 90**

Report of Handling by Interim Head of Planning (Recommendation - Approve) (copy herewith 16/510)

- |       |   |                  |
|-------|---|------------------|
| (iii) | <b>16/01596/CON - PITLOCHRY - DEMOLITION OF BUILDING AT (MACKENZIE'S COFFEE SHOP) WEST LANE, PITLOCHRY</b><br>Report of Handling by Interim Head of Planning (Recommendation - Approve) (copy herewith 16/511)  | <b>91 - 100</b>  |
| (iv)  | <b>16/01364/FLL - BANKFOOT - ERECTION OF 9 FLATS AND ASSOCIATED WORKS AT LAND NORTH OF SPRINGSIDE, MAIN STREET, BANKFOOT</b><br>Report of Handling by Interim Head of Planning (Recommendation - Approve) (copy herewith 16/512)  | <b>101 - 118</b> |
| (v)   | <b>16/01572/FLL - PERTH - CHANGE OF USE FROM GARDEN CENTRE TO CAFE/TAKEAWAY (CLASS 3), ALTERATIONS AND FORMATION OF OUTDOOR SEATING AREA (IN PART RETROSPECT) AT EZ GROW, 77 SCOTT STREET, PERTH</b><br>Report of Handling by Interim Head of Planning (Recommendation - Approve) (copy herewith 16/513)  | <b>119 - 134</b> |
| (vi)  | <b>16/01637/FLL - PERTH - VARIATION OF CONDITION 2 (HOURS OF OPERATION OF FLOODLIGHTS) OF PERMISSION 11/01669/FLL (FORMATION OF AN ALL-WEATHER SPORTS PITCH AND ASSOCIATED INFRASTRUCTURE) ON LAND AT SEVEN ACRES, NEWHOUSE ROAD, PERTH</b><br>Report of Handling by Interim Head of Planning (Recommendation - Approve) (copy herewith 16/514) | <b>135 - 146</b> |

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## DEVELOPMENT MANAGEMENT COMMITTEE

Minute of Meeting of the Development Management Committee held in the Gannochy Suite, Dewars Centre, Perth on Wednesday 19 October 2016 at 10.00am.

Present: Councillors T Gray (Convener), B Band, (Vice-Convener), H Anderson, M Barnacle, I Campbell, D Cuthbert, J Flynn (substituting for C Gillies), A Gaunt, J Giacomazzi, J Kellas and G Walker.

In Attendance: A Condliffe, T Maric, B Stanford and J Williamson (all The Environment Service); G Fogg and H Rheinallt (both Corporate and Democratic Services).

Apologies: Councillor C Gillies and A Livingstone.

Councillor T Gray, Convener, Presiding.

### . WELCOME AND APOLOGIES

The Convener welcomed everyone to the meeting and apologies were noted as above.

### . DECLARATIONS OF INTEREST

Councillor T Gray declared a non-financial interest in Art. \*(i)(v) in terms of the Councillors' Code of Conduct.

### . MINUTES

#### (i) Minute of previous meeting

The minute of meeting of the Development Management Committee of 14 September 2016 (Arts. 625-629) was submitted, approved as a correct record and authorised for signature.

#### (ii) Erratum

The erratum to Article 451(1)(iii) of the minute of meeting of the Development Management Committee of 8 June 2016 was submitted, approved and authorised for signature.

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**DEPUTATIONS**

In terms of Standing Order 59, the Committee agreed to hear deputations in relation to the following planning applications.

<b>Planning Application No.</b>	<b>Art. No.</b>
16/00326/FLL	** (1)(i)
16/00751/FLL	** (1)(iv)
16/00842/FLL	** (1)(v)
16/01318/FLL	** (1)(viii)

**APPLICATIONS FOR DETERMINATION**

**(1) Local Applications**

- (i) **16/00326/FLL – KINNESSWOOD – Part demolition, change of use and extension to hotel to form dwellinghouse, erection of 4 dwellinghouses and associated works at land north west of Bonaly Cottage, Main Street, Kinnesswood – Report 16/451 – Mr A Sinclair**

Mr F Torrens, objector to the application, followed by Mr R Mitchell, agent for the applicant, and Mr A Sinclair, applicant, addressed the Committee and following their respective representations, withdrew to the public benches.

**Motion (Councillors T Gray and J Kellas) – Grant, subject to the following terms, conditions and informatives:**

- 1. The proposed development must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed on the planning permission.**
- 2. Prior to the development hereby approved being completed or brought into use, the vehicular access shall be formed in accordance with Perth and Kinross Council's Road Development Guide specification Type B, Fig 5.6 access detail to the satisfaction of the Planning Authority.**
- 3. Prior to the development hereby approved being completed or brought into use, turning facilities shall be provided within the site to enable all vehicles to enter and leave in a forward gear.**
- 4. Prior to the development hereby approved being completed or brought into use a minimum of 2 No. car parking spaces per dwelling shall be provided within the site.**

5. Prior to the commencement of any development full details of a bin presentation area close to Main Street shall be submitted and approved in writing by the Planning Authority. The details shall ensure that adequate provision for bin collection is provided whilst respecting the character and visual amenity of the Conservation Area. The details, as approved, shall be implemented as part of the site development to the satisfaction of the Planning Authority.
6. Prior to the commencement of any development a sample of the proposed natural stone, light buff render, natural slate and composite window materials shall be submitted to and approved in writing by the Planning Authority. The scheme as agreed, shall be implemented prior to the completion or bringing into use of the development, whichever is earlier.
7. Prior to the commencement of any development full details of all proposed hard and soft landscaping shall be submitted to and approved in writing by the Planning Authority. The details shall include hedge boundaries to all plots and full details of a planting scheme along the entire south west boundary of the site together with the finishing material of the access track and boundary walls. The details shall include the species, planting density and stock sizes for all planting. The scheme as agreed, shall be implemented prior to the completion or bringing into use of the development, whichever is earlier.
8. Prior to work commencing on the demolition of existing buildings a total of 4 bat boxes shall be provided in trees on site as indicated in the bat protection plan (section 6 of the Bat Survey). Photographic evidence of the installation shall be submitted to and approved in writing by the Planning Authority prior to the demolition commencing. The bat boxes shall remain in place in perpetuity.
9. All works to buildings or structures that may be used by bats (such as demolition, roof stripping, excavations or building works or associated operations) shall only be carried out under the direction of a licensed bat ecologist to ensure that an offence is not committed.
10. All trenches associated with the development shall be dug with sloping sides. Open pipework/culverts shall be sealed at the end of each working day.
11. Demolition works shall only take place between 1 December and 31 March to reduce the risk of disturbing any bats present to the satisfaction of the Council as Planning Authority.

12. Development shall not commence on site until an evaluation for the potential of the site to be affected by contamination by a previous use has been undertaken and, as a minimum, a Preliminary Risk Assessment (Phase 1 Desk Study) has been submitted for consideration and accepted by the Council as Planning Authority. If the preliminary risk assessment identifies the need for further assessment, an intrusive investigation shall be undertaken to identify;
  - I. the nature, extent and type(s) of contamination on the site
  - II. measures to treat/remove contamination to ensure the site is fit for the use proposed
  - III. measures to deal with contamination during construction works
  - IV. condition of the site on completion of decontamination measures.
13. Prior to the completion or bringing into use of any part of the development the measures to decontaminate the site shall be fully implemented in accordance with the scheme subsequently agreed by the Council as Planning Authority. Validation that the scheme has been fully implemented must also be submitted to the Council as Planning Authority.
14. The walls on the south western end of the Lomond Inn building shall be taken down to a height of 900mm and be retained as part of the walling for the garden ground/patio of plot 1 to the satisfaction of the Council as Planning Authority.
15. All slates removed from the demolished buildings shall be retained and re-used, where possible, in the new development to the satisfaction of the Council as Planning Authority.
16. The use of replacement UPVC rainwater goods on the former Lomond Inn (plot 1) is not approved. The rainwater goods on plot 1 shall be new cast iron to match the existing or the existing cast iron rain water goods should be retained and repaired where necessary all to the satisfaction of the Council as Planning Authority.

**Justification**

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



**Procedural Notes**

- 1. No consent shall be issued until a the payment of a commuted sum towards affordable housing provision of £18,750 has been secured through either through an up front payment or a Section 75 Legal Agreement has been agreed between the application and the Council.**
- 2. The formal planning consent shall not be issued until such time as the required commuted sum for Affordable Housing has been secured. In the event that the applicant does not a) make the required payment upfront within 14 days of the date of the committee decision or b) complete a legal agreement for its delayed payment within a 4 month period, the application will be refused under delegated powers.**

**Informatives**

- 1. This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).**
- 2. Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.**
- 3. As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.**
- 4. No work shall be commenced until an application for building warrant has been submitted and approved.**
- 5. 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.**
- 6. No work shall commence on site until consent has been granted for the associated Conservation Area**

**Consent application for the demolition of buildings  
(Ref: 16/00325/CON).**

7. **The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended, it is an offence to remove, damage or destroy the nest of any wild birds while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.**

Amendment (Councillors D Cuthbert and M Barnacle) – Refuse, on the grounds that the proposal is contrary to:

1. The Perth and Kinross Local Development Plan 2014, HE3A, in that the Conservation Area Appraisal for Kinnesswood a) states the importance of maintaining the views from the Main Street to Loch Level and b) advises against development on the land to the west of the village. Therefore, there is a breach of Policy HE3A as the Appraisal is not being used to guide the form and design of the proposal.
2. The Perth and Kinross Local Development Plan 2014, Policy PM1A, in that by virtue of the size of the buildings, the proposal does not respect the character and amenity of the place.
3. The Perth and Kinross Local Development Plan 2014, Policy PM4, in that the proposal constitutes development outwith the defined settlement boundary.

Councillor Giacopazzi moved a second Amendment that planning permission be refused on the grounds that the proposal is contrary to:

1. The Perth and Kinross Local Development Plan 2014, Policy PM1A, in that by virtue of the size of the buildings, the proposal does not respect the character and amenity of the place.
2. The Perth and Kinross Local Development Plan 2014, Policy PM4, in that the proposal constitutes development outwith the defined settlement boundary.

Having failed to find a Seconder, Councillor Giacopazzi's Amendment fell.

In accordance with Standing Order 44, a roll call vote was taken.

7 members voted for the Motion as follows:

Councillors T Gray, B Band, H Anderson, A Gaunt, J Flynn, J Kellas, and G Walker.

4 members voted for the Amendment as follows:

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Councillors M Barnacle, I Campbell, D Cuthbert, and J Giacopazzi.

Motion – 7 votes

Amendment – 4 votes

**Resolved:**

In accordance with the Motion.

- (ii) **16/00325/CON – KINNESSWOOD – Part demolition of hotel and demolition of annexe building and outbuildings at former Lomond Hotel, Main Street, Kinnesswood – Report 16/452 – Mr A Sinclair**

**Resolved:**

**Grant**, subject to the following terms, conditions and informatives:

1. The proposed development must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed on the planning permission.
2. Prior to the demolition of the buildings a detailed photographic survey shall be undertaken and the findings submitted in writing to the Planning Authority.
3. No demolition shall commence on site until written evidence has been submitted and approved in writing by the Council as Planning Authority that a contract is in place for the construction of the replacement development which has the benefit of full planning consent as detailed in application 16/00326/FLL.
4. The walls on the south western end of the Lomond Inn building shall be taken down to a height of 900mm only and be retained as part of the walling for the garden ground/patio of plot 1 to the satisfaction of the Council as Planning Authority. Prior to the demolition commencing full details of the capping of this wall shall be submitted to and approved in writing by the Planning Authority. The details, as approved, shall be implemented as part of the site development.
5. All slates removed from the demolished buildings shall be retained and re-used in the new development to the satisfaction of the Council as Planning Authority.

**Justification**

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

**Informatives**

This Conservation Area Consent will last only for 3 years from the date of this decision notice, unless the development has been started within that period (see section 16 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, as amended by Section 20 of the Planning etc (Scotland) Act 2006.

**(iii) 16/00710/FLL – EDRADOUR – Erection of 4 dwellinghouses on land north west of Willowside, Edradour – Report 16/453 – Mrs B Newton**

**Resolved:**

**Grant**, subject to the following terms, conditions and informatives:

1. The development hereby approved must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed by this planning permission.
2. Prior to the commencement of any works on site, all trees on site (other than those marked for felling on the approved plans) and those which have Root Protection Areas which fall within the site shall be retained and protected. Protection methods shall be strictly in accordance with BS 5837 2012: Trees in Relation to Design, Demolition and Construction. Protection measures, once in place, shall remain in place for the duration of construction.
3. The mature hedge on the south boundary of the site and the full extent of the wall around the walled garden shall be retained in perpetuity to the satisfaction of the Council as Planning Authority.
4. Prior to the commencement of any development on site, details of an additional passing place to be installed on the existing access to the site shall be submitted to and approved in writing by the Planning Authority. The details, as approved in writing, shall be implemented prior to the commencement of residential development hereby approved to ensure the passing place can be utilised during construction operations and upon completion of the development.
5. The conclusions and recommended action points within the supporting biodiversity survey (doc ref:16/00710/11) submitted and hereby approved shall be fully adhered to, respected and undertaken as part of the construction phase of development to the satisfaction of the Council as Planning Authority.

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6. Prior to the commencement of any development on site full details of an upgraded bin storage/collection area adjacent to the bell mouth of the access at the public road shall be submitted to and approved in writing by the Planning Authority. The details shall meet the requirements of Perth and Kinross Council Waste Services as outlined in their consultation response dated 4th May 2016 and shall also ensure minimal visual impact. The details, as approved in writing, shall be implemented as part of the site development and fully installed prior to any of the houses being occupied.
7. The asserted right of way/core path shown on approved drawing 16/00710/13 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.

**Justification**

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

**Informatives**

1. This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
2. Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
3. As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
4. No work shall be commenced until an application for building warrant has been submitted and approved.
5. The applicant shall ensure the private water supply for the house/ development complies with the Water Scotland Act 1980 (Section 63) and the Private Water Supplies (Scotland) Regulations 2006. Detailed information

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regarding the private water supply, including the nature, location and adequacy of the source, any storage tanks/ pipework and the filtration and disinfection treatment proposed to ensure provision of an adequate and consistently wholesome water supply shall be submitted to Perth and Kinross Council Environmental Health in line with the above act and regulations.

6. 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.

**(iv) 16/00751/FLL – KINROSS – Erection of 13 dwellinghouses and associated works at former site of Levenglen Nursing Home, Glenlomond, Kinross – Report 16/454 – Glenmore Developments Ltd**

Ms K Clark, agent for the applicant, addressed the Committee and following her representation, withdrew to the public benches.

Motion (Councillors I Campbell and A Gaunt) - Refuse, on the grounds that the proposal, by virtue of its design, is contrary to Policies PM1A, PM1B and RD1 of the Perth and Kinross Local Development Plan 2014.

**Amendment (Councillors J Kellas and T Gray) – Grant, subject to the following terms, conditions and informatives:**

1. The proposed development must be carried out in accordance with the approved plans, unless otherwise provided for by conditions imposed on the planning consent.
2. Prior to the commencement of the development hereby approved, samples of all external finishing materials shall be submitted to and agreed in writing by the Council as Planning Authority. The finishing materials as agreed shall be implemented prior to the completion or bringing into use of the development, whichever is the earlier.
3. Development shall not commence on site until an evaluation for the potential of the site to be affected by contamination by a previous use has been undertaken and, as a minimum, a Preliminary Risk Assessment (Phase 1 Desk Study) has been submitted for consideration and accepted by the Council as Planning Authority. If the preliminary risk assessment identifies the need for further

**assessment, an intrusive investigation shall be undertaken to identify;**

- I. the nature, extent and type(s) of contamination on the site**
  - II. measures to treat/remove contamination to ensure the site is fit for the use proposed**
  - III. measures to deal with contamination during construction works**
  - IV. condition of the site on completion of decontamination measures.**
- 4. Prior to the completion or bringing into use of any part of the development the measures to decontaminate the site shall be fully implemented in accordance with the scheme subsequently agreed by the Council as Planning Authority. Validation that the scheme has been fully implemented must also be submitted to the Council as Planning Authority.**
  - 5. Prior to the commencement of works on site, the applicant shall agree in writing a scheme of localised road widening on the U243, to the satisfaction of the Council as Roads Authority. The approved works shall then be undertaken prior to the commencement of any development on the application site.**
  - 6. All foul waste water from the proposed development shall be discharged to the existing private waste water treatment plant that serves Glenlomond village.**
  - 7. Concurrent with the initiation of the development hereby approved and for the duration of construction, a temporary surface water treatment facility which accords with SUDS principles shall be implemented on site and maintained for the duration of the approved development works. The temporary surface water treatment facility shall remain in place until the permanent surface water drainage scheme is implemented.**
  - 8. Storm water drainage from all paved surfaces, including the access, shall be disposed of by means of suitable Sustainable Urban Drainage Systems to meet the requirements of best management practices.**
  - 9. Prior to the commencement of the development hereby approved, a detailed landscaping and planting scheme for the site shall be submitted for the further written agreement of the Council as Planning Authority. The scheme shall include details of the height and slopes of any mounding or recontouring of the site, full details of all hard landscaping proposals including materials and installation methods and, species, height, size and density of trees and shrubs to be planted. The scheme as subsequently approved**

shall be carried out and completed within the first available planting season (October to March) after the completion or bringing into use of the development, whichever is the earlier, and the date of Practical Completion of the landscaping scheme shall be supplied in writing to the Council as Planning Authority within 7 days of that date. The scheme as agreed and implemented shall thereafter be maintained.

10. Prior to the commencement of any works on site, all trees on site (other than those marked for felling on the approved plans) and those which have Root Protection Areas which fall within the site shall be retained and protected. Protection methods shall be strictly in accordance with BS 5837 2012: Trees in Relation to Design, Demolition and Construction. Protection measures, once in place, shall remain in place for the duration of construction.

#### **Justification**

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

#### **Procedural Notes**

1. The planning permission decision notice shall not be issued until such time as the required Developer Contributions have been secured or paid in full.
2. In the event the applicant does not either make the required payment within 28 days from the date the agent/applicant is advised of the need for the contributions, or complete a legal agreement for delayed payment within a 4 month period from the date the agent/applicant is advised of the need for the contributions, the application may be refused under delegated powers without any further discussion with the applicant.

#### **Informatives**

1. Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.



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2. As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
3. This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
4. No work shall be commenced until an application for building warrant has been submitted and approved.
5. The applicant is advised that the granting of planning consent does not guarantee a connection to Scottish Water's assets. The applicant must make a separate application to Scottish Water Planning & Development Services team for permission to connect to the public wastewater system and/or water network and all their requirements must be fully adhered to.
6. The applicant is advised that in terms of Sections 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.
7. Due to the nature of the proposed work it is important to keep in mind the possibility of finding bats when doing work on the existing roof. If bats are found during works, the work should stop immediately and you should contact SNH at Battleby immediately for advice. Building works should avoid the times of year when bats are most vulnerable to disturbance. The summer months, when bats are in maternity roosts, and the winter months when bats are hibernating, should be avoided. Typically early spring and autumn months are the best times to do work that may affect bats. If you suspect that bats are present you should consult SNH for advice. For further information visit the Bat Conservation Trust website <http://www.bats.org.uk/>.
8. Existing buildings or structures may contain nesting birds between 1st March and 31st August inclusive. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built.

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**Planning permission for a development does not  
provide a defence against prosecution under this Act.**

In accordance with Standing Order 44, a roll call vote was taken.

5 members voted for the Motion as follows:

Councillors M Barnacle, I Campbell, D Cuthbert, A Gaunt and J Flynn.

6 members voted for the Amendment as follows:

Councillors T Gray, B Band, H Anderson, J Giacomazzi, J Kellas and G Walker.

Amendment – 6 votes

Motion – 5 votes

**Resolved:**

In accordance with the Amendment.

COUNCILLOR T GRAY, HAVING DECLARED AN INTEREST IN THE FOLLOWING ITEM, LEFT THE MEETING AT THIS POINT AND TOOK NO PART IN THE DISCUSSION OR DELIBERATION THEREFROM

Councillor B Band, Vice-Convener, Presiding

**(v) 16/00842/FLL – CAMSERNEY – Erection of a dwellinghouse  
at land 40 metres south east of the South Steading,  
Camserney – Report 16/455 – J&A Henderson**

Mr J Fleming, objector to the application, and Mr J Russell, agent for the applicant, addressed the Committee, and following their respective representations, withdrew to the public benches.

**Resolved:**

**Grant**, subject to the following terms, conditions and informatives:

1. The proposed development must be carried out in accordance with the approved plans, unless otherwise provided for by conditions imposed on the planning consent.
2. The proposed stove shall only operate on fuel prescribed and stored in accordance with the manufacturer's instructions. The stove and flue and any constituent parts shall be maintained and serviced in accordance with the manufacturer's instructions. No changes to the biomass specifications shall take place.

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3. Prior to the commencement of the development hereby approved, a detailed landscaping and planting scheme for the site shall be submitted for the further written agreement of the Council as Planning Authority. The scheme shall include details of the height and slopes of any mounding or recontouring of the site, full details of all hard landscaping proposals including materials and installation methods and, species, height, size and density of trees and shrubs to be planted. The scheme as subsequently approved shall be carried out and completed prior to the occupation of the dwelling, and the date of Practical Completion of the landscaping scheme shall be supplied in writing to the Council as Planning Authority within 7 days of that date. The scheme as agreed and implemented shall thereafter be maintained.
4. Prior to the occupation of the dwelling, the existing post and fence along the western boundary of the site shall be replaced with a 1.8m slatted timber fence. Precise details of the fence shall be submitted prior to any works commencing for the approval in writing and thereafter, the approved details shall be implemented in full.
5. Development shall not commence until a detailed Construction Method Statement (CMS) has been submitted to the Council as Planning Authority and agreed in consultation with SNH and SEPA. The CMS shall identify measures to prevent harmful materials entering the River Tay SAC which could reduce water quality and lead to a damaging impact on the salmon, otter and lamprey interests. The CMS shall include the following:
  - a. pollution prevention safeguards including drainage arrangements and the possible use of siltation traps, settlement tanks and bunds
  - b. storage and disposal of materials including the siting of stock piles, use of buffer strips and disposal methods
  - c. construction site facilities including extent and location of construction site huts, vehicles, equipment, fuel, chemicals and materials compound
  - d. timing, duration and phasing of construction particularly in relation to salmon and lamprey migration/spawning.The CMS and mitigations as agreed shall be fully implemented as part of the planning permission.
6. Prior to the commencement of any works on site, precise details of the proposed foul drainage which ensures that the water quality of the River Tay is not adversely affected shall be submitted for the approval in writing by the Council as Planning Authority and the approved scheme shall thereafter be implemented in full.

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7. Prior to the commencement of any works on site, precise details of the proposed means of surface water disposal shall be submitted for the approval in writing by the Council as Planning Authority. The approved details shall thereafter be implemented in full.

**Justification**

The proposal is considered to comply with the Development Plan and there are no other material considerations that would justify a departure there from.

**Procedural Notes**

The formal planning consent shall not be issued until such time as the required Developer Contributions have been secured. In the event that the applicant does not:

- a) Make the required payment upfront within 14 days of the date of the committee decision, or
- b) Complete a legal agreement for its delayed payment within a 4 month period, then the application may be refused under delegated powers.

**Informatives**

1. This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (*See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).*)
2. Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
3. As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
4. An application for Building Warrant will be required.
5. The Council must 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.

COUNCILLOR T GRAY RETURNED TO THE MEETING AT THIS POINT AND RESUMED HIS ROLE AS CONVENER

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- (vi) **16/00906/FLL – CRIEFF – Part change of use from retail (class 1) to retail (class 1) and café/restaurant (class 3) and alterations at 1-3 High Street, Crieff, PH7 3HU – Report 16/456 – Mr J Landale**

**Resolved:**

**Grant**, subject to the following terms, conditions and informatives:

1. The proposed development must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed on the planning permission.
2. Prior to the commencement of any works on site, precise details of the proposed means of waste and recycling provision shall be submitted for the approval in writing by the Council as Planning Authority. The approved details shall thereafter be implemented in full prior to the use commencing.
3. The hours of operation of all external areas shall be restricted to 0800 hours to 2000 hours daily and any furniture associated with the external pavement café, including all tables, chairs and screens shall not be laid out before 0800 hours and shall be removed each day by 2000 hours to the satisfaction of the Council as Planning authority.
4. Servicing of and deliveries to the premises shall be carried out between 0700 and 1900 Monday to Saturday only, with no servicing or deliveries permitted on Sundays.
5. No music, amplified or otherwise, shall be permitted in the outdoor seating area at any time.
6. All plant or equipment shall be so enclosed, attenuated and/or maintained such that any noise therefrom shall not exceed Noise Rating 35 between 0700 and 2300 hours daily, or Noise Rating 20 between 2300 and 0700 hours daily, within any neighbouring residential property, with all windows slightly open, when measured and/ or calculated and plotted on a rating curve chart.
7. Prior to the development hereby approved being completed or brought into use, an effective ventilation system commensurate with the nature and scale of cooking to be undertaken shall be installed and operated such that cooking odours are not exhausted into or escape into any neighbouring buildings. The system shall be satisfactorily maintained thereafter.
8. Prior to its installation, the details of all external lighting shall be submitted for the further written agreement of the Council as Planning Authority. The scheme shall include

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details of light spill, brightness of the lighting and the proposed hours of operation. The agreed lighting scheme shall be implemented and maintained in full accordance with the agreed scheme unless otherwise agreed in writing with the Council as Planning Authority.

**Justification**

The proposal is considered to comply with the Development Plan and there are no other material considerations that would justify a departure therefrom.

**Informatives**

1. This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (*See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).*)
2. Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
3. As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
4. No work shall be commenced until an application for building warrant has been submitted and approved.
5. For the avoidance of doubt, no signage is approved under this permission. The proposed signage would be controlled separately under the Advertisement Regulations.
6. This development will require the 'Display of notice while development is carried out', under Section 27C(1) of the Town and Country Planning Act 1997, as amended, and Regulation 41 of the Development Management Procedure (Scotland) Regulations 2013. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. In accordance with Regulation 41 the notice must be:
  - Displayed in a prominent place at or in the vicinity of the site of the development
  - Readily visible to the public
  - Printed on durable material.

- (vii) **16/01187/FLL – PERTH – Erection of a restaurant with associated staff accommodation, parking, servicing and landscaping on land north west of Earn House, Lamberkine Drive, Perth – Report 16/457 – Greene King**

**Resolved:**

**Grant**, subject to the following terms, conditions and informatives:

1. The development hereby approved must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed by this planning permission.
2. The conclusions and recommended action points within the supporting biodiversity survey submitted and hereby approved shall be fully adhered to, respected and undertaken as part of the construction phase of development.
3. Prior to the commencement of any works on site, all trees on site (other than those marked for felling on the approved plans) and those which have Root Protection Areas which fall within the site shall be retained and protected. Protection methods shall be strictly in accordance with BS 5837 2012: Trees in Relation to Design, Demolition and Construction. Protection measures, once in place, shall remain in place for the duration of construction unless otherwise agreed in writing by the Council as Planning Authority.
4. No part of the development shall be occupied until a Travel Plan (TP), aimed to encourage more sustainable means of travel, has been submitted and approved in writing by the Council. The TP will have particular regard to provision for walking, cycling and public transport access to and within the site and will identify the measures to be provided, the system of management, monitoring, review, reporting and the duration of the plan.
5. Prior to the completion or bringing into use of any part of the development the agreed gas protection measures shall be fully implemented as approved by the Council as Planning Authority. Validation that the scheme has been fully implemented shall be submitted to and approved in writing by the Planning Authority.
6. The dust control measures as outlined in Appendix 2 - Dust Control Measures During Construction of the Airshed report dated 24 September 2014 submitted with application 14/01356/FLL shall be strictly adhered to during construction operations, to the satisfaction of the Council as Planning Authority.
7. Prior to the development hereby approved being completed or brought into use, an effective ventilation

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system commensurate with the nature and scale of cooking to be undertaken shall be installed and operated such that cooking odours are not exhausted into or escape into any neighbouring buildings. Thereafter the system shall be maintained.

8. All plant or equipment shall be so enclosed, attenuated and/or maintained such that any noise therefrom shall not exceed Noise Rating 35 between 0700 and 2300 hours daily, or Noise Rating 25 between 2300 and 0700 hours daily, within any neighbouring residential property, with all windows slightly open, when measured and/ or calculated and plotted on a rating curve chart.
9. The delivery of goods to the premises shall take place between 07.00hrs to 19.00hrs Mondays to Saturdays and 09.00hrs to 17.00hrs on a Sunday
10. All external lighting shall be sufficiently screened and aligned so as to ensure that there is no direct illumination of neighbouring land and that light spillage beyond the boundaries of the site is minimised to a degree that it does not adversely affect the amenity of the neighbouring land.
11. There shall be no drainage connections to the trunk road drainage system.
12. There shall be no advertisements within or adjacent to the trunk road boundary.
13. Prior to the commencement of any development details of an unclimbable barrier along the boundary of the site adjacent to the trunk road shall be submitted to and approved in writing by the Planning Authority, following consultation with Transport Scotland. The barrier shall be installed prior to the development being brought into use and maintained in perpetuity.
14. The staff accommodation at first floor level within the restaurant building, hereby approved, shall be occupied solely by individuals employed at the restaurant building to the satisfaction of the Council as Planning Authority.
15. Prior to the commencement of any development, details of the location and design of a covered cycle parking facility for 12 cycles shall be submitted for the written approval of the Planning Authority. The cycle parking facility, as approved, shall be implemented and completed as part of the site development programme to the satisfaction of the Council as Planning Authority.

**Justification**

The proposal is considered to comply with the approved TAYplan 2012. Whilst the development does not comply entirely with Policy ED1A (Employment Areas) of the Local Development Plan it will, nevertheless, generate employment opportunities



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both during construction and operation and will likely contribute to the further development of the surrounding business park and contribute to sustainable economic growth in line with the requirements of government policy and guidance. Furthermore the proposal is considered to meet the main criteria outlined in Policy ED1A and complies with other relevant policies contained within the Development Plan. There is also an extant consent for a similar proposal on this site which is considered to be a significant material consideration.

**Informatives**

1. This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
2. Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
3. As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
4. No work shall be commenced until an application for building warrant has been submitted and approved.
5. The applicant is advised that any proposed signage will require a further application to be submitted for advertisement consent.

**(viii) 16/01318/FLL – TIBBERMORE – Erection of 12 dwellinghouses, garages and associated works on land at Marlefield Grove, Tibbermore – Report 16/458 – Ribbon Homes Ltd**

Mr N MacFarlane, agent for the applicant, addressed the Committee and, following his representation, withdrew to the public benches.

**Resolved:**

**Grant**, subject to the following terms, conditions and informatives:

1. The proposed development must be carried out in accordance with the approved drawings and documents,

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unless otherwise provided for by conditions imposed on the planning permission.

2. Prior to the commencement of the development hereby approved, details of the specification and colour of the proposed external finishing materials to be used shall be submitted for the further approval of the Council as Planning Authority. The scheme as approved shall be implemented prior to the completion or bringing into use of the development.
3. Prior to the commencement of the development hereby approved, details of the proposed boundary treatments for the site shall be submitted for the further approval of the Council as Planning Authority. The scheme as subsequently agreed shall be implemented prior to the completion or bringing into use of the development, whichever is the earlier.
4. Storm water drainage from all paved surfaces, including the access, shall be disposed of by means of suitable Sustainable Urban Drainage Systems to meet the requirements of best management practices.
5. Prior to the commencement of the development hereby approved, a detailed landscaping and planting scheme for the site shall be submitted for the further written approval of the Council as Planning Authority. The scheme shall include details of the height and slopes of any mounding or recontouring of the site, full details of all hard landscaping proposals including materials and installation methods and, species, height, size and density of trees and shrubs to be planted. The scheme as subsequently approved shall be carried out and completed within the first available planting season (October to March) after the completion or bringing into use of the development unless otherwise agreed in writing with this Planning Authority and the date of Practical Completion of the landscaping scheme shall be supplied in writing to the Council as Planning Authority within 7 days of that date. The scheme as agreed and implemented shall thereafter be maintained to the satisfaction of the Council as Planning Authority.
6. Any planting failing to become established within five years shall be replaced in the following planting season with others of similar size, species and number to the satisfaction of the Council as Planning Authority.
7. Prior to the occupation of the first house, all matters regarding access, car parking, road layout, design and specification, including the disposal of surface water, shall be in accordance with the standards required by the Council as Roads Authority.

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8. Prior to the occupation of the first house, a pedestrian link from the C410 to the development site shall be provided to the standards required by the Council as Roads Authority.
9. Prior to the occupation of the first house, a 1.8m wide footway constructed to the standard and specifications required by the Council as Roads Authority shall be provided along the C410 from the proposed pedestrian access point west to tie in with the existing footway.
10. Prior to the occupation of the first house a 'Pick up and drop off' area for school children / bus passengers shall be provided on the south side of the C410 opposite the pedestrian access point to the site. The area shall be a minimum of 6m long by nominally 1.8m wide kerbed and surfaced to the requirements of the Council as Roads Authority to the satisfaction of the Planning Authority.
11. Prior to the occupation of the first house, a street light system designed to EN 13201 / BS 5489 shall be provided. The type and standard of lighting shall be assessed using the zoning system outlined in 'The Institution of Lighting Engineers Guidance Notes for the Reduction of Light Pollution' and be agreed with the Council as Planning Authority.
12. Prior to the occupation of the house on plot 11 the rear bathroom window shall be finished in obscure glazing.
13. No removal of hedgerows, trees or shrubs or works to or demolition of buildings or structures that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.
14. No works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect animals from being trapped in open excavations and/or pipe and culverts are submitted to and approved in writing by the Council as Planning Authority. The measures should include: creation of sloping escape ramps for animals, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day; and open pipework greater than 150 mm outside diameter being blanked off at the end of each working day.

**Justification**

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

**Procedural Notes**

1. The planning permission decision notice shall not be issued until such time as the required Developer Contributions have been secured or paid in full.
2. In the event the applicant does not either make the required payment within 28 days from the date the agent/applicant is advised of the need for the contributions, or complete a legal agreement for delayed payment within a 4 month period from the date the agent/applicant is advised of the need for the contributions, the application may be refused under delegated powers without any further discussion with the applicant.

**Informatives**

1. This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
2. Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
3. As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
4. No work shall be commenced until an application for a building warrant has been submitted and approved.
5. The applicant should be aware of the requirements of the Council's Environment and Regulatory Services in relation to waste collection from the site and should ensure adequate measures are provided on site to allow for the collection of waste. It is recommended that the developer contact the Community Waste Team to discuss waste requirements for this site.
6. The applicant should be advised that in terms of Section 21 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to construct a

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new road prior to the commencement of roadworks.

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.

7. 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.
8. The developer is advised that the granting of planning consent does not guarantee a connection to Scottish Water's assets and is advised to note the contents of comments made on this planning application dated 30 September 2015. Scottish Water reference: 724991. If the developer requires any further assistance or information with regard to this planning application please contact Anne MacNeil on 0141 414 7660 or alternatively additional information is available on the Scottish Water website: [www.scottishwater.co.uk](http://www.scottishwater.co.uk)
9. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended, it is an offence to remove, damage or destroy the nest of any wild birds while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act.

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Perth and Kinross Council  
Development Management Committee – 16 November 2016

Report by Interim Head of Planning

**Erection of poultry rearing farm at land 400 metres south east of Tullybelton Lodge, Bankfoot, Perthshire**

Ref. No: 16/01307/FLM  
Ward No: N5 Strathtay

**Summary**

This report recommends approval of a detailed planning application for the erection of a poultry rearing farm at land 400 metres south east of Tullybelton Lodge, Bankfoot, Perthshire.

The proposal is considered to comply with the relevant provisions of the Development Plan and there are no material considerations apparent which would outweigh it.

**BACKGROUND AND DESCRIPTION**

- 1 The site extends to 4.5 hectares and is located within existing commercial woodland known as Tullybelton Wood some 2.7km south west of Bankfoot and 3.3 km west of the A9 Trunk Road. The site is proposed to be accessed from the minor Tullybelton Road (U32) off the A9. In the vicinity the nearest dwelling (Tullybelton Lodge) is 400 metres away.
- 2 The site is not allocated for any particular use within the adopted Perth and Kinross Local Development Plan (LDP) 2014 and is outwith any settlement boundary. There are no environmental designations associated with the site.
- 3 The proposal is to develop a bio-secure poultry layer breeding farm in an area of woodland. The proposed farm will comprise 3 poultry production houses and associated buildings totalling 7,510 sqm and infrastructure to accommodate up to 43,500 pedigree laying birds. The required associated buildings and infrastructure include the following:
  - Staff Social building
  - Substation and generator shed
  - Three feed silos
  - Two dry manure sheds
  - Two underground water storage tanks
  - Concrete hardstanding
  - Gravel finish
  - Landscaping
  - Boundary and security fencing

- 4 All the poultry houses (walls and roofs) will be constructed of profile green panels to help blend into the landscape. Security fencing of 2 metres in height will surround the operational part of the development site whilst the entire application site boundary will be protected by a stock proof fence of 1.2 metres in height.
- 5 A bell mouth entrance will be created at the existing site access. Vehicles including service vehicles will then travel along the access road, which will be hard surfaced, to the staff and visitor car park located at the northern end of the staff social building.
- 6 It is estimated that there will be two feed lorry deliveries and two egg dispatch vehicles (by van or small truck) per week. The proposal will create eight to twelve full time jobs with a total of six staff present on site Monday to Friday and four at the weekends. The applicant envisages that the staff will be employed locally.

## **ENVIRONMENTAL IMPACT ASSESSMENT**

- 7 Due to the scale and type of the proposal it was required to be screened as to whether the proposal is an Environmental Impact Assessment (EIA) development under the EIA 2011 regulations. A screening request (16/01033/SCRN) was submitted in June 2016 and found that an EIA was not required in this instance.

## **PRE-APPLICATION PROCESS**

- 8 The proposed development is classed as a Major development under class 9 of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. This requires pre-application consultation with the local community to be undertaken. The results of the community consultation have been submitted with the application as part of the Pre-Application Consultation (PAC) Report on Community Consultation. The Proposal of Application Notice (PAN) (reference 16/00001/PAN) outlined a public exhibition was held locally on 1 March 2016. The Ward Councillors for the area (Cllrs Kellas, Laing and Vaughan) were consulted as well as Auchtergaven Community Council.

## **NATIONAL POLICY AND GUIDANCE**

- 9 The Scottish Government expresses its planning policies through the National Planning Framework (NPF) 3, the National Roads Development Guide 2014, Scottish Planning Policy (SPP) 2014 and Planning Advice Notes (PAN).



## **National Planning Framework**

- 10 The NPF3 is a long-term strategy for Scotland and is a spatial expression of the Government's Economic Strategy and plans for development and investment in infrastructure. Under the Planning etc (Scotland) Act 2006 this is now a statutory document and material consideration in any planning application. The document provides a national context for development plans and planning decisions as well as informing the on-going programmes of the Scottish Government, public agencies and local authorities.

## **The Scottish Planning Policy 2014**

- 11 The SPP is a statement of Scottish Government policy on land use planning. The following sections of the SPP will be of particular importance in the assessment of this proposal:-
- Paragraphs 24 – 35: Sustainability
  - Paragraphs 36 – 57: Placemaking
  - Paragraphs 193 – 218: Valuing the Natural Environment
  - Paragraphs 219 – 233: Maximising the Benefits of Green Infrastructure
  - Paragraphs 254 – 268: Managing Flood Risk and Drainage
  - Paragraphs 269 – 291: Promoting Sustainable Transport and Active Travel
- 12 The following Scottish Government Planning Advice Notes (PAN) are likely to be of relevance to the proposal:
- PAN 3/2010 Community Engagement
  - PAN 1/2011 Planning and Noise
  - PAN 40 Development Management
  - PAN 51 Planning, Environmental Protection and Regulation
  - PAN 61 Planning and Sustainable Urban Drainage Systems
  - PAN 75 Planning for Transport

## **DEVELOPMENT PLAN**

- 13 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**

- 14 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:

- 15 *“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”*
- 16 The following sections of the TAYplan 2012 are of particular importance in the assessment of this application.

### **Policy 3: Managing TAYplan’s Assets**

- 17 Seeks to identify and safeguard at least 5 years supply of employment land within principle settlements to support the growth of the economy and a diverse range of industrial requirements.

### **Perth and Kinross Local Development Plan 2014**

- 18 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.
- 19 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.”*
- 20 Under the LDP, the following policies are of particular importance in the assessment of this application.

### **PM1A: Placemaking**

- 21 Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place.

### **Policy PM1B – Placemaking**

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

### **Policy PM2 - Design Statements**

- 23 Design Statements should normally accompany a planning application if the development comprises 5 or more dwellings, is a non-residential use which exceeds 0.5 ha or if the development affects the character or appearance of a Conservation Area, Historic Garden, Designed Landscape or the setting of a Listed Building or Scheduled Monument.

### **Policy PM3 - Infrastructure Contributions**

- 24 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.

### **ED3 – Rural Business and Diversification**

- 25 Favourable consideration will be given to the expansion of existing businesses and the creation of new businesses within or adjacent to existing settlements in rural areas. Outwith settlements, proposals may be acceptable where they offer opportunities to diversify and existing business or are related to a site specific resource or opportunity.

### **Policy TA1A - Transport Standards and Accessibility Requirements**

- 26 Encouragement will be given to the retention and improvement of transport infrastructure identified in the Plan.

### **Policy TA1B - Transport Standards and Accessibility Requirements**

- 27 Development proposals that involve significant travel generation should be well served by all modes of transport (in particular walking, cycling and public transport), provide safe access and appropriate car parking. Supplementary Guidance will set out when a travel plan and transport assessment is required.

### **Policy NE2A - Forestry, Woodland and Trees**

- 28 Support will be given to proposals which meet the six criteria in particular where forests, woodland and trees are protected, where woodland areas are expanded and where new areas of woodland are delivered, securing establishment in advance of major development where practicable.

### **Policy NE2B - Forestry, Woodland and Trees**

- 29 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**

- 30 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 EP2 - New Development and Flooding**

- 31 There is a general presumption against proposals for built development or land raising on a functional flood plain and in areas where there is a significant probability of flooding from any source, or where the proposal would increase the probability of flooding elsewhere. Built development should avoid areas at significant risk from landslip, coastal erosion and storm surges. Development should comply with the criteria set out in the policy.

### **Policy EP3A - Water, Environment and Drainage**

- 32 Proposals which do not accord with the Scotland River Basin Management Plan and any relevant associated Area Management Plans will be refused unless they are considered to be of significant specified benefit to society and / or the wider environment.

### **Policy EP3B - Water, Environment and Drainage**

- 33 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**

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

### **Policy EP3D - Water, Environment and Drainage**

- 35 Development over an existing culvert or the culverting of watercourses as part of a new development will not be supported unless there is no practical alternative. Existing culverts should be opened and redundant water engineering features removed whenever possible.

### **Policy EP8 - Noise Pollution**

- 36 There is a presumption against the siting of proposals which will generate high levels of noise in the locality of noise sensitive uses, and the location of noise sensitive uses near to sources of noise generation.

## **OTHER POLICIES**

- 37 The following supplementary guidance and documents are of particular importance in the assessment of this application
- Developer Contributions Supplementary Guidance April 2016
  - Flood Risk and Flood Risk Assessments – Developer Guidance June 2014

## **PLANNING SITE HISTORY**

- 38 There is no planning history for the proposed site other than the aforementioned Proposal of Application Notice (16/00001/PAN) and EIA Screening Opinion (16/01033/SCRN).

## **CONSULTATIONS**

### **EXTERNAL**

#### **Scottish Environmental Protection Agency (SEPA)**

- 39 No objection to the proposal and confirmed that a Pollution Prevention Control (PPC) permit from SEPA will be required to operate an Intensive Agriculture site. Based on the information provided they are satisfied that the development is potentially capable of being authorised under this regime. The permit application will consider the following issues:
- Housing and ventilation;
  - Slurry (and manure) storage;
  - Odour management;
  - Noise management;
  - Point source and fugitive emissions (including dust and ammonia);
  - Sustainable Urban Drainage Systems (SUDS);
  - Containment of contaminated water (such as house cleaning and vehicle wash);
  - Energy use and production;
  - General management of the site and good housekeeping;
  - Operational and emergency procedures;
  - Site condition prior to the permit; and
  - Decommissioning
- 40 SEPA note that there is a residential property within 400m of the proposed site (Tullybelton Lodge). The odour modelling that would be required due to this proximity has already been undertaken by the applicant and must be submitted with the PPC application.

#### **Scottish Water**

- 41 No response received.

### **Transport Scotland**

- 42 No objection to the proposal.

### **Forestry Commission Scotland**

- 43 No response received.

### **Auchtergaven Community Council**

- 44 Whilst they welcome the creation of new job opportunities they do have concerns about odour and potential adverse impact on Bankfoot village and have stated an objection unless a condition is imposed on any consent, relating to a programme of monitoring odour omissions. This is proposed as part of the recommendation.

## **INTERNAL**

### **Environmental Health**

- 45 No objection to the proposal, but recommend conditional control regarding noise is included on any consent.
- 46 In order to address the issue of potential odour the applicant has submitted an odour assessment which modelled the potential for odour issues based on odour units  $\text{OU}_E \text{ m}^{-3}$  with  $3 \text{ OU}_E \text{ m}^{-3}$  typically being the maximum acceptable.
- 47 The highest impact was predicted to be  $0.5 \text{ OU}_E \text{ m}^{-3}$  therefore the levels were well below those deemed acceptable. Given this and the fact odour will also be controlled through SEPA permit, Environmental Health have few concerns on the issue of odour.
- 48 Whilst noise is another issue which could lead to problems however again, due to the distance of this facility to residential properties with the nearest dwelling 400m away, Environmental Health have few concerns. Should noise ever become an issue they have recommended conditional control be applied with any permission.

### **Biodiversity Officer**

- 49 Following submission of an Ecological Impact Assessment, the Biodiversity Officer has confirmed there are a number of structures used by red squirrels and extensive signs of feeding were found both on the site and in the surrounding woodland. A licence will be required from SNH to allow destruction of the dreys on site prior to felling. Three potential bat roost features were also found within the site and these should be checked prior to felling. He has recommended conditional control to mitigate the impact on red squirrels and bats.

### **Developer Negotiations Officer**

- 50 The Council's Transport Infrastructure Developer Contributions Supplementary Guidance requires a financial contribution towards the cost of delivering the transport infrastructure improvements which are required for the release of all development sites in and around Perth.

### **Community Greenspace including Access**

- 51 No response received.

### **Transport Planning**

- 52 No objection to the proposal but will require a minimum of four passing places between the site and the A9 Trunk Road.

### **Structures and Flooding**

- 53 Initially raised an objection due to lack of information regarding the proposed SUDs information. However following further discussion with the applicant and further information they are now content with the proposal subject to a recommended condition.

### **Economic Development**

- 54 No response received.

### **REPRESENTATIONS**

- 55 Other than the response from Auchtergavan Community Council the application has not attracted any representations within the statutory timescale. One late letter of objection from the neighbouring estate has been submitted.

### **ADDITIONAL STATEMENTS**

56

|                                                |                                                                                                |
|------------------------------------------------|------------------------------------------------------------------------------------------------|
| Environment Statement                          | Not Required                                                                                   |
| Screening Opinion                              | Completed                                                                                      |
| Environmental Impact Assessment                | Not Required                                                                                   |
| Appropriate Assessment                         | Not Required                                                                                   |
| Design Statement / Design and Access Statement | Submitted                                                                                      |
| Report on Impact or Potential Impact           | Supporting Planning Statement; Odour Management Plan; Transport Statement; Drainage Assessment |

## **APPRAISAL**

### **Policy**

- 57 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) requires that planning decisions be made in accordance with the Development Plan unless material considerations indicate otherwise. The determining issues here are whether the proposals in principle comply with current Development Plan policy, or if there are other material considerations, which justify departure from policy. The relevant policy considerations are outlined in the policy section above and will be considered in more detail below.

### **Principle**

- 58 The proposed development is located within a very rural location west of the A9 Trunk Road, 2 miles south of Bankfoot village and the nearest property is over 400 metres away. Due to the nature of the process involved in the production of eggs, the proposed development requires to be in an isolated location. LDP Policy ED3 – Rural Business and Diversification provides support for the creation of new business in rural areas and sites outwith settlement boundaries may be acceptable if they are related to a specific resource or opportunity.
- 59 Because the development requires to be in an isolated location but with close proximity to the transport network, it is considered that the principle of the introduction of a new agricultural operation accords with the objectives of the Development Plan provided that detailed planning issues are satisfied. The key determining issues are whether the proposal is consistent with the relevant provisions of the Development Plan with regard to: the impact on the landscape and visual impact of the proposal; traffic implications and effects on neighbouring amenity such as odour and noise.

### **Landscape Character and Visual Impact**

- 60 The supporting Planning Statement concludes that the landscape impacts of the development would be of minor significance. Applying LDP Policies PM1 and ER6 the proposed development is not located in a special landscape area or near to historic and cultural environments.
- 61 The proposed design and building height within a woodland plantation respects the site's level topography and skyline, as well as the wider landscape character of the area. Its discrete location within an existing woodland plantation will help to safeguard views, viewpoints and landmarks and thus protect the site's visual integrity and identity.
- 62 The form, location and nature of existing woodland and proposed planting is considered appropriate and would assist in effectively assimilating this large range of buildings within the surrounding landscape. A condition on any planning approval would be necessary to secure the implementation and maintenance of any compensatory planting.



- 63 To ensure effective integration with the existing group of buildings and to minimise any visual impact the submitted plans confirm that the finishing materials and colour of the new buildings will be dark green to complement the surrounding woodland.

### **Transport Implications**

- 64 Both the Supporting Planning Statement and Traffic Management Plan submitted with the application identified both construction and operational traffic movements to and from the site.
- 65 The site benefits from an existing access off Tullybelton Road (U32) and a 12 month construction phase is anticipated. The site's existing bellmouth has been designed for HGV timber lorries but will be required to be upgraded to meet current required standards. The access provides good visibility for drivers. HGVs will be directed northwards onto Tullybelton Road and then onto U32 towards the A9.
- 66 Because the application site is located within a rural area where public transport is infrequent, it is expected that the small number of staff will travel to and from the site by car. Ten car parking spaces are therefore proposed with the application. Cycle parking is also proposed.
- 67 The operation will incur a low and controlled level of traffic. In terms of the operation itself, the poultry farm unit will initially import all of the birds at six week points and any HGV movements associated with the birds will only be travelling to the site from the A9. The transport implications of the proposed operation are a small number of private vehicles moving (less than 10) during the seven days per week operational hours of 06.30-15.00hrs.
- 68 HGV activity will vary considerably throughout the year depending on the point in the farming cycle. During the busiest period a maximum of 4 HGV movements will be generated each day. This is likely to occur for one week every 13 months. Intervening periods are likely to average only 3 HGV movements per week.
- 69 The Supporting Planning Statement and Traffic Management Plan conclude that the likely number of vehicle movements would not be significant and the local route network has the capacity to accommodate the proposed development.
- 70 Transport Scotland raises no objections to likely movements onto, and from, the A9 Trunk Road. The Council's Transport Planner is content that the proposed vehicular movement is a reasonable appraisal of the traffic impacts of the proposal at both construction and operational stage. However they will require the existing access to be reformed to meet their standards and have recommended improvements in the form of passing places to the route linking to the A9. There appear to be areas of verge along the route to/from the A9 that can accommodate some passing places.

## **Effects on Neighbours/Amenity**

- 71 The application contains provision for poultry sheds with capacity for 43,500 birds and as such it will require a permit from SEPA. An application of this scale therefore has the potential to lead to loss of amenity at nearby receptors due to noise and odour. However the proposed location is relatively isolated with the closest residential property over 400 metres away (Tullybelton Lodge).

### **Noise**

- 72 Environmental Health have assessed the potential impact of the proposed development on residential properties in the area. Due to the distance (400m to nearest dwelling) of this facility to residential properties they have few noise concerns and as a consequence it therefore it is considered to comply with LDP Policy EP 8 – Noise Pollution. However, as a precaution they have recommended a noise condition be attached to any consent in the unlikely event that noise should ever become an issue.

### **Odour**

- 73 Auctergaven Community Council expressed their concerns regarding odour and impact on Bankfoot village. To address the issue of odour the applicant arranged for an odour assessment which modelled the potential for odour issues based on odour units  $\text{OU}_E \text{ m}^{-3}$  with  $3 \text{ OU}_E \text{ m}^{-3}$  typically being the maximum acceptable. The highest impact was predicted to be  $0.5 \text{ OU}_E \text{ m}^{-3}$  therefore the levels were well below those deemed acceptable.
- 74 Given this and the fact odour will also be controlled through the SEPA permit, neither SEPA nor Environmental Health raised any concerns regarding the proposal and impact on nearby properties or Bankfoot village.

### **Dust**

- 75 The effective management of dust from the production units will be a matter fully examined and controlled by SEPA at the PPC permit stage. However no issue has been identified at this stage by either SEPA or Environmental Health.

### **Lighting**

- 76 As a consequence of night time working there will be the need for lighting of the yard and buildings. Consequently this Illumination may also have an impact in the landscape. However, with the existing screen planting surrounding the site the extent of any light spill is considered to be minimal.

## **Natural Heritage Interests**

- 77 The application site is presently commercial woodland and is not designated for any international, national or local ecological importance. However as there is woodland to be removed and the area has records of Red Squirrels and Bats the Council's Biodiversity Officer required a protected species survey of the site to ensure no protected species are adversely affected by the development.
- 78 The presence or absence of protected species, and the extent to which they could be affected by the proposed development, should be established before determination of a planning application in accordance with part 204 of the Scottish Planning Policy.
- 79 The applicants submitted a detailed Ecological Impact Assessment which included a Protected Species Survey.
- 80 The Council's Biodiversity Officer has assessed the Ecological Impact Assessment and he has recommended a condition to ensure there is no adverse impact on any protected species. It will also be the developer's responsibility to ensure their development does not adversely impact any species protected under the Wildlife and Countryside Act 1981.

## **Trees**

- 81 The proposal will result in a high number of trees being felled within an area of both private estate and surrounding commercial woodland. Tullybelton Wood was, until recently part of Cowford Estate. The woodlands on the Estate has been covered by a Forest Plan however as the estate is being broken up and sold separately the Forest Plan as it stands will not be taken forward.
- 82 The neighbouring forestry to the east is a commercial conifer seed orchard managed by the Forestry Commission and as such it is anticipated this is being managed for long term retention for seed production. To the north and south are arable fields and to the west (across the road) is another smaller block of commercial conifer woodland.
- 83 There is no Forest Plan or Felling Licence on the Tullybelton ground covered within the current application site. The proposed site plan shows over 50 metres of existing woodland to be retained along the north eastern end of the site immediately adjacent to the local road. This will help significantly to screen the development.
- 84 LDP Policy NE2 - Forestry, Woodland and Trees, requires compensatory woodland planting in line with the Scottish Governments Control of Woodland Removal Policy and the Councils Supplementary Guidance on Forestry and Woodland Strategy (2015). The applicant has confirmed they are agreeable to provide compensatory planting and this can be enforced through conditional control.

## **Design, Scale, Layout and Materials**

- 85 The proposed buildings are similar in terms of scale and layout to other poultry rearing developments by the applicant or other poultry facilities in Scotland. The main buildings will be constructed in composite steel panels and coloured moss green to blend in with the surrounding woodland. The buildings will have the appearance of being large agricultural sheds and in this rural location it is considered they will not look out of place.
- 86 The proposed buildings have been designed to take account of energy saving and their height, colour and materials relate well to the surrounding character of the rural environment. The proposal thereby complies with LDP Policy PM1 – Placemaking.

## **Economic Benefits**

- 87 The applicant has outlined that poultry breeding companies are looking to diversify and spread their important breeding stock to different parts of the world and that Scotland is renowned worldwide for its leading role in poultry breeding. A number of other highly specialist companies hold their breeding stock in Scotland due to its high health status.
- 88 This development will create up to twelve direct employees and there will be a significant number of downstream economic opportunities associated in terms of the construction period and secondly jobs in haulage, veterinary science, agriculture and animal feed production. The impact of the proposal on the rural economy at this location is considered to be significantly positive.

## **Developer Contributions**

- 89 The Council's Transport Infrastructure Developer Contributions Supplementary Guidance requires a financial contribution towards the cost of delivering the transport infrastructure improvements which are required for the release of all development sites in and around Perth. The proposal is an agricultural related business within the reduced contributions area and has a Gross Internal Area of 7,510m<sup>2</sup>. In terms of paragraph 6.8 of the Guidance the Council supports the delivery of rural businesses and will only seek contributions based on the GIA of the Staff Social Building. The GIA of this building is 444m<sup>2</sup>. The contribution will be calculated on the employment land use of £8 per m<sup>2</sup> and will total £3,552.
- 90 It is recommended that payment of the contribution should be made up front of release of planning permission. The additional cost to the applicant and time for processing any Section 75 legal agreements for applications of this scale is not considered to be cost or time effective to either the Council or applicant.

## **Non Material Considerations**

### **91 Animal Welfare**

The application indicates that the operations will meet industry standards in relation to the housing and welfare conditions of livestock. This is not a planning issue and the responsibility for adherence to welfare standards will rest with Scottish Government through its Animal Health Division Offices.

## **LEGAL AGREEMENTS**

- 92 None required unless the applicant wishes to pay the required developer contribution via a Section 75 legal agreement.

## **DIRECTION BY SCOTTISH MINISTERS**

- 93 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**

- 94 Section 25 of the Act requires that determination of the proposal should be made in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. It is clear that the primary intention of both the Development Plan and national policies is to support agriculture as a major land use in the Plan area. The proposals for a poultry enterprise at Tullybelton would accord with this broad objective provided that environmental and landscape issues are satisfactorily addressed by any new proposals.
- 95 Through the use of planning conditions the proposals could secure a satisfactory landscape fit, could have an acceptable relationship to nearby residential properties and would not adversely affect the local and national transport network.

## **RECOMMENDATION**

### **A Approve the application subject to the following conditions:**

- 1 The proposed development must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed on the planning consent.

Reason: To ensure that the development is carried out in accordance with the plans approved.

- 2 Prior to the commencement of development, details of compensatory woodland planting shall be submitted to and approved in writing by the Planning Authority in consultation to with Forestry Commission Scotland. The agreed detail shall thereafter be implemented prior to the completion of the development.

Reason: In the interest of forestry planting and biodiversity.

- 3 Prior to commencement of development, a minimum of 4 passing places (unless otherwise agreed in writing) shall be constructed on the U32 from the junction of the C408 by Letham Farm to the A9 at Newmill Farm. The location and design of the passing places shall be agreed in writing with the Council as Roads Authority prior to their construction.

Reason: In the interests of road safety.

- 4 Prior to the use or occupation of the development, the access from the U32 shall be reformed in accordance with Type D junction detail and constructed to the standards required by the Council as Roads Authority.

Reason: In the interests of road safety.

- 5 All plant or equipment shall be so enclosed, attenuated and/or maintained such that any noise therefrom shall not exceed Noise Rating 35 between 0700 and 2300 hours daily, or Noise Rating 20 between 2300 and 0700 hours daily, within any neighbouring residential property, with all windows slightly open, when measured and/ or calculated and plotted on a rating curve chart.

Reason: In the interests of residential amenity.

- 6 The planting scheme as approved shall be implemented fully within one calendar year of the commencement of development and thereafter maintained.

Reason: In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality and in pursuance of suitably satisfying placemaking policy criteria of the adopted development plan.

- 7 Any planting failing to become established within five years shall be replaced in the following planting season with others of similar sizes and species.

Reason: In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality and in pursuance of suitably satisfying placemaking policy criteria of the adopted development plan.

- 8 All existing trees shown to be retained shall be protected by suitable fencing in accordance with BS5837 2012 (Trees in Relation to Construction), unless otherwise agreed in writing by the Planning Authority. The details of the protective fencing and its location shall be first submitted to and agreed in writing by the Planning Authority. No materials, supplies, plant, machinery, soil heaps, changes in ground levels or construction activities shall be permitted within the protected areas without the written consent of the Planning Authority and no fire shall be lit in the position where the flames could extend to within 5 metres of foliage, branches or trunks.

Reason: to ensure adequate protection for the trees on the site during the construction, in the interests of the visual amenity of the area.

- 9 Development shall not commence on site until a detailed sustainable urban drainage system (SUDS) has been submitted for the further written agreement of the Council as Planning Authority, in consultation with SEPA where necessary. The scheme shall be developed in accordance with the technical guidance contained in The SUDS Manual (C753) and the Council's Flood Risk and Flood Risk Assessments Developer Guidance, and shall incorporate source control. All works shall be carried out in accordance with the agreed scheme and be operational prior to the bringing into use of the development.

Reason: To ensure the provision of provide effective drainage for the site.

- 10 Concurrent with the initiation of the development hereby approved and for the duration of construction, a temporary surface water treatment facility shall be implemented on site and maintained for the duration of the approved development works. The temporary surface water treatment facility shall remain in place until the permanent surface water drainage scheme is implemented unless otherwise agreed in writing by the Council as Planning Authority.

Reason: To ensure the appropriate management of construction surface water run-off to minimise flooding and avoid discharge of sediment/pollution to the local water environment or neighbouring property, in the interests of residential and environmental amenity.

- 11 Prior to the commencement of development an updated ecological impact assessment must be submitted to and agreed by the Planning Authority to allow a full assessment of the development on habitats and wildlife as a result of the proposed development. The agreed detail shall thereafter be implemented prior to the completion of the development.

Reason: In the interests of employing best practice ecology and to ensure there is no adverse impact on any protected species as identified under the Wildlife and Countryside Act (1981).

## **B JUSTIFICATION**

The proposal is considered to comply with the Development Plan and there are no other material considerations that would justify a departure therefrom.

## **C PROCEDURAL NOTES**

- 1 Consent not to be issued until payment of the required developer contribution is paid or a Section 75 Agreement has been completed and signed.
- 2 In the event the applicant does not either make the required payment within 28 days from the date the agent/applicant is advised of the need for the contributions, or complete a legal agreement for delayed payment within a 4 month period from the date the agent/applicant is advised of the need for the contributions, the application may be refused under delegated powers without any further discussion with the applicant.

## **D INFORMATIVES**

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
- 2 Under Section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the Planning Authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.
- 4 This development will require the 'Display of notice while development is carried out', under Section 27C (1) of the Town and Country Planning Act 1997, as amended, and Regulation 38 of the Development Management Procedure (Scotland) Regulations 2008. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. According to Regulation 38 the notice must be:
  - Displayed in a prominent place at or in the vicinity of the site of the development.
  - Readily visible to the public.
  - Printed on durable material.



- 5 The applicant is advised that to enable some of the negative suspensive conditions to be fulfilled works which are operational development may have to be undertaken outwith the application site. These works themselves may require the submission of a planning application.
- 6 The applicant is advised that the granting of planning consent does not guarantee a connection to Scottish Water's assets. The applicant must make a separate application to Scottish Water Planning & Development Services team for permission to connect to the public wastewater system and/or water network and all their requirements must be fully adhered to.
- 7 No work shall be commenced until an application for building warrant has been submitted and approved.
- 8 The applicant is 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.
- 9 The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended, it is an offence to remove, damage or destroy the nest of any wild birds while that nest is in use or being built. Planning permission for a development does not provide a defence against prosecution under this act.
- 10 The applicant is advised to contact SEPA regarding the requirement for a Pollution Prevention and Control (PPC) Part A Permit to operate an intensive agriculture site.
- 11 SEPA guidance "Management of Forestry Waste" should be consulted for details of how forestry waste can be suitably treated/disposed.
- 12 The presence or absence of protected species, and the extent to which they could be affected by the proposed development, should be established before determination of a planning application in accordance with part 204 of the Scottish Planning Policy.

Background Papers  
Contact Officer  
Date:

None  
Steve Callan – Ext 75337  
1 November 2016

**Nick Brian**  
**Interim Head of Planning**

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**Development Management Committee**



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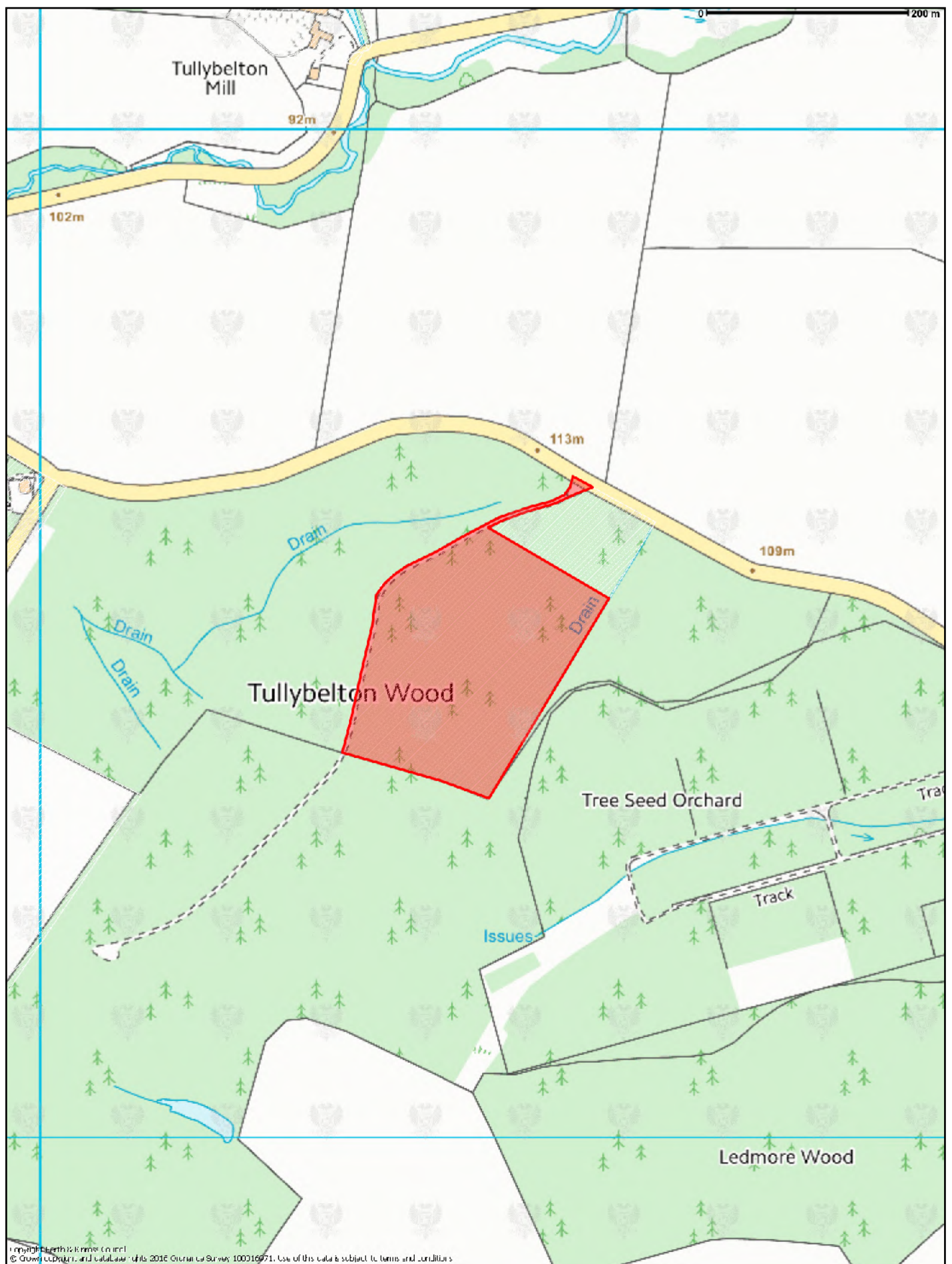
## Erection of a poultry layer breeding farm

Land South East of Tullybelton Lodge,  
Bankfoot









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**Development Management Committee**



**Erection of a poultry layer breeding farm**

Land South East of Tullybelton Lodge, Bankfoot





Perth and Kinross Council  
Development Management Committee – 16<sup>th</sup> November 2016  
Report of Handling by Interim Head of Planning

**Erection of four dwellinghouses on Land 50 Metres North East Of  
Millstead, Burrelton**

Ref. No: 16/01097/FLL  
Ward No: N2 – Strathmore

**Summary**

This report recommends approval of the application for the erection of 4 dwellinghouses and associated works as the development is considered to comply with the relevant provisions of the Development Plan and there are no material considerations apparent which would outweigh the Development Plan.

**BACKGROUND AND DESCRIPTION**

- 1 This application relates to sloping irregular shaped area of grazing land located on the edge of a small scattered group of houses, approximately 1.5km North West of Kinrossie. The site extends to approximately 1.54 ha and is bound to the north by Mill Cottage, to the south and west by a private access road and to the east by a post and wire fence. The Kinnochtry Burn also lies immediately to the south east of the site.
- 2 In 2008 outline planning consent for residential development was refused due to the lack of sufficient information with regard to the flood risk associated with the Kinnochtry Burn (Ref: 08/01400/OUT). However this application was approved at appeal by the DPEA following the submission of a Flood Risk Assessment (FRA) which identified that there was scope for residential development subject to the floor levels being constructed above the levels outlined in the report.
- 3 Subsequently a further application for matters specified by conditions was submitted in 2012 (Ref: 12/00118/AML) but this was refused on the basis that the scale, design and layout of the proposed development was out of character with the existing building group and the plans did not provide sufficient provision in regards to a detailed landscaping scheme. The proposals also did not comply with the recommendations of the previous FRA.
- 4 In 2014 the applicant was granted consent for a revised scheme based on four single storey dwellinghouses each served by separate private accesses (Ref: 14/00051/FLL). The floor levels were also adjusted to meet with the requirements of the FRA.

- 5 The applicant is now seeking full planning permission for the erection of four two storey dwellings within a larger site. The proposed site now extends onto the open land to the north and east, increasing the overall site area by 0.79ha, although a significant amount of this additional land is to be retained as an open paddock. The proposed houses are detached two storey dwellings with access taken from a single shared point of access from the existing private road. The houses are of a contemporary design which have a 1.5 storey frontage to reflect the traditional scale of existing development within the group but also feature large flat roof two storey timber clad extensions on the rear. The external finish is detailed as being white wet dash render, grey weatherboarding and natural stone cladding, zinc clad dormers and entrance feature, slate roof tiles and grey composite windows. The development will be served by a communal waste water treatment plant and surface water/storm water retention tank.

## **NATIONAL POLICY AND GUIDANCE**

- 6 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**

- 7 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**

- 8 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**

- 9 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.
- 10 The principal relevant policies are, in summary:



### **Policy RD3 - Housing in the Countryside**

- 11 The development of single houses or groups of houses which fall within the six identified categories will be supported. This policy does not apply in the Green Belt and is limited within the Lunan Valley Catchment Area.

### **Policy PM1A - Placemaking**

- 12 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**

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

### **Policy PM3 - Infrastructure Contributions**

- 14 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 CF2 - Public Access**

- 15 Development proposals that would have an adverse impact upon the integrity of any (proposed) core path, disused railway line, asserted right of way or other well used route will be refused. Development proposals that would affect unreasonably public access rights to these features will be refused unless these adverse impacts are adequately addressed in the plans and suitable alternative provision is made.

### **Policy EP2 - New Development and Flooding**

- 16 There is a general presumption against proposals for built development or land raising on a functional flood plain and in areas where there is a significant probability of flooding from any source, or where the proposal would increase the probability of flooding elsewhere. Built development should avoid areas at significant risk from landslip, coastal erosion and storm surges. Development should comply with the criteria set out in the policy.

### **Policy EP3B - Water, Environment and Drainage**

- 17 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**

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

### **Policy EP12 - Contaminated Land**

- 19 The creation of new contamination will be prevented. Consideration will be given to proposals for the development of contaminated land where it can be demonstrated that remediation measures will ensure the site / land is suitable for the proposed use.

### **OTHER POLICIES**

- 20 Housing in the Countryside Guide 2012.
- 21 Developer Contributions and Affordable Housing Supplementary Guidance April 2016.
- 22 PKC Flooding and Flood Risk Guidance Document (June 2014).

### **SITE HISTORY**

- 23 08/01400/OUT Residential development (in outline). Application refused under delegated powers 6 October 2008 but subsequently granted on appeal 28 January 2009
- 24 12/00118/AML Erection of 4 detached dwellinghouses. Application refused under delegated powers 11 April 2012.
- 25 13/00738/AML Approval of matters specified in conditions (08/01400/OUT) - erection of 4 dwellinghouses and garages. Application withdrawn 19 April 2013.
- 26 14/00051/FLL Erection of 4 dwellinghouses at plots 1-4 Application approved under delegate powers 7 March 2014.

## CONSULTATIONS

### EXTERNAL

- 27 **Scottish Water** – No response within statutory period.

### INTERNAL

- 28 **Community Waste Advisor** – Residents will need to take their bins to the road end as the existing private access is not suitable for Council bin lorries.
- 29 **Transport Planning** – No objection subject to condition requiring improvements to existing private access.
- 30 **Contributions Officer** – No contributions required.
- 31 **Environmental Health** – Comments relating to contaminated land.
- 32 **Local Flood Prevention Authority** – No objection subject to conditions relating to SUDs.

## REPRESENTATIONS

- 33 A total of 6 letters of representation were received during the first advertisement period for the application and have raised the following relevant issues:-
- Access/traffic generation
  - Design/Scale
  - Waste storage/collection
  - Residential amenity (overlooking/privacy)
  - Flood Risk
  - Core Path
  - Waste water disposal
  - Private water supplies
  - Alternative access for emergency services
- 34 During the second period of advertisement, following the submission of an amended site layout plan four further letters were received from three households who had objected during the first advertisement period. These letters reiterated the above comments.
- 35 All the relevant planning issues which have been raised are addressed in the Appraisal section of this report.

## ADDITIONAL STATEMENTS

36

|                                                |                               |
|------------------------------------------------|-------------------------------|
| Environment Statement                          | Not required                  |
| Screening Opinion                              | Not required                  |
| Environmental Impact Assessment                | Not required                  |
| Appropriate Assessment                         | Not required                  |
| Design Statement / Design and Access Statement | Supporting Statement          |
| Reports on Impact or Potential Impact          | Updated Flood Risk Assessment |

## APPRAISAL

### Policy Appraisal

- 37 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.
- 38 The site lies within the landward area within the adopted LDP where the proposal falls to be principally considered against Policy RD3: Housing in the Countryside and its associated SPG on Housing in the Countryside, which is the most recent expression of Council policy towards new housing in the open countryside. In addition policies PM1 'Placemaking', EP2 'New Development and Flooding' and EP3 'Water, Environment and Drainage' are also relevant.
- 39 As the site already has consent for a housing development comprising of four detached dwellings within the site, the principle for residential development has already been established. Therefore the main relevant issue to consider in the assessment of this application is whether the revised house designs are acceptable and any other relevant matters such as flood risk and drainage.

### Scale/Design/Layout

- 40 Policies PM1A and B relate to placemaking and seek to ensure that, amongst other criteria, new development relates to the overall character and density levels within a given area.

- 41 At present the existing building group currently comprises of a scattered mixture of traditional 1.5 storey houses and modest modern bungalows, the majority of which take their access from the existing private access from the public road. It is noted that a number of concerns have been expressed in relation to the scale and design of the proposed houses with reference made to apparent similarities with the 2012 application (Ref: 12/00118/AML) which was refused mainly due to scale, design and layout.
- 42 Whilst the neighbouring residents' comments are acknowledged I do not agree that the proposals have any close similarities. The 2012 proposals sought to erect four large two storey detached dwellings that were of an extremely poor design and were much larger both in terms of scale and footprint. By comparison, the proposed houses were 1.43m taller and 58sqm larger. The proposals also had a very suburban layout with all the plots taking access from a central shared access which formed a cul de sac, more reflective of a modern development within a town or city rather than a small rural hamlet.
- 43 The current proposals are considered to be far more in keeping with the surrounding built development and of a much improved standard of design and finish. The proposed design of the dwellings is relatively contemporary with zinc clad dormers and entrance feature and large timber clad two storey extensions on the rear. However the architect has managed to ensure that the principal elevation has a more traditional 1.5 storey form which is reflective of the traditional rural style of architecture in the area whilst also incorporating a more contemporary appearance. As per the pre-application recommendations, the rear flat roof extension has also been stepped back from the gable in order to continue the pitch of the roof in order to break up/reduce the massing of the rear extension.
- 44 It is noted that a number of the objections have made reference to the existing scale of development in the area which is largely single storey. This was a concern that was raised during the assessment of the previous applications and also during pre-application discussions. In order to address these concerns the architect has attempted to ensure that the proportions of the propose houses are reflective of the existing scale of development in the surrounding area. In my view, whilst the proposed houses will be larger than many of the neighbouring houses in the existing group, the overall height of the structures at 7.1m will not appear out of place or result in any significant adverse visual impact on the area. The addition of robust landscaping within the site will in time also assist in reducing the prominence of the buildings and provide containment to the plots.

- 45 It must also be highlighted that there are a number existing or consented houses in the group which have a higher ridge height than the proposed houses. The existing 1.5 storey property at 'The Lawn' located 100m to the south has a ridge height of 7.6m and the existing single storey cottage at Darachdal, 100m to the south west, also recently obtained consent to form an additional storey of accommodation within the roof by increasing the height of the building to 7.4m.
- 46 In regards to the layout, I also do not agree with the concerns raised in relation the layout. The proposed plots will share a single point of access rather than forming separate driveways onto the existing private access track. However the position of the access and layout of the plots is in keeping with the pattern of development within the existing group and provides the most logical way of developing the site. The proposed layout also does not share any similarities with the suburban cul de sac arrangement proposed under the 2012 application. Furthermore, the existing houses at Ferngully, Gilboa, and Darachdal all share a single point of access much like a cul de sac arrangement.
- 47 Overall I consider the layout, number of plots and overall character of the proposal to relate successfully to the established character and density levels in the area in accordance with the requirements of the above mentioned policies.

#### **Visual Amenity – Landscaping & Boundary Treatment**

- 48 At present, aside for the group of existing mature trees within the south east area of the site adjacent to the Kinnochtry Burn, the site is an open paddock of rough grazing land. The plans indicates that there will be a significant amount of landscaping introduced throughout the site which will provide a robust landscape framework for the site and supplement the existing mature trees within the site.
- 49 Whilst I am satisfied that the applicant does intend to provide a relatively comprehensive landscaping scheme the proposed plans do not provide sufficient detail in respect to the actual detailed planting specification. Nevertheless, it is considered that this is a matter that can be adequately covered by condition.
- 50 In respect to the existing mature trees, the applicant has confirmed that they intend to retain all the existing mature trees within the site. From a site visit I am satisfied that these trees can easily be retained as part of the development but for the avoidance of doubt a condition has been applied to ensure that all trees are retained and protect as per the British Standard for tree protection.

- 51 In regards to boundary treatment, the site plan does not provide any detail but the visualisations appear to indicate that the boundaries of the proposed plots will be defined by extensive timber fencing. The extent of timber fencing shown on the plans is considered to be excessive, particularly in relation to the front gardens, and does not reflect the rural character of the area. It is recommended that it would be far more appropriate and in keeping with the character of the area to instead define the boundaries with post and wire fencing and beech hedges. As such this matter has been controlled by suspensive condition.

### **Residential Amenity**

- 52 A number of concerns have been raised in regards to potential overlooking of neighbouring plots.
- 53 Whilst the proposed houses are quite large and the site is relatively exposed, it is considered that the proposed layout provides sufficient distance between each of the properties within the site and the neighbouring properties to the north, south and east. As such, I do not consider that the proposed development would have any significant impact on the neighbouring residential amenity.

### **Access**

- 54 A number of concerns have been raised in regards to the condition of the existing access and the increase in traffic resulting from the proposed development.
- 55 In this regard the Council's Transport Planner has assessed the proposals and raised no concerns in relation to the proposed development but has recommended that a condition is applied to any consent requiring the applicant to improve the existing private access.
- 56 In addition to the above, concerns have also been raised in relation to the existing bridge and whether it is capable of sustaining the increase in traffic movement during the construction of the development and thereafter completion.
- 57 This is considered to be a private matter for the applicant to address and not an issue that needs to be investigated by the Council. The applicant has however previously advised that they will undertake an assessment of the bridge structure and complete any works if necessary.

## **Drainage**

- 58 The proposed development will be served by a communal waste water treatment plant and surface water/storm water retention tank. No specific details have been provided but it is suggested that the waste water will be treated by a single package treatment plant and surface water will be gathered in attenuation tanks with outlets which discharge to the Kinnochty Burn. The architect has indicated that the drainage scheme will be fully designed by the relevant engineer at a later stage in consultation with SEPA.
- 59 The principle of this type of private drainage system within a rural area is considered to meet the requirements of Policy EP3B relating to foul drainage and is similar to proposals found elsewhere within rural area of Perth and Kinross. In any case the detailed designed of the drainage system will be secured condition in order to ensure its design meets Council standards.
- 60 In terms of the potential for pollutants entering the watercourse, modern septic tank systems are now very effective and efficient at removing the majority of pollutants from waste water prior to being discharged. The applicant will also require separate permission from SEPA to discharge to a watercourse and as part of that process they will need to demonstrate that the drainage arrangements will not pollute the watercourse. I therefore do not have any concerns regarding the proposed method of foul drainage within the site.
- 61 With regards to the proposed surface water drainage scheme (SUDs), the Flood Prevention Officer has recommended that further detail is required in relation to the associated sizing calculations/tests. It is considered that further details in relation to SUDs can be secured by condition and agreed at a later date.

## **Flood Risk**

- 62 The applicant has provided an updated Flood Risk Assessment (FRA) which takes into account the recent updates to flow data/flood estimation techniques. The FRA has been reviewed by the Flood Prevention Officer and he has advised that the proposed development does not raise any concerns in relation to flood risk provided the houses are built to the FFL's recommended in the report (which is above the 1 in 200 year (plus climate change) and + 600mm freeboard) as a minimum. As per the 2014 consent, the FFL's have been conditioned.
- 63 It was also recommended that the access is moved in order to take it out of the 1 in 200 year flood zone and maintain emergency vehicular access to all properties. The architect has amended the access detail to reflect the recommendations of the FRA.



- 64 With regard to the access, the FRA identifies that the main access bridge would be inundated during the 1 in 200 year event. However should the main access be cut off during a significant flood event another access route via the existing farm track across the fields to the west is available for emergency vehicles to access the site. It is noted that concerns have been expressed by local residents regarding the condition of this access and its suitability for emergency vehicles. Having visited the site it is acknowledged that this track is not surfaced but I am satisfied that it would still be possible to access or escape from the site safely via this access during a flood event. I have also discussed this with the Flood Prevention Officer who has again advised that he is satisfied with the alternative access arrangements for emergency services.
- 65 In any case, it must also be highlighted that the principle of residential development has already been established through the valid extant consent for the erection of four houses.

### **Waste Collection**

- 66 The existing private access is not suitable for bin collection by Council bin lorries. As such, a number of the existing houses use the existing large communal waste bin located at the entrance to the private access, adjacent to the driveway of Damside Farm Cottage. It is therefore likely that the proposed development will also need to use a similar, if not the same, arrangement for the disposal of refuse.
- 67 The Community Waste Officer has been consulted and confirmed that residents will need to take their bins to the road end as the existing private access is not suitable for Council bin lorries. The applicant has stated in the supporting statement that they are willing to agree a suitable refuse collection point. As such a condition has been applied requiring the details of the refuse collection arrangements to be agreed prior to the commencement of the development and thereafter installed prior to the occupation of the first house.

### **Core Path**

- 68 The BURR/180/1 core path is located to the south and west of the application site with part of the path located close to the vehicular access into the site. I am satisfied that a development of this scale will not have a detrimental impact on the core path and to ensure this a condition is recommended to ensure the core path is not obstructed or damaged during construction works. Subject to this condition the proposal is considered to comply with Policy CF2 of the LDP.

### **Water Supply**

- 69 A number of concerns have been raised in relation to the potential impact that the development could have on the existing private water supply that runs under the existing access. It is also noted that concerns have been expressed regarding the ability to connect to the public water supply.

- 70 The Environmental Health Team has been consulted and no concerns have been raised in relation to the existence or protection of any existing private water supplies. However given the comments raised by local residents it is evident that there are existing private supplies located within close proximity to the site. Whilst I do not consider that the presence of these water supplies would be an impediment to the development of the site, it is considered prudent to apply a condition to ensure that all private water supplies are identified and protected throughout the construction of the development.
- 71 With regard to the water supply for the proposed development, the applicant has stated that they will be connecting the public water supply network. Scottish Water has been consulted but no response has been received on this occasion. However during the assessment of the 2014 application Scottish Water advised that they have no objection to the proposed development and that the Lintrathen Water Treatment Works currently has capacity to service this proposed development. They also highlighted that the applicant may need to carry out works on the local water network in order to ensure that there would be no impact to the current level of service to existing customers. In any case this is considered to be a separate matter that the applicant will need to discuss directly with Scottish Water as part of an application to connect to the public water network.

### **Contamination**

- 72 During the assessment of the 2014 applicant the Environmental Health Officer (EHO) noted the presence of infilled ground to the north of the site but did not raise any significant concerns in relation to contamination. However upon re-assessing the current proposals the EHO has advised that the proposed development is on land that is immediately adjacent to a former sawmill site to the north and an area of infilled ground to the west associated with a former mill dam. Sawmills can be heavily contaminated sites particularly if there has been timber treatment on the site and there is the potential for contamination from the sawmill to have migrated onto the proposed development site. In regards to the infilled ground, the volume and nature of the infill is unknown and therefore there is the potential for it to contain contaminants which may impact the proposed development site. There is also the potential for localised gas production from the infill material which again could impact the above development.
- 73 In light of the above the EHO has recommended that a condition is applied which requires an evaluation for the potential of the site to be affected by contamination to be undertaken and submitted for approval prior to the commencement of development. This matter has been conditioned accordingly.

## **Developer Contributions**

- 74 The site already has planning consent for the erection of 4 dwelling houses under planning reference 14/00051/FLL. This proposal is not seeking to increase the overall number of units therefore the Developer Contributions and Affordable Guidance does not apply.

## **LEGAL AGREEMENTS**

- 75 None required.

## **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 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, subject to the following conditions:**

- 1 The proposed development must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed on the planning consent.

Reason – To ensure that the development is carried out in accordance with the plans approved.

- 2 Prior to the commencement of the development, improvements to the existing private access shall be agreed in writing to the satisfaction of the Council as Planning Authority.

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

- 3 The private access that provides access to the proposed development forms part of a core path (BURR/180/1). This core path must not be obstructed during building works or on completion. Any damage done to the route and associated signage during building works must be made good before the first house is occupied.

Reason – To ensure continued public access along the public paths.

- 4 Prior the commencement of development details of the arrangements for the provision of suitable waste and recycling facilities to serve the proposed development shall be agreed in writing with the Planning Authority. Thereafter the approved scheme shall be implemented prior to the occupation of the first dwelling; all to the satisfaction of the Planning Authority.

Reason – In order to ensure that suitable waste and recycling facilities are provided to serve the proposed development.

- 5 All trees which are to be retained on site must be protected by stout fencing (minimum 1.2metres high and 2.4metres in intensive area of construction) enclosing an area to protect the ground and roots beneath the full canopy spread as described in BS 5837 : 2012. Trees In Relation To Design, Demolition and Construction, prior to any works commencing on site. If temporary vehicle access is required through the protected area, a reinforced concrete slab or similar protection shall be laid over the existing soil surface to the satisfaction of the Council as Planning Authority.

Reason – In order to safeguard trees on the site.

- 6 Prior to the commencement of the development hereby approved, a detailed landscaping and planting scheme for the site shall be submitted for the further written agreement of the Council as Planning Authority. The scheme shall include details of the height and slopes of any mounding or recontouring of the site, full details of all hard landscaping proposals including materials and installation methods and, species, height, size and density of trees and shrubs to be planted. The scheme as subsequently approved shall be carried out and completed within the first available planting season (October to March) after the completion or bringing into use of the development, whichever is the earlier, and the date of Practical Completion of the landscaping scheme shall be supplied in writing to the Council as Planning Authority within 7 days of that date. The scheme as agreed and implemented shall thereafter be maintained.

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

- 7 Development shall not commence on site until a detailed sustainable urban drainage system (SUDS) has been submitted for the further written agreement of the Council as Planning Authority, in consultation with SEPA where necessary. The scheme shall be developed in accordance with the technical guidance contained in The SUDS Manual (C753) and the Council's Flood Risk and Flood Risk Assessments Developer Guidance, and shall incorporate source control. All works shall be carried out in accordance with the agreed scheme and be operational prior to the bringing into use of the development.

Reason - To ensure the provision of effective drainage for the site.

- 8 Concurrent with the initiation of the development hereby approved and for the duration of construction, a temporary surface water treatment facility which accords with SUDS principles shall be implemented on site and maintained for the duration of the approved development works. The temporary surface water treatment facility shall remain in place until the permanent surface water drainage scheme is implemented.

Reason - To ensure the appropriate management of construction surface water run-off to minimise flooding and avoid discharge of sediment/pollution to the local water environment or neighbouring property, in the interests of residential and environmental amenity.

- 9 Prior to the commencement of the development hereby approved, details of the location and measures proposed for the safeguarding and continued operation, or replacement, of any septic tanks and soakaways, private water sources, private water supply storage facilities and/or private water supply pipes serving properties in the vicinity, sited within and running through the application site, shall be submitted to and approved in writing by the Council as Planning Authority. The subsequently agreed protective or replacement measures shall be put in place prior to the commencement of the development being brought into use and shall thereafter be so maintained insofar as it relates to the development hereby approved.

Reason – To ensure existing water and drainage infrastructures are not compromised.

- 10 Prior to the commencement of development details of the proposed boundary treatment shall be submitted for the approval of the Planning Authority. The details as agreed and implemented shall thereafter be maintained.

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

- 11 Prior to the commencement of works on site, an evaluation for the potential of the site to be affected by contamination by a previous use should be undertaken and as a minimum, a Preliminary Risk Assessment (Phase 1 Desk Study) will be submitted for consideration by the Council as Planning Authority. If after the preliminary risk assessment identifies the need for further assessment, an intrusive investigation should be undertaken to identify;
- i. The nature, extent and type(s) of contamination on the site
  - ii. Measures to treat/remove contamination to ensure the site is fit for the use proposed
  - iii. Measures to deal with contamination during construction works
  - iv. Condition of the site on completion of decontamination measures.

Prior to the completion or bringing into use of any part of the development the agreed measures to decontaminate the site shall be fully implemented as approved by the Council as Planning Authority and validation that the scheme has been fully implemented must also be submitted to the Council as Planning Authority.

Reason - In order to deal with any potential contamination of the site as a result of its former use.

- 12 For the avoidance of doubt, the paddock of land immediately to the north of Plot 4 identified on the approved site plan (Drawing Ref: 16/01097/16) does not form part of the garden ground of the house in Plot 4.

Reason – For the avoidance of doubt and in the interests of visual amenity.

## **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 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).

- 2 Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
- 4 No work shall be commenced until an application for building warrant has been submitted and approved.
- 5 The applicant is advised that the granting of planning consent does not guarantee a connection to Scottish Water's assets. The applicant must make a separate application to Scottish Water Planning & Development Services team for permission to connect to the public wastewater system and/or water network and all their requirements must be fully adhered to.

Background Papers: 8 letters of representation  
 Contact Officer: David Niven – Ext 75345  
 Date: 1 November 2016

**NICK BRIAN**  
**INTERIM HEAD OF PLANNING**

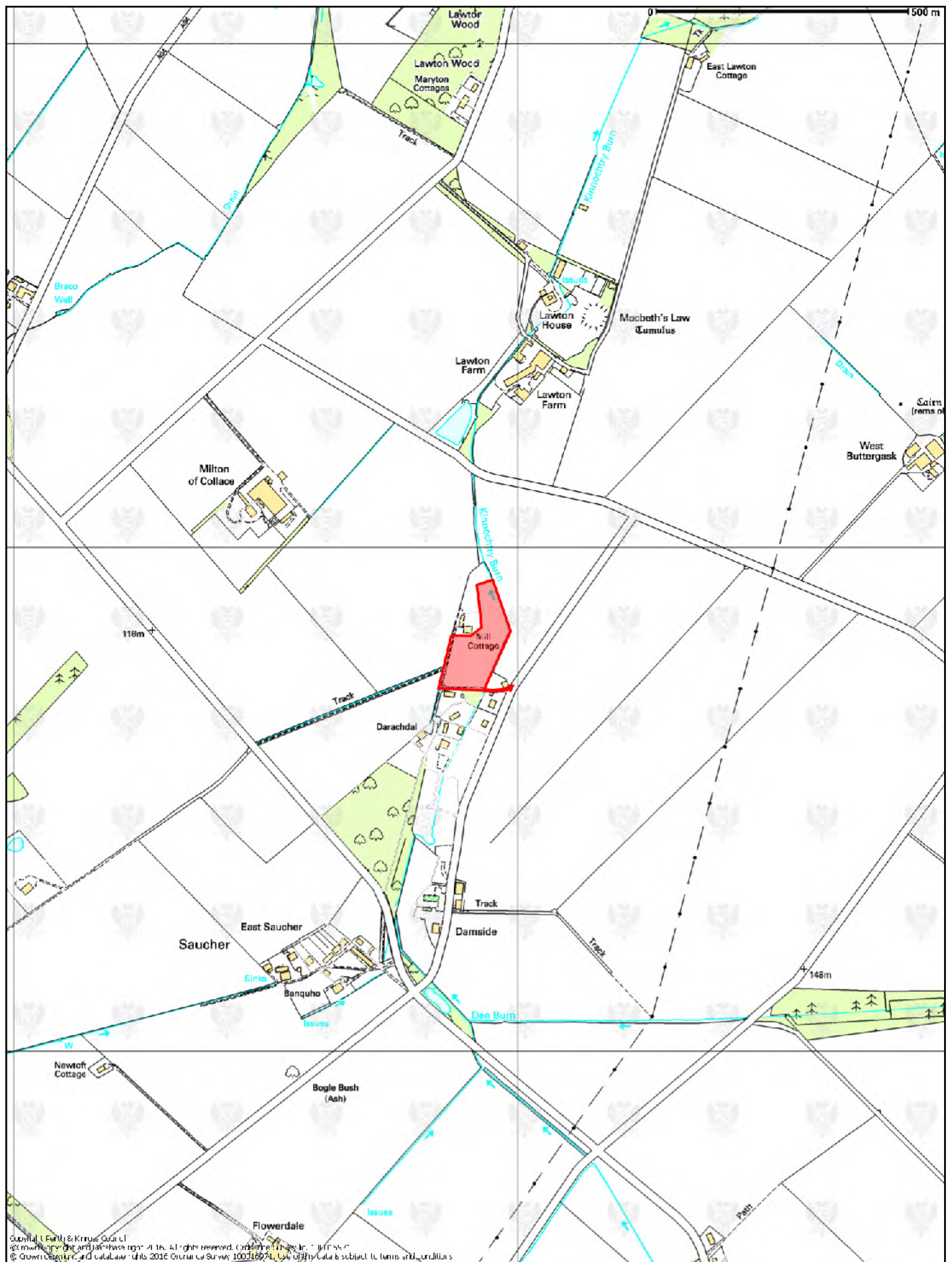
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|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|







Perth and Kinross Council  
Development Management Committee – 16 November 2016  
Report of Handling by Interim Head of Planning

**Alterations and extension to coffee shop at Mackenzies Coffee House  
115 Atholl Road, Pitlochry, PH16 5AG**

Ref. No: 16/01357/FLL  
Ward No: N4– Highland

**Summary**

This report recommends approval of the application for alterations and extension to coffee shop as the development is considered to comply with the relevant provisions of the Development Plan.

**BACKGROUND AND DESCRIPTION**

- 1 The application site is located within the settlement boundary of Pitlochry in an area identified for town centre uses. The application site is also located within Pitlochry Conservation Area.
- 2 The buildings on site consist of Mackenzies Coffee House and Christmas Shop (with residential above in separate ownership) fronting Atholl Road. The building also has a basement level which provides access to the rear courtyard where there is a large garage/storage building. To the west of the site is a newer 4 storey block of flats, to the south are the public toilets and to the east a restaurant.
- 3 The proposal is to demolish the existing store and extend to the rear filling in the gap site/parking area. The extension has been designed to link to the existing building at a lower ground floor which forms a link between the existing traditional building and the proposed contemporary 2 and 3 storey flat roofed cube extension.
- 4 There is an associated application for conservation area consent for the demolition of the storage building on the site which is also under consideration at this Committee.
- 5 No car parking is proposed and pedestrian access is from Atholl Road or West Lane.

**NATIONAL POLICY AND GUIDANCE**

- 6 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.

## **Scottish Planning Policy 2014**

- 7 The Scottish Planning Policy (SPP) was published on June 23 2014. It sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:
- The preparation of development plans
  - The design of development, from initial concept through to delivery
  - The determination of planning applications and appeals.
- 8 Of relevance to this application are:
- Paragraphs 58 – 73 Promoting Town Centres
  - Paragraphs 92 – 108 Supporting Business and Employment
  - Paragraphs 135 – 144 Valuing the Historic Environment

## **DEVELOPMENT PLAN**

- 9 The Development Plan for the area consists of the Approved TAYplan Strategic Development Plan 2012 and the Adopted Perth and Kinross Local Development Plan 2014.

### **TAYplan: Strategic Development Plan 2012-2032**

- 10 The principal relevant policy is in summary: -

#### **Policy 7: Town Centres**

- 11 Support should be given to a mix of uses in city and town centres that will encourage their vitality and the diversity of economic and social activity in both the day and the evening.

### **Perth and Kinross Local Development Plan 2014**

- 12 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
- 13 The principal relevant policies are, in summary:

#### **Policy PM1A - Placemaking**

- 14 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**

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

### **Policy RC1 Town and Neighbourhood Centres**

- 16 Class 1 (retail) uses will be supported in identified town and neighbourhood centres commensurate with the role of the centre within the established retail hierarchy. Use Classes 2 & 3, leisure, entertainment, recreation, cultural and community facilities will also be encouraged in ground floor units provided they contribute to the character, vitality and viability of the retail core and satisfy the criteria set out.

### **Policy PM2: Design Statements**

- 17 Design Statements should normally accompany a planning application if the development comprises 5 or more dwellings, is a non-residential use which exceeds 0.5 ha or if the development affects the character or appearance of a Conservation Area, Historic Garden, Designed Landscape or the setting of a Listed Building or Scheduled Monument.

### **Policy HE3A Conservation Areas**

- 18 Development within a Conservation Area must preserve or enhance its character or appearance. The design, materials, scale and siting of new development within a conservation area, and development out with an area that will impact upon its special qualities should be appropriate to its appearance, character and setting.

### **OTHER POLICIES**

- 19 Pitlochry Conservation Area Appraisal.

### **SITE HISTORY**

- 20 07/01449/FUL Extension to existing store to form a new retail unit Approved 22 August 2007.
- 21 08/01549/FUL Part change of use from class 1 to class 3 Approved 15 September 2008.

### **CONSULTATIONS**

#### **EXTERNAL**

- 22 None

## **INTERNAL**

### **Environmental Health**

- 23 No objection, conditions recommended related to noise and odours

### **REPRESENTATIONS**

- 24 A total of 48 letters of representation consisting of 28 objections and 20 letters of support were received and raised the following relevant issues: -

#### **Objections**

- Over provision of coffee shops/cafes/restaurants
- Loss of view
- Loss of light
- Overlooking
- Noise and odour
- Inappropriate design
- Excessive height
- Increase in traffic
- Detrimental impact on tourism
- Opening hours
- Size of soft play area

#### **Support**

- Support for contemporary design
- Increase in facilities
- Employment opportunities

- 25 These issues are all addressed in the Appraisal section of this report.

### **ADDITIONAL STATEMENTS**

|                                                |                |
|------------------------------------------------|----------------|
| Environment Statement                          | Not required   |
| Screening Opinion                              | Not required   |
| Environmental Impact Assessment                | Not required   |
| Appropriate Assessment                         | Not required   |
| Design Statement / Design and Access Statement | Submitted      |
| Report on Impact or Potential Impact           | None submitted |



## **APPRAISAL**

- 26 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 as amended by Planning Etc (Scotland) Act 2006 require that planning decisions be made in accordance with the Development Plan unless material considerations indicate otherwise. The determining issues in this case are whether: - the proposal complies with Development Plan policy; or if there are any other material considerations which justify a departure from policy. The most relevant policies of the Council's Local Development Plan (LDP) 2014 and TAYplan are outlined in the policy section above.

### **Policy**

- 27 The site is located within the settlement boundary of Pitlochry within an area zoned for town centre uses and also lies within Pitlochry Conservation Area.
- 28 Policy RC1: Town and Neighbourhood Centres is applicable and encourages uses within Class 1, 2 and 3 plus leisure, entertainment, recreation, cultural and community facilities on ground floors provided that they contribute to the character, vitality and viability of the retail area. Proposals should also satisfy criteria, which applicable in this case are, that there is a high and continuous degree of public contact involved in the normal day to day running of the use and that residential amenity is protected.
- 29 Concerns have been raised about the number of cafes and restaurants within Pitlochry town centre. It is widely recognised that the potential loss of trade or increased competition for a specific product or service are not valid planning considerations as these are typically personal circumstances which the planning system is not designed to protect. What however is a planning issue (for developments within town centres) is the potential impact that new proposals would have on the character, vitality and viability of the town centre area as a whole and whether or not from a land use perspective, the proposal is compatible with the surrounding uses.
- 30 The site constitutes a backland area of land which is underutilised and limited by its lack of a street frontage. The proposal is also linked to the expansion of an existing established business. The principle of extending the building to expand the existing Class 3 use with the ancillary soft play/events space is considered to be acceptable in a town centre location.

### **Use**

- 31 The application is proposed as an extension to an existing coffee shop. It should be noted that the primary use is proposed under Class 3 and the soft play element is an ancillary use to this wider Class 3 use and not a stand-alone leisure facility. I therefore cannot consider the advantage/disadvantage in the provision of the facility, the area allocated for the use or age limit to be material to the consideration of this application.

## **Design and Layout**

- 32 The site lies within an area of dense development with 2 and 2 ½ storey buildings facing Atholl Road and 3 ½ storey rear elevations. West Lane, due to the topography, features a relatively new 3 ½ storey flatted development and a number of single storey buildings. Within this area there is a mix of traditional materials render, stone and slate with hipped and pitched roofs, the use of dormers and traditional proportions.
- 33 A contemporary design approach has been deliberately taken to develop this site. The proposal is for a new building which is linked by a single storey passageway to the existing Atholl Road café/shop. The new building has a flat roof design incorporating two floors increasing to three floors towards West Lane. The increase in height has allowed the mass of the building to be broken up and to maintain a buffer between the residential flat on the 1<sup>st</sup> floor of the Atholl Road building and the higher 3 storey element.
- 34 The materials proposed are render and slate wall cladding with a timber corner to break up the mass of the slate and provide visual interest. The window openings are varied with some large openings spanning two floors allowing the internal space to connect with the external design. Samples of render, slate and timber cladding will be requested by condition for assessment and further approval.
- 35 Concerns have been raised in the representations regarding the design of the building. The site has no street frontage, being located behind the single storey public toilet building on West Lane. The architect has tackled this by introducing an interesting design addressing the site constraints. The approach has been a direct result of the need to find a bespoke solution to providing the proposed facilities on this constrained site, but in such a way as to create a development which will contribute to the townscape quality of the area.
- 36 The design, by using a contemporary approach, has allowed the extension to feature strongly in the streetscape and, deliberately, not be lost back land development. The flat roof lets the extension sit below the ridge of the higher buildings on Atholl Road not dominating or breaking the skyline. The use of materials reflecting the surrounding building colour and finishes has reinforced this and integrated the contemporary design.

## **Conservation Area**

- 37 The site is located within Pitlochry Conservation Area. There is an associated application for Conservation Area Consent to demolish the existing storage/garage building to the rear. This application considers the impact of the new extension on the character and appearance of the Conservation Area.
- 38 It should be noted that the designation of an area as a Conservation Area does not prohibit new development, only that new development should positively enhance the area through good design rather than just create a neutral effect.

- 39 The Conservation Planner concurs with me that this is an exciting, contemporary design scheme with a considered approach to a selective palette of external materials which reflects traditional finishes and creates visual interest. In their view the massing and scale of the development at this particular location will not adversely affect the character and appearance of the conservation area.
- 40 They also advised that their only concern at pre-application stage has been addressed. The new building is now set back slightly further from the boundary of the toilet block than what was previously proposed. There is also a light touch employed in the design between the new building and the rear elevation of 115 Atholl Road.

### **Residential Amenity**

- 41 The application greatly extends the existing coffee shop on Atholl Road, relocating the kitchen and bringing the building closer to residential receptors to the south in Watson Court.
- 42 Environmental Heath have been consulted and note that no details have been submitted for the ventilation system to be used in this development and this could be an issue as the roof of this proposed building is of a lower elevation than Watson Court. Typically a ventilation system will control odours by expelling kitchen air above the height of surrounding windows, but there will be windows above this, potentially with around 10 metres. Whether this is acceptable or not will depend on the nature of the cooking and the specifics of the ventilation system, therefore the applicant is advised to seek professional advice to ensure compliance with the condition recommended by Environmental Health. It is considered however that within a town centre location with similar adjacent uses a solution can be found.
- 43 The other issue which could lead to complaints is noise, which can arise from plant equipment or deliveries, each of which can be conditioned. Of more concern with regard to noise is the inclusion of a function area on the lower ground floor and a private function area on the first floor. There are few details with regard the intended use of these areas, and whilst they are both relatively small, they could lead to noise complaints depending on how they are used. Due to this a condition requiring the production of a noise management plan to control the potential for loss of amenity due to noise shall be added.
- 44 As the site is located within the town centre where there is a large number of class 3 uses which coincide with residential uses it is considered that the use of conditions could adequately mitigate any impact of the proposed development.
- 45 Overlooking has been raised as a concern. The building is located 15m from the facing elevation of the flatted building and there are no directly facing windows as the staircase is located in the south west corner of the building. The design also incorporates a 2 storey flat roof section which reduces any impact on the 1<sup>st</sup> floor flat above the existing café in terms of overshadowing and loss of light.

## **Roads and Access**

- 46 The site has existing vehicular/pedestrian access from West Lane and pedestrian access from Atholl Road. There is an informal private parking area currently available to the rear but this would be lost as part of the proposal.
- 47 The site is located within the town centre in close proximity of the bus and train stations. In addition there is a public carpark at Rie-achan Road and further public carparks within walking distance. It is acceptable in a town centre location for no parking to be provided and I consider the development of the site would not have a detrimental impact on traffic within the area.

## **Flooding and Drainage**

- 48 The site is connected to the public drainage and water supply network and there is no flood risk associated with the site.

## **Economic Development**

- 49 The proposal has the potential to have a positive economic benefit on the local economy through the creation of jobs and provision of services.

## **LEGAL AGREEMENTS**

- 50 None required.

## **DIRECTION BY SCOTTISH MINISTERS**

- 51 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**

- 52 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 subject to the following conditions:**

- 1 The proposed development must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed on the planning permission.

Reason - To ensure that the development is carried out in accordance with the plans approved.

- 2 Servicing of and deliveries to the premises shall be carried out between 0700 and 1900 Monday to Saturday only, with no servicing or deliveries permitted on Sundays.

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

- 3 All plant or equipment shall be so enclosed, attenuated and/or maintained such that any noise therefrom shall not exceed Noise Rating 35 between 0700 and 2300 hours daily, or Noise Rating 20 between 2300 and 0700 hours daily, within any neighbouring residential property, with all windows slightly open, when measured and/ or calculated and plotted on a rating curve chart.

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

- 4 Prior to the development hereby approved being completed or brought into use, an effective ventilation system commensurate with the nature and scale of cooking to be undertaken shall be installed and operated such that cooking odours are not exhausted into or escape into any neighbouring buildings. Thereafter the system shall be maintained.

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

- 5 The hours of operation of the function areas shall be limited to 0700 to 2300 daily.

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

- 6 Prior to the opening this facility, the applicant shall submit a noise management plan to minimise the potential for disturbance at nearby residential receptors.

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

- 7 Prior to the commencement of the development hereby approved, a sample of all external finishes shall be submitted to and agreed in writing by the Council as Planning Authority. The external finishes as agreed shall be implemented prior to the completion or bringing into use of the development, whichever is the earlier.

Reason - In order to protect the traditional character of the building and the appearance of the Conservation Area.

## **B JUSTIFICATION**

The proposal is considered to comply with the Development Plan and there are no other material considerations that would justify a departure there from.

## **C PROCEDURAL NOTES**

None.

## **D INFORMATIVES**

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
- 2 Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
- 4 No work shall be commenced until an application for building warrant has been submitted and approved.

Background Papers: 48 letters of representation  
Contact Officer: Joanne Ferguson  
Date: 2 November 2016

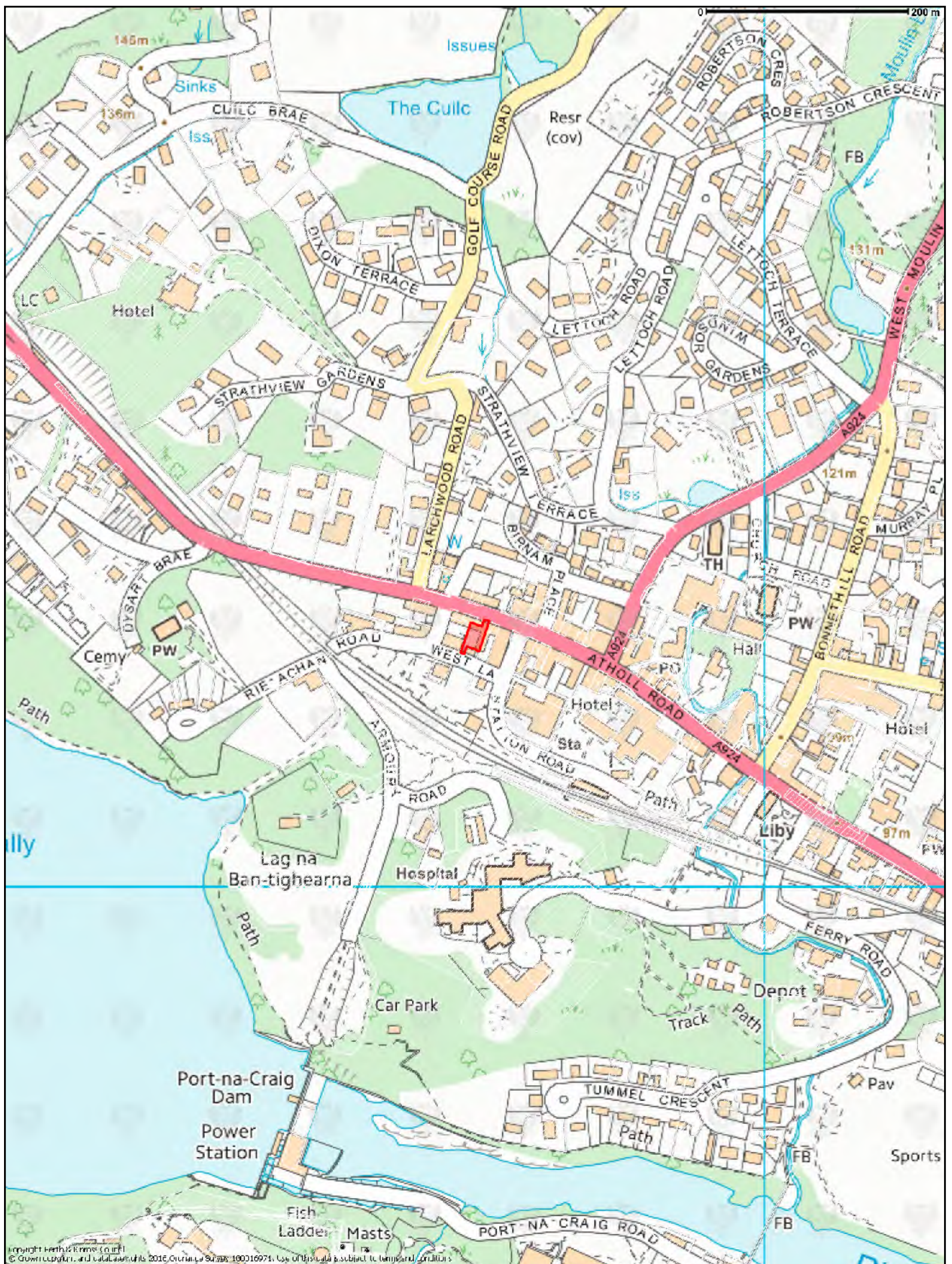
**Nick Brian**  
**Interim Head of Planning**

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**Development Management Committee**



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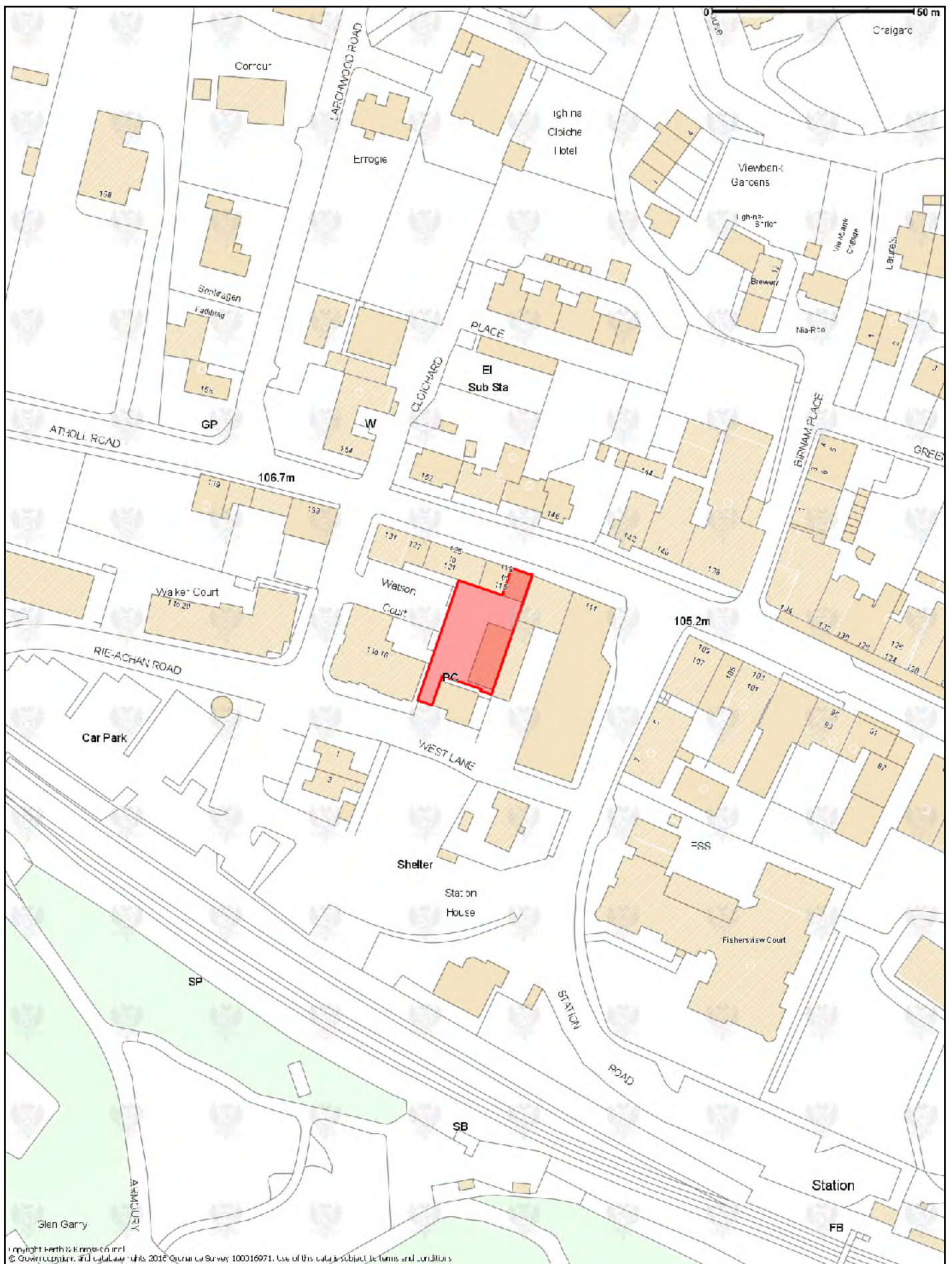
### Alterations and extension to coffee shop

MacKenzie Coffee House, 115 Atholl Road, Pitlochry









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**Development Management  
 Committee**



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### Alterations and extension to coffee shop

**MacKenzie Coffee House, 115 Atholl Road,  
 Pitlochry**





Perth and Kinross Council  
Development Management Committee – 16 November 2016  
Report of Handling by Interim Head of Planning

|                                                                                                                    |
|--------------------------------------------------------------------------------------------------------------------|
| Demolition of building at the Store to the rear of Mackenzies Coffee Shop, 115 Atholl Road at West Lane, Pitlochry |
|--------------------------------------------------------------------------------------------------------------------|

Ref. No: 16/01596/CON  
Ward No: N4– Highland

**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 Conservation Area Consent is sought for the demolition of a storage building at West Lane (to the rear of Mackenzie's Coffee Shop on Atholl Road) within the Conservation Area of Pitlochry. There is an associated full planning application for the redevelopment of the site which is also under consideration at this Committee.
- 2 The building currently sitting on the site, a garage and store, is of no architectural merit and is not of traditional construction. It has been purpose built in order to create short term additional storage at the rear of the existing shop and café.
- 3 The application site is located to the rear of Mackenzie's Coffee shop. There is a flatted development to the west separated from the site by a 2m timber fence, to the east is a restaurant Caffè Soczia which has outdoor seating and to the south is the public toilets building.

**NATIONAL POLICY AND GUIDANCE**

- 4 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**

- 5 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 (June 2012)**

- 6 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:

- 7 *“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”*
- 8 The following sections of the TAYplan 2012 are of particular importance in the assessment of this application.

### **Policy 2 – Shaping better quality places**

- 9 Seeks to ensure that climate change resilience is built into the natural and built environment, integrate new development with existing community infrastructure, ensure the integration of transport and land uses, ensure that waste management solutions are incorporated into development and ensure that high resource efficiency and low/zero carbon energy generation technologies are incorporated with development to reduce carbon emissions and energy consumption.

### **Policy 3: Managing TAYplan’s Assets**

- 10 Seeks to respect the regional distinctiveness and scenic value of the TAYplan area and presumes against development which would adversely affect environmental assets.

### **Perth and Kinross Local Development Plan 2014**

- 11 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.
- 12 Under the LDP, the site lies within the settlement boundary of Pitlochry and within the conservation area where the principal relevant policy is:

### **Policy HE3B - Conservation Areas**

- 13 There is a presumption against demolition of buildings within a Conservation Area and in favour of retention and restoration. Proposals for demolition should be accompanied by a detailed application for the replacement development.

### **OTHER POLICIES**

- 14 Historic Environment Scotland Policy Statement 2016

### **SITE HISTORY**

- 15 07/01449/FUL Extension to existing store to form a new retail unit Approved under delegated powers 22 August 2007

## CONSULTATIONS

### EXTERNAL

- 16 **Historic Environment Scotland (HES)** – No objection and no comments to make on proposal.

### INTERNAL

- 17 None required

## REPRESENTATIONS

- 18 No letters of representation received.

## ADDITIONAL STATEMENTS

19

|                                                |              |
|------------------------------------------------|--------------|
| Environment Statement                          | Not required |
| Screening Opinion                              | Not required |
| Environmental Impact Assessment                | Not required |
| Appropriate Assessment                         | Not required |
| Design Statement / Design and Access Statement | Submitted    |
| Reports on Impact or Potential Impact          | Not required |

## APPRAISAL

### Policy Appraisal

- 20 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 most relevant policy to be considered is policy HE3B of the Local Development Plan and this is assessed in more detail below.

### Principle

- 21 The site is within the Pitlochry settlement boundary, within the town centre zoning and conservation area. Policy HE3B states that there is a presumption against demolition of buildings within a Conservation Area in favour of retention and restoration and that proposals for demolition should be accompanied by a detailed application for the replacement development.

- 22 The Historic Environment Scotland Policy Statement 2016 is also a consideration. In particular applications for Conservation Area Consent must demonstrate the following:
- a. the building is not of special interest; or
  - b. the building is incapable of repair; or
  - c. the demolition of the building is essential to delivering significant benefits to economic growth or the wider community; or
  - d. the repair of the building is not economically viable and that it has been marketed at a price reflecting its location and condition to potential restoring purchasers for a reasonable period.

### **Impact on Character of Conservation Area**

- 23 The garage and storage building is of relatively recent construction and has no particular architectural or historic merit. It has been purpose built in order to create short term additional storage at the rear of the existing shop and café. It neither relates to its surrounding buildings through the use of materials or through any architectural detail, nor does it offer anything visually to the street scene from glimpsed vantage points on Rie-Achan Road and West Lane.
- 24 The building's function is for use as a garage and store. The structure and foundations of the building are not robust enough to allow the level of adaptation required to meet the needs of the growing business. Equally, attempting to fit the necessary services and spaces within the existing building would only allow for a substandard, under performing building which would not meet the demands of modern construction and spatial requirements. It is therefore accepted that the current building could not be repaired to serve the required use.
- 25 Demolition of the existing structure will enable a comprehensive redevelopment of the site. The proposal is designed to draw on its surrounding context whilst introducing contemporary design to the conservation area. The views on to and through the site will be significantly improved by creating an exciting focal point. The visual aesthetic of the proposal aims to create interest in the area, increasing footfall and assisting in the immediate area's economy.
- 26 The building has not been marketed in its current state for reuse as the owner wishes to develop the site.
- 27 It is also considered that as the building is of no merit and not in a prominent location within the conservation area, as it is screened by the public toilets, it would not be necessary to link the erection of the new extension by condition to this permission.
- 28 I would therefore conclude that the poor condition of the existing building is evident from on-site inspection and that the demolition will allow for a new development to come forward to bring the site back into active use to the overall benefit of the conservation area. The information provided, in conjunction with the proposals currently under consideration for redevelopment of the site, are therefore considered sufficient to justify demolition of the building in this case. As such the proposal, in its current form is considered to comply with the requirements of Policy HE3B of the LDP and with the Scottish Historic Environment Policy.

## **LEGAL AGREEMENTS**

- 29 None required.

## **DIRECTION BY SCOTTISH MINISTERS**

- 30 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**

- 31 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 Perth and Kinross 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 subject to the following conditions:**

- 1 The proposed development must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed on the planning permission.

Reason - To ensure that the development is carried out in accordance with the plans approved.

### **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 This Conservation Area Consent will last only for 3 years from the date of this decision notice, unless the development has been started within that period (see section 16 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, as amended by Section 20 of the Planning etc (Scotland) Act 2006.

Background Papers: None  
Contact Officer: Joanne Ferguson – Ext 75360  
Date: 2 November 2016

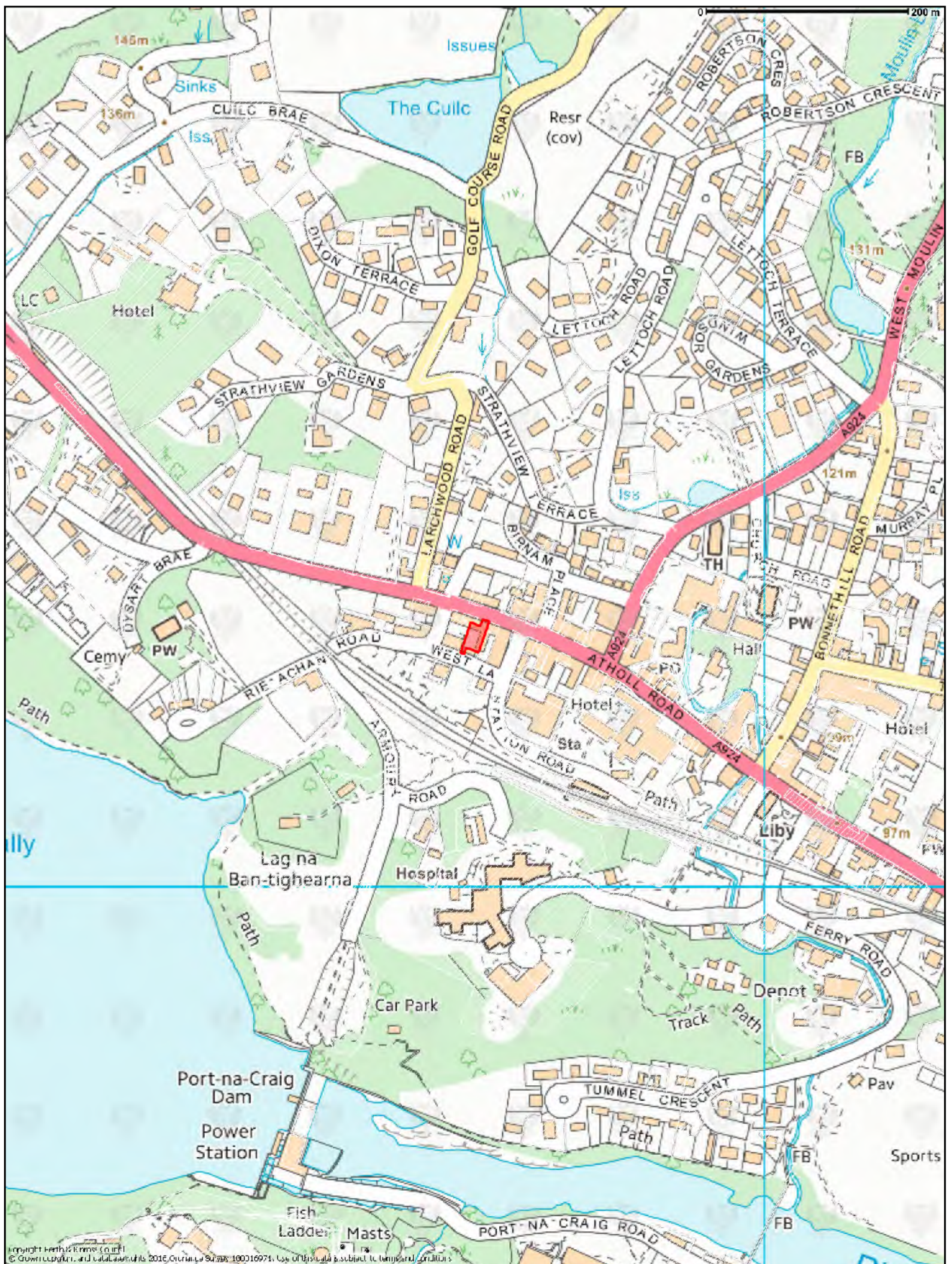
**NICK BRIAN**  
**INTERIM HEAD OF PLANNING**

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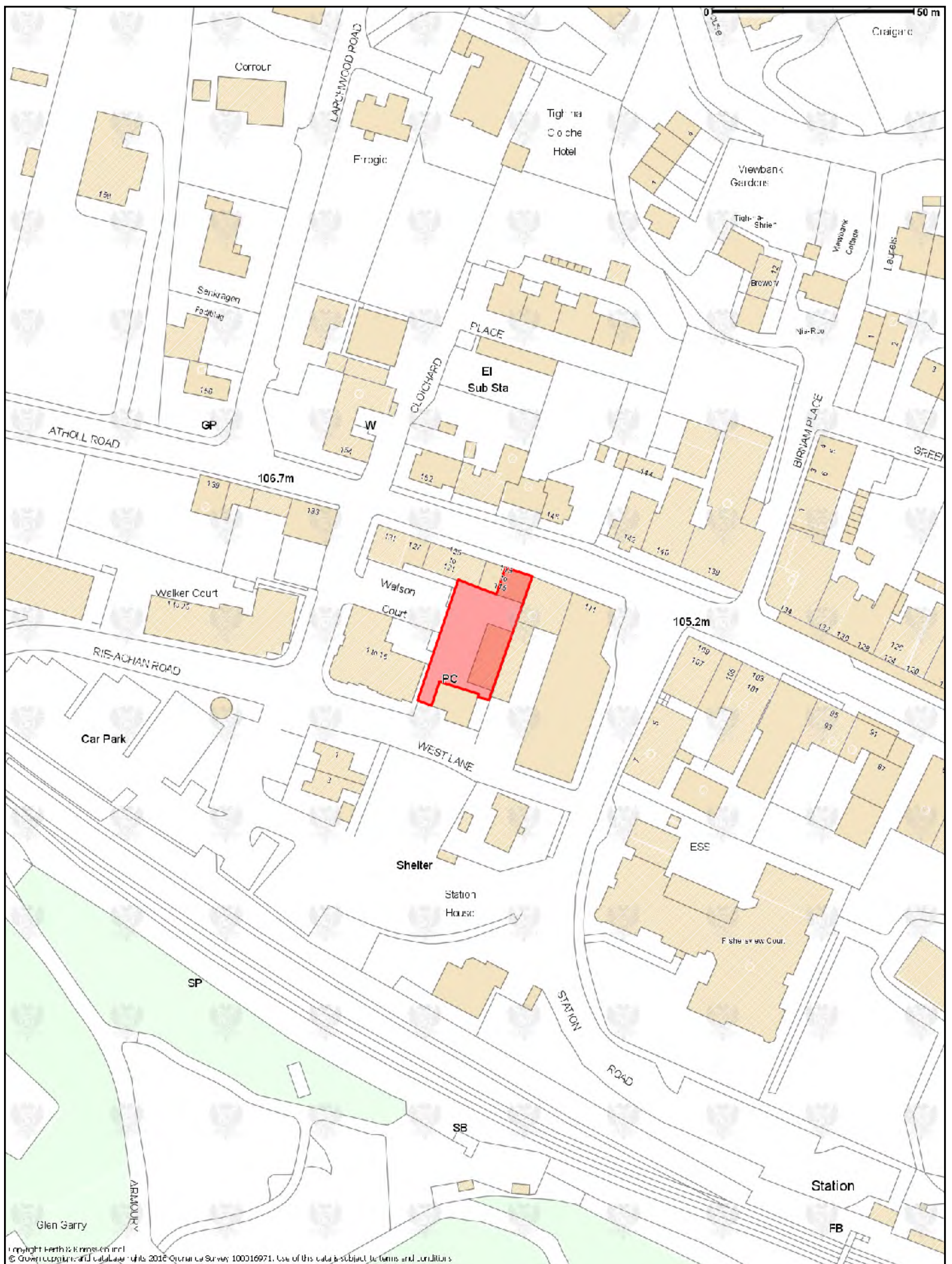
**Demolition of building**

Store, West Lane, Pitlochry









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**Development Management Committee**



**Demolition of building**

Store, West Lane, Pitlochry





Perth and Kinross Council  
Development Management Committee – 16<sup>th</sup> November 2016  
Report of Handling by Interim Head of Planning

**Erection of 9no. flats and associated works at Land 30 Metres North Of Springside,  
Main Street, Bankfoot.**

Ref. No: 16/01364/FLL  
Ward No: N5 - Strathtay

**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 Full planning consent is sought for the erection of a block of nine flats on an infill site located on the Main Street of Bankfoot. The application site is currently vacant and has been for a number of years. The application site is currently overgrown and rises by approximately 6.5m from south west to the north east. There is an existing timber crib retaining wall positioned approximately a third of the way into the site. The application site is bound to the south west by Main Street, to the south east and north west by existing residential dwellings and to the north east by the garden ground of further residential properties which sit at a higher level than the majority of the application site.
- 2 The proposal seeks consent to erect a flatted block with three levels of accommodation which is to front directly onto the footpath on Main Street. A pend is proposed centrally within the flatted block to allow vehicles to access nine car parking spaces which are located to the rear (north-east) of the proposed building. A new/repositioned timber crib retaining wall is proposed further into the site with a stairway to provide access to communal garden ground.
- 3 The building is proposed to have three storeys of accommodation with the upper level served by dormer windows with the accommodation located within the roof space. The building is to be approximately 10.5m from ground to ridge. The windows and doors on the front elevation are proposed to be vertically proportioned. The finishing materials include a grey/white wet dash roughcast to match the adjacent properties and a natural slate roof. To the rear two stair wells are proposed to provide access to the upper floors.
- 4 The floor plans indicate that a total of 9 flats are proposed. At ground floor there are two, 2 bedroom flats together with the shared access pend to the car park. At first floor three, 2 bedroom apartments are proposed. At second floor level are two further, 2 bedroom apartments together with 2 small studio apartments which are proposed to be “affordable units”.

- 5 This application is a re-submission following the withdrawal of a previous application for 8 units after concerns were expressed regarding the design of the flatted block including the roof proportion and the detrimental impact which it would have on the streetscene of Main Street.

## **NATIONAL POLICY AND GUIDANCE**

- 6 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**

- 7 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**

- 8 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**

- 9 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.
- 10 The principal relevant policies are, in summary:

#### **Policy RD1 - Residential**

- 11 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 PM1A - Placemaking**

- 12 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**

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

### **Policy PM2 – Design Statements**

- 14 Design statements will normally need to accompany an application where development involves five or more dwellings.

### **Policy PM3 - Infrastructure Contributions**

- 15 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 TA1B - Transport Standards and Accessibility Requirements**

- 16 Development proposals that involve significant travel generation should be well served by all modes of transport (in particular walking, cycling and public transport), provide safe access and appropriate car parking. Supplementary Guidance will set out when a travel plan and transport assessment is required.

### **Policy NE3 - Biodiversity**

- 17 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**

- 18 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**

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

### **OTHER POLICIES**

- 20 Developer Contributions and Affordable Housing Supplementary Guidance April 2016

## **SITE HISTORY**

- 21 98/01405/FUL – Erection of 10 flats with parking – Refused under delegated powers January 1999
- 22 99/01807/FUL – Erection of 6 flats – Approved under delegated powers April 2000
- 23 06/00813/FUL Erection of 3 dwellinghouses – Approved under delegated powers February 2007
- 24 12/00070/FUL – Renewal of (06/00813/FUL) – Approved under delegated powers March 2013
- 25 16/00430/FLL – Erection of 8 flats and associated works – Withdrawn June 2016

## **CONSULTATIONS**

### **EXTERNAL**

- 26 **Scottish Water** – no response

### **INTERNAL**

- 27 **Transport Planning** – no objection subject to condition
- 28 **Developer Contributions and Affordable Housing Officer** – contribution towards transportation infrastructure and commuted sum for affordable housing required.

## **REPRESENTATIONS**

- 29 A total of seven letters of representation were received, including one from the Auchtergaven Community Council all of which object to the application. The letters raise the following relevant issues:
  - Height and scale – impact on visual amenity
  - Overdevelopment
  - Lack of available drainage infrastructure
  - Surface water drainage design
  - Lack of parking
  - Road safety
  - Landscaping of upper section of site
  - Earthworks
  - Bin storage
  - Design/finishes
  - Impact on residential amenity – overlooking/overshadowing
  - Landscaping
  - Maintenance of neighbouring property.



- 30 All the relevant planning issues which have been raised are covered in the Appraisal section of this report.

## **ADDITIONAL STATEMENTS**

31

|                                                |              |
|------------------------------------------------|--------------|
| Environment Statement                          | Not required |
| Screening Opinion                              | Not required |
| Environmental Impact Assessment                | Not required |
| Appropriate Assessment                         | Not required |
| Design Statement / Design and Access Statement | Submitted    |
| Reports on Impact or Potential Impact          | Not required |

## **APPRAISAL**

### **Policy Appraisal**

- 32 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**

- 33 The application site is located on the Main Street of Bankfoot on land which is allocated for residential and compatible uses in the Local Development Plan (LDP) where Policy RD1 applies. This states that infill residential development will be accepted where it represents the most efficient use of the site whilst respecting its environs, improving the character and environment of the area and protecting the residential amenity of the area. As such, according to this policy the principle of residential development on the site is accepted given the established residential character of Main Street. A total of 9 units are proposed which is considered to be high density in comparison with the surrounding buildings. The nine units do, however, include two much needed affordable studio flats. Furthermore there is appropriate parking, together with a large area of shared amenity space available on the site. These will be considered in more detail below. Given the size of the site and the nature and size of each individual flats, the number of units is considered to be appropriate for the site. The details of the proposal in terms of its scale and design, impact on the street scene of Main Street, together with other issues including parking, residential amenity, drainage, developer contributions and others will be considered in more detail in the paragraphs below.

## Design/Layout

- 34 The character of Main Street is considered to be very mixed with a number of styles, designs and heights of buildings apparent. It is noted that the majority of buildings front directly onto the footpath. The overriding finishing materials on the street are slate on the roofs and natural stone to the walls, but there are some buildings finished in harling and some painted stone buildings. The application site has been a long standing gap site and is considered to be of detriment to the visual amenity of Main Street and as such it is considered important to secure the redevelopment of the site with an appropriate proposal.
- 35 The proposed building is to front directly onto Main Street and will follow the well established historic building line. Furthermore it is proposed to be relatively narrow in its footprint resulting in the building having narrow gable ends and a 45 degree pitched roof which reflects the design and form of other buildings on Main Street. The previously withdrawn application proposed a roof design and proportion which did not reflect the overriding character of the area. The roof design, given the scale of the building, will be visible as one travels in both directions along Main Street, rising above the adjacent buildings, as such this element of the design is considered to be key.
- 36 Letters of representation have raised concern regarding the height of the building and it will be higher than many existing properties along Main Street. The building will have a ridge height which is taller than the buildings either side of the application site and I can understand the concerns expressed by local residents regarding the height in relation to these buildings. However this has to be seen in the context of the rest of Main Street as policies PM1A and B and RD1 of the LDP require new development to reflect the overriding character of the area. As described above the character of Main Street is mixed and there are a number of varying scales of building along the entirety of the street including Kealy's Buildings to the north west which is taller than the proposed building and is fully three storeys. The proposed building is broken up with the upper floor served by dormer windows within the roof space which helps to reduce the vertical proportion of the building. Therefore given the varying heights of buildings which are apparent on Main Street and the up and down nature of ridge heights I consider a building which is taller than the adjacent buildings to be appropriate in this context.
- 37 Following discussions with the applicant's agent the design and size of the windows and the pend have been amended to give them a more vertical proportion to relate more closely to the fenestration design on adjacent buildings. The design of the dormer windows on the front elevation have also been simplified and given a more vertical proportion which is again considered appropriate.

- 38 There are a mixture of finishes apparent on Main Street including natural stone, dry dash harling, wet dash harling and painted stonework. The building is proposed to be finished in a grey/white wet dash roughcast. Generally a colour of this nature and the use of wet dash harling is considered to be appropriate. The exact detail of the harling can be secured through a condition. A sample of the wet dash harling, including the colour detail, together with a sample of the proposed natural slate roof will be requested through condition. The exact detail of the window design and colour of the frames and materials, together with the rainwater goods will also be secured through condition. Subject to the above conditions the proposal is considered to comply with the relevant placemaking policies and the criteria contained with Policy RD1 relating to design.

### **Residential Amenity**

- 39 As outlined above, there are residential properties in close proximity to the site which have the potential to be impacted upon by the development due to its scale. It should be noted that the nature of the relatively high density development on Main Street means that there is an element of mutual overlooking from properties. In this instance the new building is proposed to sit immediately adjacent to Main Street and follow the established building line. As such, due to the nature of the site all windows on the block will face either onto Main Street or to the north east towards the car parking and proposed communal garden ground. Given the position of the properties surrounding the development site and the topography I am entirely satisfied that the proposed development will not result in any direct overlooking to neighbouring properties to a significant degree.
- 40 As indicated above, the building is proposed to be 10.5m in height and the height of the building in relation to the neighbouring buildings is larger as indicated on the street elevation. However given the position of the building on the site the level of overshadowing which would result from a building of this scale is not considered to be significant. It is recognised that some daylight to the garden ground of Springside/Sunnybrae will be restricted during the evening due to the orientation of the land and simply because the site is currently a gap site where daylight can penetrate. Furthermore because the proposed building sits in line with "Nairn" to the north and has a smaller depth, the proposed building will overshadow the car parking area of the application site rather than any significant portion of the garden ground or any of the windows of "Nairn". Overall, whilst there may be some minor overshadowing which will occur, this is not of a significant level and will not be of such a level to merit refusal of the application on these grounds given the position and the orientation of the proposed building.
- 41 It is recognised that the redevelopment of this site will alter the residential amenity of the area, particularly with vehicles entering the rear of the site, however the building will be in residential use which relates to the established amenity of the area and I am satisfied that whilst the residential amenity of neighbours will change, this will not be detrimentally. As such the proposal is considered to comply with the relevant provisions of policies PM1A and B and RD1 where they relate to residential amenity.

### **Access/Traffic/Transport**

- 42 As indicated above the proposal is to provide a total of nine car parking spaces to the rear of the building with access through a pend area. It is noted that a number of letters of representation have been received regarding the lack of parking provision associated with the proposal. The level of parking provision for units of this size is in line with current guidelines laid out in the National Roads Development Guide.
- 43 Furthermore there is also unrestricted on street car parking available on Main Street. In this regard the level of car parking proposed is considered to be appropriate and in accordance with the relevant LDP policy. A total of nine cycle parking spaces are also proposed within the stairwells of the building. Transport Planning have offered no objection to the proposal subject to conditions relating to the detail of the vehicular access design.

### **Waste Collection**

- 44 A designated bin storage area is proposed within the pend area of the building where individual wheelie bins can be accommodated. This is a revision from the previously withdrawn application following discussions with PKC Waste Services. These bins can then be presented onto Main Street on collection day by residents. The proposed waste collection provision is considered sufficient to cater for the proposed development and is in accordance with Council policy. Waste Services have indicated that the arrangements proposed are acceptable.

### **Drainage**

- 45 The submission indicates that the site is proposed to be served by the public drainage system with surface water to be catered for through a Sustainable Urban Drainage System (SUDS). This proposal is in accordance with policies EP3B and C of the LDP. Letters of representation raise concern regarding the lack of drainage capacity in Bankfoot. Whilst this position is noted, nevertheless, there is a separate application process which any developer requires to make should they wish to connect to Scottish Water's assets and this is entirely separate from the planning application process. As such the granting of planning consent provides no guarantee that a connection to these assets is forthcoming and it will be entirely up to Scottish Water whether a connection to their assets is acceptable or not. Clearly failure to obtain the necessary consent to connect to Scottish Water's assets will result in the development not progressing. Notwithstanding the above the principle of the proposed drainage arrangements on site complies with LDP policy. An Informative note is recommended to ensure the applicant is aware of this separate application process.

- 46 The detailed design and position of the SUDS system is secured through the building warrant process. At this stage the application indicates that a rainwater storage system can be installed within the rear car parking area which would allow rainwater to discharge into the existing system and a reduced flow rate. The use of a SUDS system can be secured through a planning condition to ensure compliance with Policy EP3C.

### **Structure of Land**

- 47 The proposals involve the repositioning of an existing timber crib retaining wall on the site and letters of representation have raised concern regarding whether this proposed work is sufficient to suitably maintain the structure of the land. These concerns relate to the existing timber crib wall together with other sloping areas of the site. It is noted from site visits that the existing structure is not in particularly good condition and the repositioning and re-development of the site will allow for this situation to be improved. The purpose of assessment of this planning application is to determine whether the proposed works are appropriate in land use planning terms and not to assess the engineering merits of the proposed retaining structures. Nevertheless should additional retaining structures be required on site these would require separate planning consent. An Informative note to the applicant has been added to ensure that the applicant is aware of this requirement should additional retaining structures be proposed in addition to the re-positioned timber crib wall.
- 48 Notwithstanding this, the submission indicates that the design of the revised retaining structure will be ensured through a competent structural engineer. Following discussion with PKC Building Standards they have advised that the detailed design and structural stability of any retaining structure above 1.2m in height will be secured through the building warrant process.

### **Developer Contributions**

#### Education Infrastructure

- 49 The Council Developer Contributions Supplementary Guidance requires a financial contribution towards increased primary school capacity in areas where a primary school capacity constraint has been identified. A capacity constraint is defined as where a primary school is operating, or likely to be operating following completion of the proposed development and extant planning permissions, at or above 80% of total capacity. This proposal is within the catchment of Auchtergaven Primary School. Education & Children's Services have no capacity concerns in this catchment area at this time and therefore no contribution is required towards education infrastructure.

## Transport Infrastructure

- 50 The Council Transport Infrastructure Developer Contributions Supplementary Guidance requires a financial contribution towards the cost of delivering the transport infrastructure improvements which are required for the release of all development sites in and around Perth. The proposal is within the reduced contributions area. The contribution requirement is £2,639 per open market unit and £1,319 per Affordable Unit. This equates to a total of  $(6.75 \times £2639)$  and  $(2.25 \times £1319) = £20,781$ . The applicant has indicated that they wish to enter into a Section 75 Legal agreement to pay this, together with the commuted sum required for affordable housing referred to below.

## **Affordable Housing**

- 51 The Council's Affordable Housing Policy requires that 25% of the total number of houses, above a threshold of 5 units, for which planning consent is being sought is to be in the form of affordable housing.
- 52 The proposal is for 9 units. The affordable housing requirement is 2.25 units  $(9 \times 0.25)$ . The proposal includes two studio apartments which would be considered as being affordable in perpetuity due to their size. The remaining 0.25 unit equivalent can be secured through a commuted sum payment. The commuted sum level for the Perth Housing Market Area is £26,500 per unit. As such the commuted sum required in this instance equates to £6,625.
- 53 The applicant has indicated that they wish to enter into a Section 75 Legal Agreement in order to pay the above.

## **Bio Diversity**

- 54 The application site is a vacant site which is overgrown to some degree with an area of hardstanding to the site frontage. In that regard the Council's mapping system has been examined to determine the presence of any protected species on the application site. No evidence of any protected species is indicated on the system. Given the nature of the site I am satisfied that the presence of any protected species on the site is unlikely and as such the proposal is considered to comply with Policy NE3 of the LDP.

## **Maintenance of Neighbouring Property**

- 55 Concerns have been expressed relating to the required maintenance of the adjacent gable of neighbouring buildings due to the location of the proposed building. This is considered to be a private civil matter between the parties involved and is not a material planning consideration.

## **Flooding**

- 56 Having examined SEPA's flooding maps, the site is not considered to be at risk from flooding and is therefore in accordance with Policy EP2 of the LDP.

## **LEGAL AGREEMENTS**

- 57 A legal agreement is required to secure the transportation contribution and affordable housing commuted sum.

## **DIRECTION BY SCOTTISH MINISTERS**

- 58 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**

- 59 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, subject to the following conditions:**

- 1 The development hereby approved must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed by this planning permission.

Reason - To ensure the development is carried out in accordance with the approved drawings and documents.

- 2 Prior to the commencement of the development hereby approved, details of the specification and colour of the proposed external finishing materials to be used shall be submitted to and agreed in writing by the Council as Planning Authority. The scheme as agreed shall be implemented prior to the completion or bringing into use of the development, whichever is the earlier.

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

- 3 Prior to the commencement of the development hereby approved, a detailed landscaping and planting scheme for the communal amenity ground to the rear of the building shall be submitted for the further written agreement of the Council as Planning Authority. The scheme shall include details of the height and slopes of any mounding or recontouring of the site including the treatment of mutual boundaries, full details of all hard landscaping proposals including materials and installation methods and, species, height, size and density of trees and shrubs to be planted. The scheme as subsequently approved shall be carried out and completed within the first available planting season (October to March) after the completion or bringing into use of the development, whichever is the earlier, and the date of Practical Completion of the landscaping scheme shall be supplied in writing to the Council as Planning Authority within 7 days of that date. The scheme as agreed and implemented shall thereafter be maintained.

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

- 4 Storm water drainage from all paved surfaces, including the access, shall be disposed by means of suitable Sustainable Urban Drainage Systems to meet the requirements of best management practises

Reason – To ensure the provision of effective drainage for the site.

- 5 All windows on the development shall have white frames to the satisfaction of the Council as Planning Authority.

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

## **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**

- 1 The planning permission decision notice shall not be issued until such time as the required Developer Contributions and Commuted Sum have been secured or paid in full.
- 2 In the event the applicant does not either make the required payment within 28 days from the date the agent/applicant is advised of the need for the contributions, or complete a legal agreement for delayed payment within a 4 month period from the date the agent/applicant is advised of the need for the contributions, the application may be refused under delegated powers without any further discussion with the applicant.



## **D INFORMATIVES**

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
- 2 Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
- 4 No work shall be commenced until an application for building warrant has been submitted and approved.
- 5 The applicant is advised that the granting of planning consent does not guarantee a connection to Scottish Water's assets. The applicant must make a separate application to Scottish Water Planning and Development Services team for permission to connect to the public waste water system and/or water network and all their requirements must be fully adhered to.
- 6 The applicant is advised that in terms of Sections 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.
- 7 It has been highlighted in letters of representation that additional retaining structures may be required on site. Should additional retaining walls or structures be required these will be subject to a separate planning application and the applicant should enter dialogue with the Planning Authority to discuss the requirements should these be required.

Background Papers  
Contact Officer  
Date:

Seven letters of representation  
John Williamson – Ext 75360  
1 November 2016

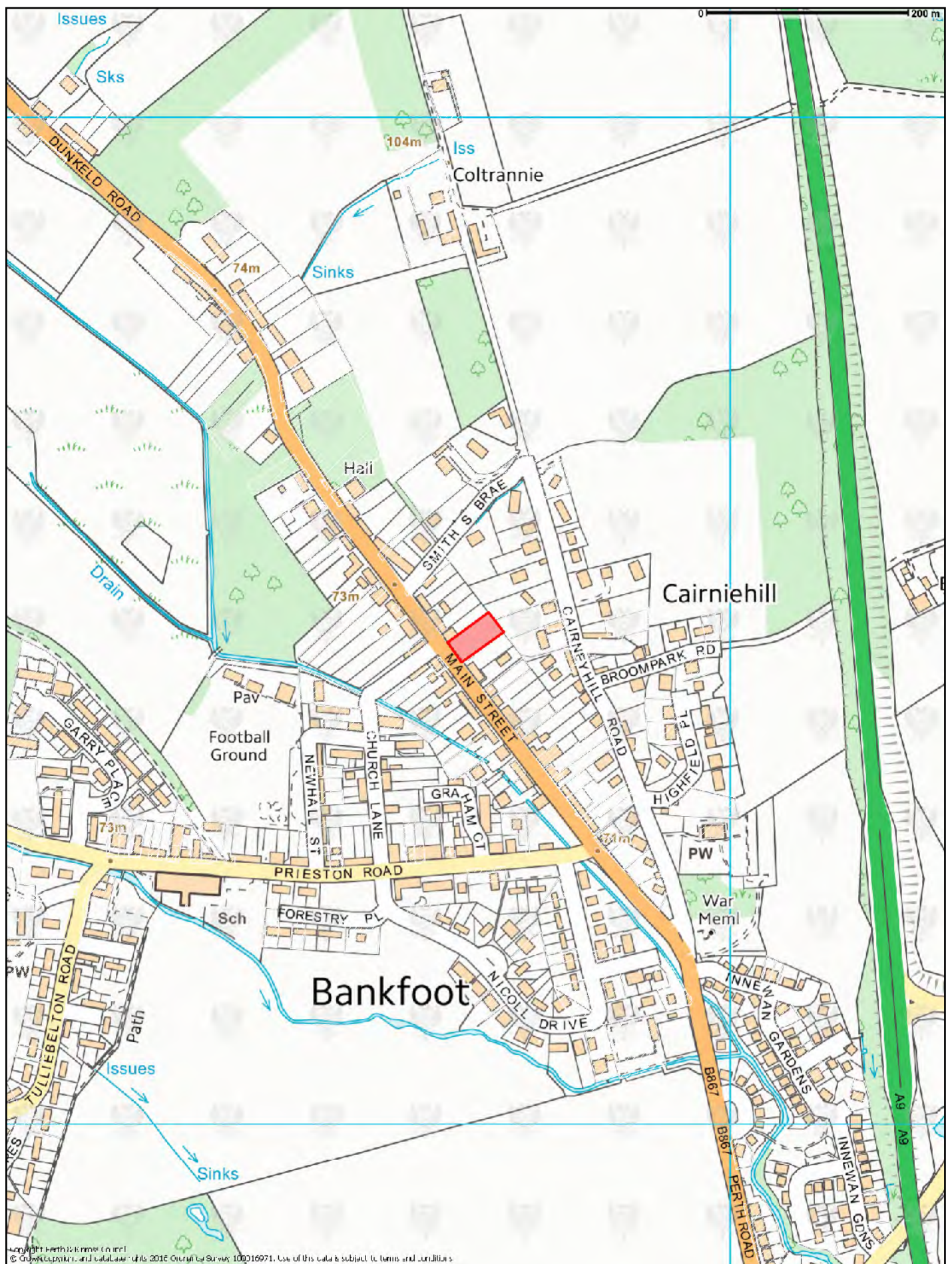
**NICK BRIAN**  
**INTERIM HEAD OF PLANNING**

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**Development Management Committee**



**Erection of 9no. flats and associated works**

Land North of Springside, Main Street,  
Bankfoot











Perth and Kinross Council  
Development Management Committee – 16<sup>th</sup> November 2016  
Report of Handling by Interim Head of Planning

Change of use from garden centre to café /takeaway (Class 3), alterations and formation of outdoor seating area at Ez Grow, 77 Scott Street, Perth, PH2 8JR.

Ref. No: 16/01572/FLL  
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 The application site is EZ Grow Garden Centre at 77 Scott Street, Perth. The application seeks detailed planning permission for alterations and the change of use from a garden centre to a café/takeaway (Class 3) with the formation of an associated outdoor seating area. The site lies within the Perth Central Conservation Area.
- 2 The internal works are relatively minor and involve the formation of a kitchen area, seating areas and the improvement of the existing toilet facilities to become an accessible toilet. The external works involve replacing the existing timber door and associated cladding with a new double door for improved access to the facility and the removal of the polycarbonate sheeting on the existing greenhouse structure to provide a sheltered seating area. There will be no alterations to the existing access to the site or the existing parking area.
- 3 The proposals have been advertised in the Local Press and a site notice posted, in accordance with Regulation 5 of the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Scotland) Regulations 1987.

**NATIONAL POLICY AND GUIDANCE**

- 4 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**

- 5 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**

- 6 Whilst there are no specific policies or strategies directly relevant to this proposal the overall vision of TAYplan 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**

- 7 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.
- 8 The relevant policies are, in summary:

### **Policy PM1A - Placemaking**

- 9 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**

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

### **Policy RC1 - Town and Neighbourhood Centres**

- 11 Class 1 (retail) uses will be supported in identified town and neighbourhood centres commensurate with the role of the centre within the established retail hierarchy. Use Classes 2 & 3, leisure, entertainment, recreation, cultural and community facilities will also be encouraged in ground floor units provided they contribute to the character, vitality and viability of the retail core and satisfy the criteria set out. Use of pavement areas for restaurant/cafes/bars is acceptable in the prime retail area. Housing and other complementary uses are encouraged on the upper floors.

### **Policy RD1 - Residential Areas**

- 12 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 HE3A - Conservation Areas**

- 13 Development within a Conservation Area must preserve or enhance its character or appearance. The design, materials, scale and siting of a new development within a Conservation Area, and development outwith an area that will impact upon its special qualities should be appropriate to its appearance, character and setting. Where a Conservation Area Appraisal has been undertaken the details should be used to guide the form and design of new development proposals.

### **Policy TA1B - Transport Standards and Accessibility Requirements**

- 14 Development proposals that involve significant travel generation should be well served by all modes of transport (in particular walking, cycling and public transport), provide safe access and appropriate car parking. Supplementary Guidance will set out when a travel plan and transport assessment is required.

### **Policy EP8 - Noise Pollution**

- 15 There is a presumption against the siting of proposals which will generate high levels of noise in the locality of noise sensitive uses, and the location of noise sensitive uses near to sources of noise generation.

### **OTHER POLICIES**

- 16 Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997). Scottish Planning Policy 2010 Historic Scotland's Scottish Historic Environment Policy (SHEP).

### **SITE HISTORY**

- 17 Planning application 16/01462/FLL for the change of use from garden centre to cafe/takeaway (class 3) and installation of replacement doors was withdrawn to allow detailed drawings to be revised.

### **CONSULTATIONS**

#### **EXTERNAL**

- 18 **Scottish Water:**  
No response.

#### **INTERNAL**

- 19 **Commercial Waste Team**  
No objection to the proposal however would recommend adding a condition to the permission in regard to bin storage.
- 20 **Transport Planning**

No objection.

**21 Environmental Health**

No objection to the proposal however request that 4 conditions are added to the permission. These conditions would control opening times for the outdoor seating area, delivery times, the ventilation system and any noise generation from plant equipment.

**22 Local Flood Prevention Authority**

No objection to the proposal however would recommend that during the alterations flood resilient construction methods and materials are used where possible as the site is situated just out with the SEPA 1 in 200years flood envelope.

**REPRESENTATIONS**

**23** Ten objections were received highlighting the following concerns:

- Adverse effect on visual amenity (including lighting)
- Inappropriate land use (contrary to LDP policies)
- Noise pollution and general disturbance/ intrusiveness
- Over intensive development
- Potential to become a 'licensed' venue
- Overlooking
- Extension of period of disturbance to neighbours
- Ventilation concerns (including odour) for kitchen/ cooking area

**24** All the relevant planning issues which have been raised are covered in the Appraisal section of this report.

**ADDITIONAL STATEMENTS**

**25**

|                                                |              |
|------------------------------------------------|--------------|
| Environment Statement                          | Not required |
| Screening Opinion                              | Not required |
| Environmental Impact Assessment                | Not required |
| Appropriate Assessment                         | Not required |
| Design Statement / Design and Access Statement | Not required |
| 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 most relevant policies to be considered are outlined in the policy section above and are considered in more detail below.

### **Principle**

- 27 The majority of the application site falls within an identified Residential Area within the LDP, although the access route falls within the designated Town Centre, therefore both Policy RD1- Residential Areas and Policy RC1 - Town and Neighbourhood Centres will apply. This is in addition to all other relevant policies associated with a change of use, including HE3A Conservation Areas, as the site lies within Perth Central Conservation Area.
- 28 For reasons mentioned throughout this report, it is considered that this proposal is compliant with all relevant policies of the LDP and should therefore be recommended for approval. All concerns raised through the objections can be controlled by adding conditions to any consent issued.

### **Design and Layout**

- 29 As the works are in relation to an existing building, there are minimal works required for this change of use. As the site forms part of the Perth Central Conservation Area however, careful consideration should be given to the sensitivity of the development.
- 30 Whilst it is accepted that a new double door will be appropriate to the host building and will make the building more viable as a café, specific details of the door and windows have not been provided. It is therefore recommended that a condition is added to the permission instructing that the specification and proposed materials for the doors and associated windows are not approved and they must be subsequently agreed in writing with the Planning Authority prior to their installation.
- 31 In relation to the external works, the removal of the polycarbonate sheets on the existing greenhouse and the replacement with timber posts is considered to be more appropriate for the Perth Central Conservation Area than what currently exists, as the existing greenhouse is unsightly and does not contribute to the character of the Conservation Area. The existing decking is also considered to be appropriate for a café as it is not visible from the public carriageway and does not have a negative impact upon the host buildings. For clarification, the greenhouse and decking were installed without the appropriate planning permission being in place but are now time barred from enforcement proceedings.

- 32 With regards to the layout of the site as a whole, I believe that due to the 'courtyard' nature of the site, the formation of an outdoor seating area is acceptable in principle. It should also be noted that the neighbouring property, the 'Twa Tams' public house, also has an outdoor seating area however this is utilised as a beer garden and not a café as is proposed under this application. The issues relating to residential amenity associated with this outdoor seating area are discussed further under the 'Residential Amenity' section of this report.

### **Biodiversity**

- 33 There are no issues relating to Biodiversity arising from this proposal however due to the existing building being potentially suitable for bats it is recommended that an Informative in relation to the protection of protected species is added to any consent granted as a precaution.

### **Residential Amenity**

- 34 The main issue of concern with this proposal in relation to residential amenity is the potential noise generation of the proposal. This has been reinforced by the objections received highlighting noise disturbance as a key issue. The formation of an outdoor seating area will undoubtedly cause an increase in noise generation; however this can be controlled by the use of a condition on any consent granted. After consulting my colleagues in Environmental Health, it is recommended that a condition is added limiting the use of the outdoor seating area from 0900 to 1700 hours Monday to Sunday. It is normal practice to limit outdoor seating areas to 1800 hours, however due to the site falling within a residential area I recommend that the use is limited to 1700 hours in this instance. Whilst this will help to protect noise disturbance for neighbouring residential properties after 5pm, it will still provide adequate hours for the café to operate efficiently.
- 35 An additional condition is also recommended to be added which limits the opening hours of the café itself. This will ensure that no 'late night' operations are carried out which may attract loud visitors after neighbouring drinking establishments close. A number of objections also highlighted the noise and general disturbance from any potential ventilation that the café may use. Again, after consulting with Environmental Health, this can be controlled by adding a condition. This will ensure an effective ventilation system is installed and thereafter maintained complying with strict noise regulations. To further protect residential amenity, a condition is recommended to control delivery times, which will exclude Sundays as a delivery date.

- 36 In relation to noise, it should also be noted that the proposed café is in a residential area in close proximity to some of the busiest bars and pubs in Perth, including the Green Room, Twa Tams and Cargo. Whilst the Council does not want to support any proposal which will cause further disturbance to neighbouring residential properties in this area, it is expected that overall, any potential noise disturbance from the change of use would be far less than the existing neighbouring commercial premises. It is also considered that the noise disturbance from this proposal is not adversely different from what could be expected under the existing use of the site. As mentioned, the concerns in relation to noise can be controlled through strict conditions to minimise the impact of this development to neighbouring residential properties in this residential area.
- 37 Overlooking is listed as one of the objections. However, due to the courtyard nature of this proposal with high sided boundary treatments, I do not consider overlooking to be an issue associated with this proposal. A number of objections also highlighted the appropriateness of the site for a café development. Whilst this is noted, I do not believe that this edge of city centre location would be inappropriate for a development of this nature. This is due a number of similar proposals and uses being supported by the Council in similar locations throughout the city and also being associated with such a central location.
- 38 Overall, whilst it is noted that there are issues in relation to residential amenity arising from this proposal, I do not believe that these issues cannot be adequately controlled via conditions and it is not considered that there are any issues which cannot be controlled which are great enough to warrant the refusal of this application.

### **Visual Amenity**

- 39 The visual impact of the works and impact upon the character and appearance of the host building and Conservation Area is considered minimal, as discussed in the 'Design and Layout' section of this report. This is due to the proposed café appearing similar from the streetscene as the existing garden centre does, as only minor alterations are to be carried out to the external of the building itself. Although one of the objections lodged in relation to this application stated that visual amenity would be compromised, with a particular emphasis on light pollution, I do not agree that the visual amenity associated with this proposal would be adversely different from what presently exists. I therefore consider there to be no issues in relation to visual amenity great enough to warrant the refusal of this application.

### **Roads and Access**

- 40 It is considered that there are no road or access implications associated with this proposed development. This is due to the establishment already having suitable access and the provision of a parking space and this will not be altered by the proposal. Furthermore, Transport Planning was consulted as part of this proposal and has no objection, particularly given its city centre location where on-site parking provision is not normally required.

## **Drainage and Flooding**

- 41 There are no drainage and flooding implications associated with this proposed development itself. As identified in the Flooding Officer's response to the consultation however, the site falls just out with the SEPA 1 in 200 year flood envelope which has a medium to high risk of flooding. The Officer has recommended that during the alterations flood resilient construction methods and materials are used where possible. A condition is therefore recommended to be added to any consent to control this.

## **Developer Contributions**

- 42 The Developer Contributions Guidance is not applicable to this application and therefore no contributions are required in this instance.

## **Economic Impact**

- 43 The economic impact of the proposal is likely to contribute positively to Perth City Centre by improving the provision of café and takeaway facilities.

## **LEGAL AGREEMENTS**

- 44 None required.

## **DIRECTION BY SCOTTISH MINISTERS**

- 45 None applicable to this proposal.

## **CONCLUSION AND REASONS FOR RECOMMENDATION**

- 46 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 subject to the following conditions:**

- 1 The development hereby approved must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed by this decision notice.

Reason - To ensure the development is carried out in accordance with the plans approved.

- 2 The development hereby approved shall be constructed so as to be flood resilient in order to reduce the extent of potential flood damage and thereby reduce repair costs and speed up building restoration should a flood event occur.

Reason - The site is located just out with the 1/200 (0.5% AEP) flood extent and therefore has a risk of flooding.

- 3 Prior to the development hereby approved being completed or brought into use, an effective ventilation system commensurate with the nature and scale of cooking to be undertaken shall be installed and operated such that cooking odours are not exhausted into or escape into any neighbouring buildings. Thereafter the system shall be maintained.

Reason - In order to safeguard the residential amenity of the area.

- 4 The hours of operation of the outdoor seating area shall be restricted to between 0900 to 1700 hours Monday to Sunday.

Reason - In order to safeguard the residential amenity of the area.

- 5 The hours of operation of the internal cafe shall be restricted to 0700 hours to 1900 hours daily.

Reason - In order to safeguard the residential amenity of the area.

- 6 Servicing of and deliveries to the premises shall be carried out between 0700 and 1900 Monday to Saturday only, with no servicing or deliveries permitted on Sundays.

Reason – In order to safeguard the residential amenity of the area.

- 7 All plant or equipment shall be so enclosed, attenuated and/or maintained such that any noise therefrom shall not exceed Noise Rating 35 between 0700 and 2300 hours daily, or Noise Rating 25 between 2300 and 0700 hours daily, within any neighbouring residential property, with all windows slightly open, when measured and/ or calculated and plotted on a rating curve chart.

Reason - In order to safeguard the residential amenity of the area.

- 8 Prior to the development hereby approved being completed or brought into use, a refuse storage area must be provided which is capable of accommodating the following:

- 1 x 360L general container (600 x 880 x 1140mm)
- 1 x 360L DMR container (600 x 880 x 1140mm)
- 1 x 140L food waste container (480 x 544 x 1060mm)

Thereafter, the refuse storage area for the premises shall be operated and maintained such that detriment is not caused to the amenity of occupiers or neighbouring premises and does not cause any blockage of access to neighbouring premises.

Reason - In order to safeguard the residential amenity of the area and to ensure that waste from the premises is dealt with appropriately.

- 9 Prior to the commencement of the development hereby approved, details of the specification and colour of the proposed windows and doors to be used shall be submitted to and agreed in writing by the Council as Planning Authority. The scheme as agreed shall be implemented prior to the completion or bringing into use of the development, whichever is the earliest.

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

## **B JUSTIFICATION**

The proposal is considered to comply with the Development Plan and there are no other material considerations that would justify a departure therefrom.

## **C PROCEDURAL NOTES**

None

## **D INFORMATIVES**

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
- 2 Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
- 4 An application for Building Warrant may be required.



- 5 The presence of protected species, and the extent to which they could be affected by the proposed development, should be established before works commence. Should protected species be identified within the site the developer should ensure that all appropriate measures required to comply with the relevant legislation are carried out. Planning permission for a development does not provide a defence against prosecution under another Act.
- 6 The applicant is advised that any proposed signage will require a further application to be submitted for advertisement consent.

Background Papers: Ten letters of representation

Contact Officer: Sean Panton – Ext 75355

Date: 2 November 2016

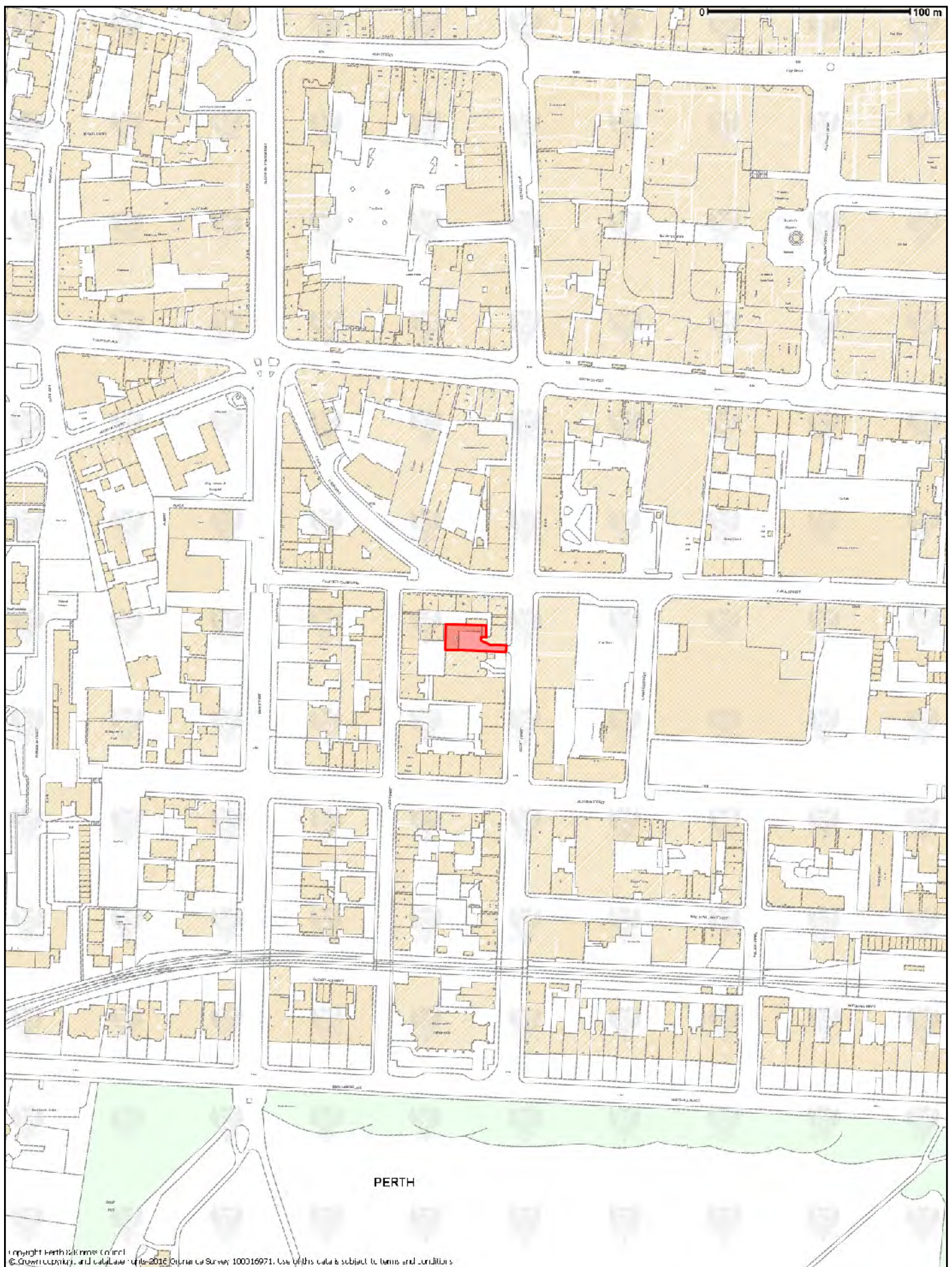
**NICK BRIAN**  
**INTERIM HEAD OF PLANNING**

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**Development Management  
Committee**



Scale 1:2500

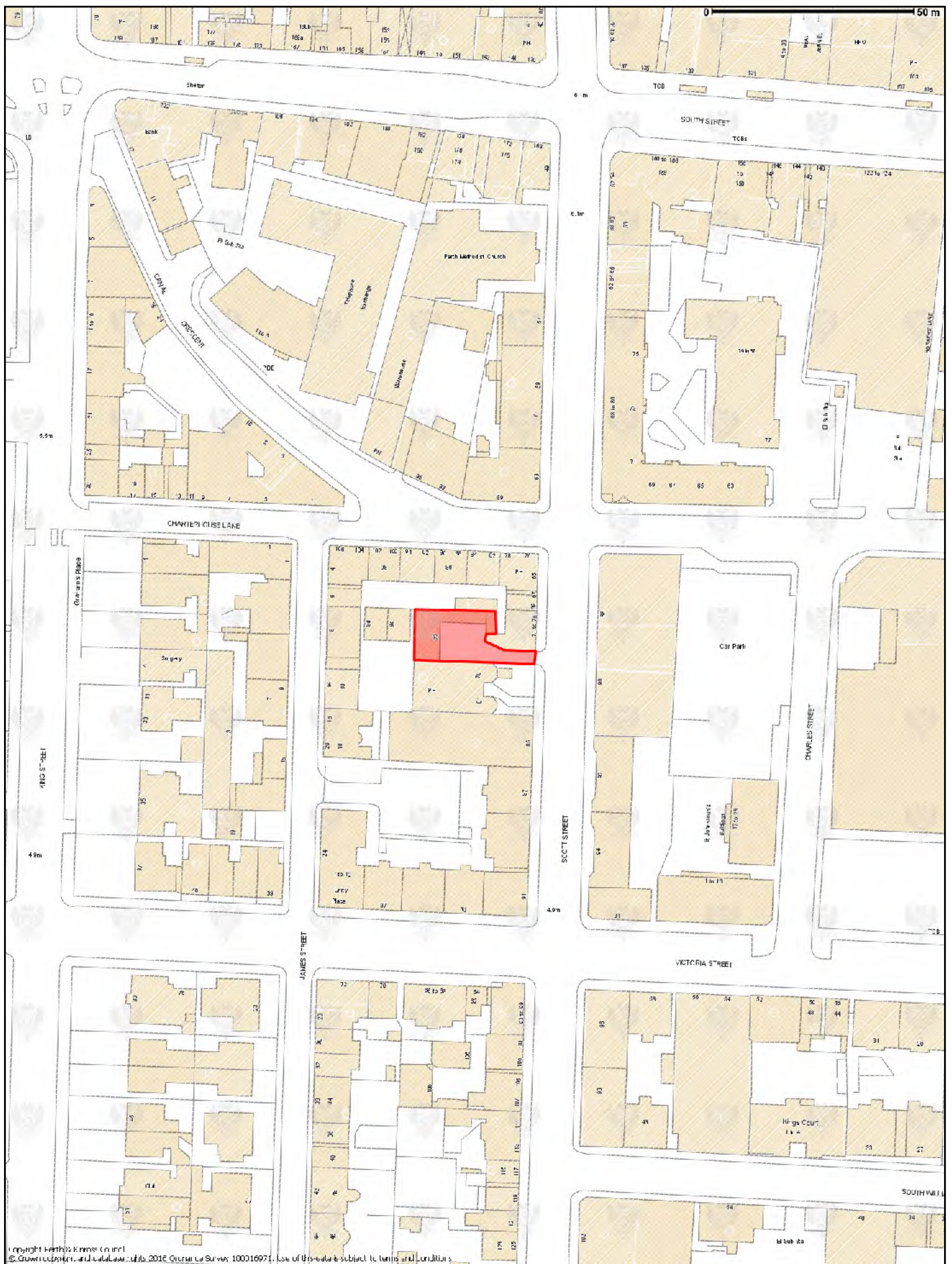
**Change of use from garden centre to cafe/takeaway  
(class 3), alterations and formation of outdoor  
seating area (in part retrospect)**

**Ez Grow, 77 Scott Street, Perth**









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**Development Management  
Committee**



Scale 1:1250

**Change of use from garden centre to cafe/takeaway  
(class 3), alterations and formation of outdoor  
seating area (in part retrospect)**

**Ez Grow, 77 Scott Street, Perth**





Perth and Kinross Council  
Development Management Committee – 16<sup>th</sup> November 2016  
Report of Handling by Development Quality Manager

**Variation of condition 2 (hours of operation of floodlights) of permission 11/01669/FLL (formation of an all-weather sports pitch and associated infrastructure) on land at Seven Acres, Newhouse Road, Perth**

Ref. No: 16/01637/FLL  
Ward No: N11 – Perth City North

**Summary**

The report recommends approval of the application to amend the operating hours of the floodlights as the requested variation is considered to comply with the relevant provisions of the Development Plan and there are no material considerations apparent which would outweigh the Development Plan.

**BACKGROUND AND DESCRIPTION**

- 1 This application relates to a recently completed flood-lit all weather football pitch at Seven Acres Public Park which is located on Newhouse Road within the Letham residential area of Perth. Since opening in September 2014 the new sports facility has quickly become an asset to the local community, particularly in relation to the younger age groups. The football club has also seen an increase in young members joining the team.
- 2 The facility was approved in December 2011 by the Development Management Committee. The club had initially proposed to operate until 2200 hours and whilst this was supported by the Planning Officer and Environmental Health Officer, Members resolved to limit the operating hours to 2100 hours following concerns raised regarding the potential impact of noise and light pollution on neighbouring residential amenity.
- 3 In September 2015 the club were granted consent by the Development Management Committee to permit the club to extend the operating hours until 2200 hours for a trial period of one year. This trial period was to allow the Council to monitor the situation and review any issues that may or may not arise during the extended operating hours. During the period of the trial period neither the Planning Authority nor Environmental Health Service received any formal complaints regarding the operation of the facility.
- 4 As the one year trial period has ended the club are now seeking permission to amend Condition 2 of the 2011 consent in order to permanently extend the operating hours by an additional hour to 2200 hours.
- 5 It should be noted that the football club also has a separate land lease in place with Perth and Kinross Council. This matter is briefly discussed within the main body of this report.

## **NATIONAL POLICY AND GUIDANCE**

- 6 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.

### **Scottish Planning Policy 2014**

- 7 The Scottish Planning Policy (SPP) was published on 23 June 2014. It sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:
- The preparation of development plans;
  - The design of development, from initial concept through to delivery; and
  - The determination of planning applications and appeals.

### **PAN 1/2011 – Planning and Noise**

- 8 This document provides guidance on matters relating to noise issues and sets out the range of noise issues that planning authorities need to be aware of in formulating development plans, making decisions on planning applications and in taking enforcement action.

## **DEVELOPMENT PLAN**

- 9 The Development Plan for the area consists of TAYplan Strategic Development Plan 2012 – 2032 and the Perth and Kinross Local Development Plan 2014.

### **TAYplan Strategic Development Plan 2012 – 2032 - Approved June 2012**

- 10 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**

- 11 The Local Development Plan 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.
- 12 The principal relevant policies are, in summary:



### **Policy PM1A - Placemaking**

- 13 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 CF1A – Open Space Retention and Provision**

- 14 Development proposals resulting in the loss of Sports Pitches, Parks and Open Space which are of recreational or amenity value will not be permitted, except in circumstances where one or more of the criteria set out apply.

### **Policy EP5 - Nuisance from Artificial Light and Light**

- 15 Consent will not be granted for proposals where the lighting would result in obtrusive and / or intrusive effects.

### **Policy EP8 - Noise Pollution**

- 16 There is a presumption against the siting of proposals which will generate high levels of noise in the locality of noise sensitive uses, and the location of noise sensitive uses near to sources of noise generation.

### **SITE HISTORY**

- 17 97/01782/FUL Erection of football changing rooms at Seven Acres Park, Newhouse Road, Perth Approved under delegated powers January 1998
- 18 04/02523/FUL Proposed temporary siting of a portakabin to be used for changing accommodation Approved under delegated powers March 2005 for temporary period until 31 March 2008.
- 19 05/02372/FUL Erection of a portakabin to provide additional changing facilities Approved under delegated powers, February 2006 for temporary period until 28 February 2008.
- 20 08/00447/FUL Siting of 3 portable storage units. Approved under delegated powers, April 2008 for temporary period until 30 April 2010.
- 21 09/00374/FUL Change of use from clubroom to players café. Approved under delegated powers, June 2009 for a temporary period until 30 April 2010.
- 22 11/01526/FLL Siting of six portable units including changing room and cafe (in retrospect). Approved by the Development Management Committee January 2012 for a temporary period until 31<sup>st</sup> December 2014.
- 23 11/01669/FLL Formation of an all-weather sports pitch with associated infrastructure. Approved by the Development Management Committee December 2011

- 24 15/00391/FLL Siting of six portable units including changing room and cafe (in retrospect) Approved under delegated powers April 2015 for a temporary period until 30th April 2017.
- 25 15/00999/FLL Variation of condition 2 (hours of operation of floodlights) of permission 11/01669/FLL (formation of an all-weather sports pitch and associated infrastructure) on land at Seven Acres, Newhouse Road, Perth. Approved by the Development Management Committee in September 2015 for a temporary period of one year.

## **CONSULTATIONS**

### **External**

- 26 None

### **Internal**

### **Environmental Health**

- 27 No formal verified complaints received by the Environmental Health Service with regards to noise or light within the last year. Therefore they have no objection to the extended operating hours being made permanent.

## **REPRESENTATIONS**

- 28 3 letters of objection have been received from local residents. The grounds of objection can be summarised as follows:
- Light pollution
  - Anti-social behaviour
  - Breaches of operating hours
  - Traffic Congestion and Road Safety
- 29 24 letters of support have also been received which note the success of the facility to date and support the extension of the operating hours.
- 30 The issues which are considered material planning issues are addressed in the Appraisal section of this report.

## **ADDITIONAL STATEMENTS**

31

|                                                |              |
|------------------------------------------------|--------------|
| Environment Statement                          | Not required |
| Screening Opinion                              | Not required |
| Environmental Impact Assessment                | Not required |
| Appropriate Assessment                         | Not required |
| Design Statement / Design and Access Statement | Not required |
| Report on Impact or Potential Impact           | Not required |

## **APPRAISAL**

### **Policy**

- 32 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.
- 33 The site is located within an area that is identified as open space where Policy CF1A 'Open Space Retention and Provision' is applicable. However, given the nature of the proposals, it is considered that the main relevant policies contained within the Perth and Kinross Local Development Plan 2014 are Policy EP5 'Nuisance from Artificial Light and Light' and Policy EP8 'Noise Pollution'. Policy EP5 outlines that consent should not be granted for proposals where the lighting would result in obtrusive and / or intrusive effects. Policy EP8 outlines that there is a presumption against the siting of proposals which will generate high levels of noise in the locality of noise sensitive uses.
- 34 In this instance the main issues to consider in the assessment of this application relate to the potential impact of any additional noise and light pollution on neighbouring residential properties from the extended operation of the floodlights and football pitch.

### **Residential Amenity**

- 35 It is noted that three objections have been received which still raise concerns regarding noise and light pollution. However this is significantly less than the 6 objections previously received during the assessment of the 2015 application. Furthermore, there have also been 24 representations received in support of the proposals to extend the operating hours.
- 36 It is important to highlight that the trial period was permitted to allow the Council to monitor the impact of the extended operating hours and during this one year trial period the Planning Authority received no formal complaints regarding the operation of the facility. The Environmental Health Service has also confirmed that they also did not receive any formal verified complaints with regards to noise or light within the last year.
- 37 It is therefore considered that the one year monitoring period has successfully demonstrated that operating the floodlights until 2200 hours does not have a significant adverse impact on neighbouring amenity. As such the request to extend the operating hours on a permanent basis is now deemed to be acceptable.

## **Anti-Social Behaviour**

- 38 The objections received have made reference to anti-social behaviour from users of the facility, particularly in relation to bad language used by adults during football games. Whilst it is acknowledged that such behaviour can be distressing to local residents, the conduct of players using the facility is not a planning matter and should be addressed directly by the club that operate and manage the facility.
- 39 It is also noted that concerns have been expressed in relation to the behaviour of groups outside the pitches. It is not clear whether the objectors are referring to players entering or leaving the facility but any anti-social behaviour taking place out with the facility is not a planning matter and is not something that the club can control. It is considered that any occurrences of anti-social behaviour should be raised directly with the Police.

## **Developer Contributions**

- 40 The Developer Contributions Guidance is not applicable to this application and therefore no contributions are required in this instance.

## **Economic Benefits**

- 41 The operation of the football pitch is of limited economic benefit to the local economy but the proposed increase in operating hours will provide additional availability for the hire of the pitch which in turn would increase the amount of revenue generated for maintenance of the pitch and any future improvements to the facility.

## **Land Lease with PKC**

- 42 The football club has leased the land from the Council for a period of 35 years. The terms of this lease include a number of conditions, including a condition that restricts the operating hours of football pitch and floodlights. As such, if planning permission were to be granted to extend the operating hours, the football club may also need to negotiate an amendment to the terms of the lease. This is a matter that is separate from the assessment of this planning application but the applicant has been informed that this would need to be discussed with the Council's Estate's Team.

## **PLANNING AUTHORITY WITH INTEREST IN THE LAND**

- 43 The Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 advises on the procedure for notification of planning applications to the Scottish Ministers for developments in which planning authorities have an interest in. The Direction states that notification to the Ministers is only required where the proposal involves a significant departure from the authority's own Development Plan. As the recommendation of approval is not a significant departure from the Development Plan, a notification to the Ministers is not required.

## **LEGAL AGREEMENTS**

44 None

## **DIRECTION BY SCOTTISH MINISTERS**

45 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, 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**

46 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.

## **RECOMMENDATION**

**A Approve the application subject to the following conditions:**

### **Conditions:**

1 The proposed development must be carried out in accordance with the approved plans, unless otherwise provided for by conditions imposed on the planning consent.

Reason - To ensure that the development is carried out in accordance with the plans approved.

2 The hours of operation of the floodlights shall be 09.00 hours to 22.00 hours Monday to Sunday.

Reason - To protect the residential amenity of the locality.

3 All external lighting to be installed shall be sufficiently screened and aligned so as to ensure that there is no direct illumination of neighbouring land and that light spillage beyond the boundaries of the site is minimised to be less than 10 Lux at the windows of adjacent residential properties as recommended by the Institute of Light Engineers

Reason - To safeguard the visual and residential amenities of the locality by ensuring the reduction of illumination outwith the site.

## **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 The applicant should be aware that the lease may also need to be amended to permit the proposed extension to the operating hours. Please contact Estates Surveyor Malcolm Hill on 475916 to discuss the matter.

Background Papers: 27 letters of representation  
Contact Officer: David Niven – Ext 75345  
Date: 27 October 2016

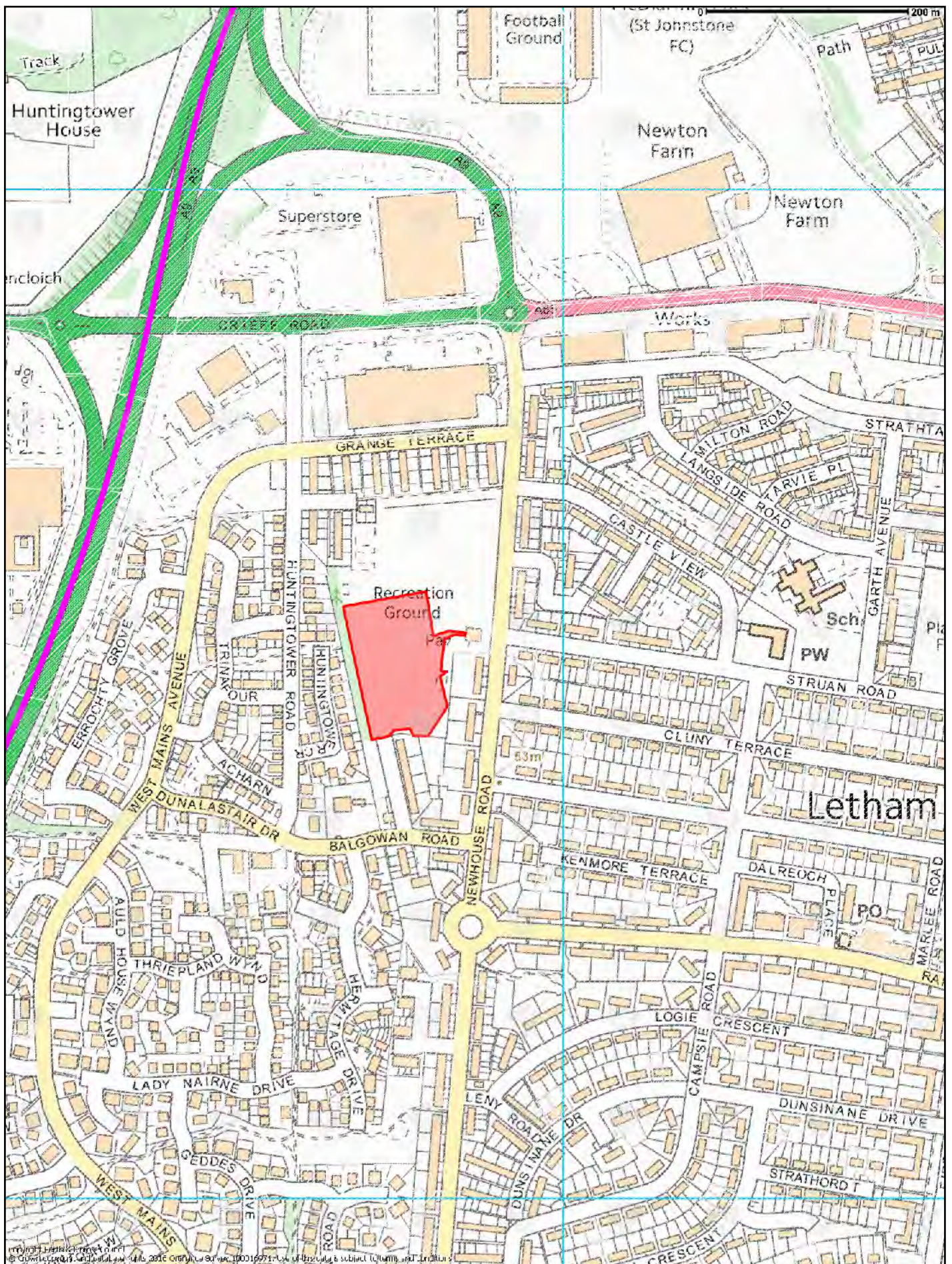
**NICK BRIAN**  
**INTERIM HEAD OF PLANNING**

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**Development Management  
Committee**



Scale 1:5000

Variation of condition 2 (hours of operation of floodlight) of permission 11/01669/FLL (formation of an weather sports pitch and associated infrastructure)

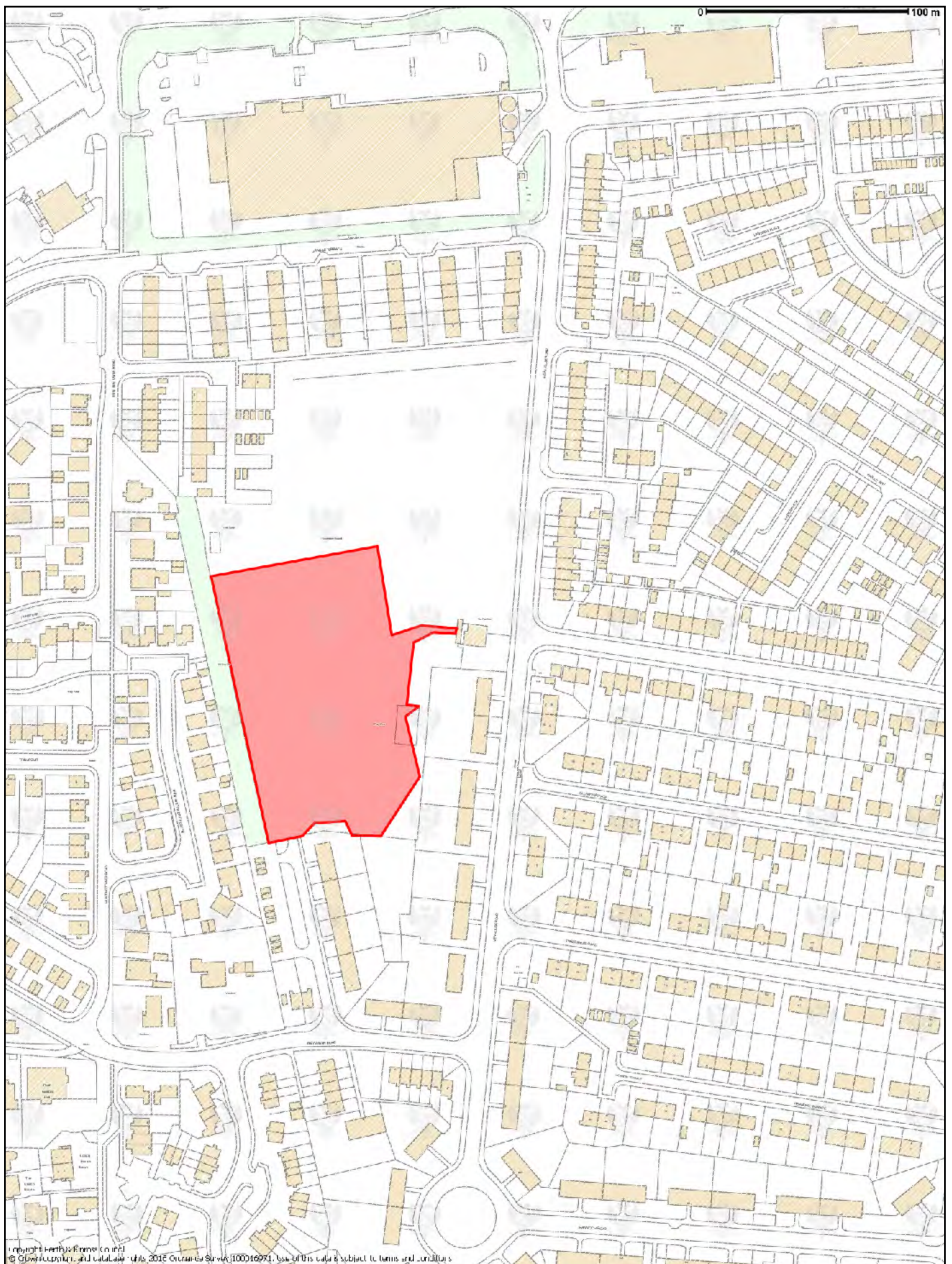
**The Pavillion, Newhouse Road, Perth**











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Committee**



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**Variation of condition 2 (hours of operation of floodlight)  
of permission 11/01669/FLL (formation of an weather  
sports pitch and associated infrastructure)**

**The Pavillion, Newhouse Road, Perth**



