

**LRB-2022-64**  
**22/01009/IPL - Erection of a dwellinghouse (in principle),**  
**land 35 metres south west of Tethyknowe House,**  
**Blairingone, FK14 7ND**

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**LRB-2022-64****22/01009/IPL - Erection of a dwellinghouse (in principle),  
land 35 metres south west of Tethyknowe House,  
Blairingone, FK14 7ND**

**PAPERS SUBMITTED  
BY THE  
APPLICANT**







Pullar House 35 Kinnoull Street Perth PH1 5GD Tel: 01738 475300 Fax: 01738 475310 Email: [onlineapps@pkc.gov.uk](mailto:onlineapps@pkc.gov.uk)

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100607124-002

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☐ Applicant ☒ Agent

## Agent Details

Please enter Agent details

Company/Organisation:	Houghton Planning Ltd		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Paul	Building Name:	Alloa Business Centre
Last Name: *	Houghton MRTPI	Building Number:	
Telephone Number: *	07780117708	Address 1 (Street): *	Whins Road
Extension Number:		Address 2:	Alloa
Mobile Number:		Town/City: *	Clacks
Fax Number:		Country: *	Scotland
		Postcode: *	FK10 3RF
Email Address: *	paul@houghtonplanning.co.uk		

Is the applicant an individual or an organisation/corporate entity? \*

☐ Individual ☒ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="Unit 4"/>
First Name: *	<input type="text"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text"/>	Address 1 (Street): *	<input type="text" value="Cooperage Way"/>
Company/Organisation	<input type="text" value="Kaas Ventures Ltd"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Alloa"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Clacks"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="FK10 3LP"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="paul@houghtonplanning.co.uk"/>		

## Site Address Details

Planning Authority:	<input type="text" value="Perth and Kinross Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="TETHYKNOWE HOUSE"/>
Address 2:	<input type="text" value="BLAIRINGONE"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="DOLLAR"/>
Post Code:	<input type="text" value="FK14 7ND"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="695260"/>	Easting	<input type="text" value="301493"/>
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## Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: \*  
(Max 500 characters)

Erection of a dwellinghouse (in principle)

## Type of Application

What type of application did you submit to the planning authority? \*

- ☐ Application for planning permission (including householder application but excluding application to work minerals).
- ☒ Application for planning permission in principle.
- ☐ Further application.
- ☐ Application for approval of matters specified in conditions.

What does your review relate to? \*

- ☒ Refusal Notice.
- ☐ Grant of permission with Conditions imposed.
- ☐ No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

## Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: \* (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

See Local Review Statement

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

☐ Yes ☒ No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: \* (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: \* (Max 500 characters)

Application as submitted Report of Handling Decision Notice Local Review Statement

## Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

22/01009/IPL

What date was the application submitted to the planning authority? \*

01/06/2022

What date was the decision issued by the planning authority? \*

08/11/2022

## Review Procedure

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

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. \*

☐ Yes ☒ No

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

Please select a further procedure \*

Holding one or more hearing sessions on specific matters

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

See Local Review Statement

Please select a further procedure \*

By means of inspection of the land to which the review relates

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

See Local Review Statement

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

Can the site be clearly seen from a road or public land? \*

☐ Yes ☒ No

Is it possible for the site to be accessed safely and without barriers to entry? \*

☐ Yes ☒ No

If there are reasons why you think the local Review Body would be unable to undertake an unaccompanied site inspection, please explain here. (Max 500 characters)

Site is fenced for safety.

## Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. \*

☒ Yes ☐ No

Have you provided the date and reference number of the application which is the subject of this review? \*

☒ Yes ☐ No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? \*

☒ Yes ☐ No ☐ N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? \*

☒ Yes ☐ No

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

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review \*

☒ Yes ☐ No

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

## Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Paul Houghton MRTPI

Declaration Date: 18/11/2022



## **Tethyknowe House, Blairingone, Dollar, FK14 7ND**

### **Local Review Statement**

#### **Introduction**

Houghton Planning Ltd has been instructed by Kaas Ventures Ltd to submit Local Reviews following the refusal under delegated powers of two Applications for Planning Permission in Principle (PPP) for a 'Single dwelling and garage' at the above site.

- 22/01010/IPL Erection of a dwellinghouse (in principle) (which will hereafter be referred to as the East Plot); and
- 22/01009/IPL Erection of a dwellinghouse and garage (in principle) (which will hereafter be referred to as the West Plot)

Tethyknowe House itself is excluded from both Applications, and will be refurbished and sold at the right time, with a smaller garden area assuming one or both current Applications are successful.

The East Plot was refused PPP on the 9<sup>th</sup> of November 2022, and the West Plot was refused PPP on the 8<sup>th</sup> of November 2022, both for the following four reasons:

*"1. The proposed development is contrary to Placemaking Policies 1A and 1B of the Perth and Kinross Local Development Plan 2 (2019). Residential development of this site would not contribute positively to the built and natural environment and detract from the landscaped setting of the existing building group.*

*2. The proposal is contrary to Policy 19, Housing in the Countryside, of the Perth and Kinross Local Development Plan 2 (2019) and the associated Housing in the Countryside Supplementary Guidance (March 2020) as it does not meet any of the criteria within the categories 1) Building Groups, 2) Infill sites, 3) New houses in the open countryside, 4) Renovation or replacement of houses, 5) Conversion or replacement of redundant non-domestic buildings and 6) Development on rural brownfield land. Development of the proposed site would not integrate into or enhance the surrounding environment and would detract from the visual amenity of the existing building group and surrounding area.*

*3. The proposal is contrary to Policy 39, Landscape, of the Perth and Kinross Local Development Plan 2 (2019). This requires proposals to be compatible with the distinctive characteristics and features of Perth and Kinross's landscapes and not erode local distinctiveness, diversity and quality and the quality of landscape experience. Development of the site would significantly diminish the landscape setting of the wider building group and would erode local distinctiveness and the historic and cultural dimension of the local landscape.*

*4. The proposal is contrary to Policy 40A, Forest and Woodland Strategy, of the Perth and Kinross Local Development Plan 2 (2019) that seeks to protect existing trees and woodland. It is also contrary to Policy 40B, Trees, Woodland and Development, of the Perth and Kinross Local Development Plan 2 (2019) which states that there will be a presumption in favour of protecting woodland resources. It has not been demonstrated that development of the site can be achieved without significant impact on the existing woodland resource."*

The Applicant requests that the Local Review Body (LRB) visits the site because a number of the reasons for refusal relate to the layout of the site, and current site conditions, such as the positions of trees. A hearing would also allow the LRB to question the Applicant and Agent on the proposals.

It should also be said at the outset, that the case officer seems to have considered some issues based on cumulative impact, i.e. both Applications being approved. Obviously, the Applicant hopes that the LRB will allow both plots to proceed, but accepts that each must be considered on its individual merits, and the situation may arise where only one plot is found to be acceptable. In such circumstances, issues such as alleged pressure for tree removal, traffic generation etc will be less because that area that does not have consent for a new dwelling will simply remain as part of the extended garden of Tethyknowe House.

### **The Site**

Tethyknowe House is situated just over three kilometres south east of Blairingone. It comprises a large detached and dilapidated villa, which is set within mature gardens, with trees within and fringing the site.

The main house forms part of a Building Group, with six other newer substantial detached properties, which all take access via a private tree-lined road that connects to the U213, and which itself connects with the wider road network to the west and east.

The private road is owned by all the properties forming the Building Group. Tethyknowe House has a right to use that road, and that right can be taken up by any new dwellings built on the Tethyknowe House garden ground. The Applicant has received a legal opinion that this can happen, which is attached.

The two plots are not the subject of any national, regional, or local, designations, and are not within an area that is identified as at risk of flooding. That said, because of the mature gardens and trees, both a Tree Survey and Preliminary Ecological Assessment have been prepared, and were submitted with the Applications. An update to the Preliminary Ecological Assessment has also been prepared that includes the update survey undertaken in August 2022, and makes recommendations in light of the revised proposals for Tethyknowe House, and the feedback received from the Council (copy attached). These cover the entirety of the site, i.e. both the West Plot and East Plot and, indeed, Tethyknowe House itself.

The West Plot is located to the south west of Tethyknowe. It can be distinguished from the East Plot in that it has been the subject of previous industrial use, which has only recently ended. This has significantly degraded this site, and so it can be regarded as brownfield. This area has the remnants of heavy engineering tools, oil drums and equipment, and various



buildings, which were used for metal fabrication. A full intrusive investigation has not taken place, but commentary of this land is included in the Geo-environmental Design Report, and there is likely to be contamination that needs to be dealt with in developing the land for a new dwelling.

The East Plot is located to the south east of Tethyknowe, and is an open and undeveloped area of garden ground that sits at a lower level than the main house. It is bounded to the north by the garden boundary of no. 6 Tethyknowe Steading; to the east by the garden of no. 5 Tethyknowe Steading; to the south by mature trees forming the boundary of Tethyknowe's garden; and to the west borders the proposed West Plot, and the former industrial site.

### **The Proposal**

The proposal is to build a single detached dwelling on each plot, probably with a separate garage. Each would be served by connecting to the existing Tethyknowe driveway, and then via that to the existing shared private road.

The two Site Plans show an indicative position, and orientation, for the dwellings that avoids the remaining trees on site, but all details, other than access, are being left for later approval.

Each proposed dwelling will be designed to take full advantage of the southern aspect, with the Applicant's aspiration being for a contemporary design, grounded by vernacular materials and detailing, but tending toward Passive House type standard in its environmental credentials.

Foul drainage for the dwellings will be to a bio-disc treatment plant, and below ground soak-away.

Storm water outfall from the development will be taken to a neighbouring water course to the south via an existing piped discharge.

### **Planning Policy and Guidance**

The relevant policy and guidance as set out in the Report of Handling is agreed.

### **Consultation Responses**

No comment.

### **Representations**

The Applicant's response to the representations is as follows:

- Access – As already explained, the Applicant has a right of access over the shared road to Tethyknowe, and that legal right can be shared with any new plots created.
- Road – The road to which the access road is attached is more than capable of taking the additional traffic this development will generate, as it has the traffic generated by the existing new houses at Tethyknowe.
- Utilities – It is correct that no utilities connections have yet been agreed. That is entirely normal for this stage in the development process. All appropriate consents

will be obtained at Building Warrant stage, and prior to development commencing on site.

- Ecology – The Applicant is content to install bat boxes, squirrel boxes, and help with hedgehog conservation on site.
- Trees – Trees have been removed by the previous owner from within the garden of Tethyknowe House. This did not require any consent from the local authority, and is exempt from the need for a felling license, although the tree consultant, and contractor, did the work followed advice from Scottish Forestry. Only trees that were recommended for removal by the tree consultant were felled.
- Foul Drainage – The current thought is for each plot to have its own septic tank.
- Design – The dwellings do not need to be one and a half storey, and could be two storeys, and still fit in with the character of the local area.

## **Planning Appraisal**

### **Principle – East Plot**

In terms of 'Category 1 - Building Groups', the two plots clearly sit within the landscape setting of the Building Group that is defined by the mature planting and trees along the southern garden boundary of Tethyknowe House, and the existence of development to the immediate east and north (nos. 6 and 5 Tethyknowe Steading).

Viewed on an Ordnance Survey base (first image below), you can identify the Group in two ways. Firstly, you can define it as including all dwellings, gardens, and roads, including the private road, and the trees that fringe that road (blue line below), or, secondly, you can exclude the private road, and instead define it as just including those areas that are dwellings and their related domestic gardens (red line below). Whichever one you use; the two plots clearly fall within the Group. This is even more obvious if you look at an aerial image (second image below) where the Group is easy to pick out, with the mature trees defining it to the west and south, and gardens boundaries to the north and east, and with both plots falling full square within the Group.



Dealing with the remaining requirements for a plot to be accepted within a Group, then the existing trees will also mean that the new dwellings will barely be seen in the wider landscape. The only views of the Group are from the U213, which will be transitory, and, due the distance involved, the existing houses are barely seen (see image below). In this photograph, 5 Tethyknowe is just visible on the eastern extremity of the view, and a small part of the roof of 4 Tethyknowe is also just visible next to this. Tethyknowe House itself can just be seen through the trees if you look hard.



We are aware that the immediate neighbour at no. 6 Tethyknowe Steading may be concerned that a new dwelling on the East Plot will interrupt their southerly view. In response, it is an accepted planning dictum that there is no right to a view. However, the Applicant is nonetheless prepared to restrict the dwelling here to single storey, or one and a half storey, to reduce its impact, which will anyway be partially mitigated by the levels difference.

#### **Principle – West Plot**

The main argument in favour of a new dwelling on the West Plot is that this site is severely degraded, due to its previous industrial use, and its redevelopment will allow for the contamination that is certainly present to be dealt with. As such, it is acceptable under 'Category 5 - Conversion or replacement of redundant traditional non-domestic buildings'.

Furthermore, although it need not be shown that it also complies with another Category, it can also be argued that 'Category 1 - Building Groups' is relevant, as explained above. This is because the West Plot clearly sits within the landscape setting of the Building Group that is defined on this edge by the mature planting, and the trees on the edge of the Tethyknowe garden.

With a compelling argument in favour of a dwelling being acceptable on each plot that just leaves the details to be considered.

## **Design and Layout**

The design and layout of both plots is being left for later approval, as explained above. However, the positioning and orientation of the proposed dwellings, as far as that is shown on the indicative Site Plans do fit with the wider Group.

Contrary to what is said in the Report of Handling, the two plots will not impinge upon the setting or amenity of the existing houses, or Tethyknowe House, itself. These matters can all be controlled by planning condition that can ensure that the proposed houses are of the right scale to ensure that no residential amenity impacts occur. Given the generosity of the two plots, and the levels changes, which would be appreciated at a site visit, and the existing trees and understorey planting, two new dwellings here would fit well with the character of what already exists.

There is unlikely to be need for any further trees to be removed to allow the dwellings to be built, and the Applicant would anyway accept a planning condition to protect those that remain. The Applicant is also prepared to instigate a re-planting scheme of trees, within a new landscape framework for each new dwelling, which can, again, be a planning condition.

The remaining trees will ensure that the landscape screen mentioned by the case officer will remain, and so the comments about an "*erosion of local distinctiveness*" will simply not occur. These two new properties will sit within a landscaped setting that is mature, and will be less visible than the newer properties to the north, which have little by way of a landscape screen, and are far more visible in local views.

A Tree Survey has been prepared, and this shows how development can take place without leading to the loss of any of the remaining mature trees. Site infrastructure also takes cognisance of the existing woodland resource.

No request for a further tree survey was forthcoming from the case officer, presumably because it was felt that this could be covered by a planning condition.

## **Residential Amenity**

There will be overlooking, loss of privacy, or loss of sunlight/daylight, issues for existing or, indeed, proposed dwellings.

The trees will not impinge unduly on natural light, and can be protected anyway by planning condition, as explained above.

## **Visual Amenity**

There is no intention to remove any more trees, so the potential visual impact will not occur.

## **Roads and Access**

A planning condition to protect the path is acceptable.

Although the Applicant has a right to use the road, there is no right to alter it, so a condition requiring a passing place could not be implemented. As Transport Planning have not required this, a planning condition is not warranted.

#### **Drainage and Flooding**

No comment.

#### **Conservation Considerations**

Tethyknowe House will be kept, and refurbished. Some change to its setting will occur, but from the main driveway it will still appear the dominant property in the cluster.

The grounds themselves are in a poor state, and have no historic interest remaining. The new development represents a much better use for the land, and will also facilitate its de-contamination.

#### **Natural Heritage and Biodiversity**

A Preliminary Ecological Assessment has been prepared, and offers conclusions and recommended advice on bats, red squirrel, and birds. The recommendation will all be followed in full.

#### **Contaminated Land**

No comment.

#### **Coal**

No comment.

#### **Zero Carbon**

No comment.

#### **Developer Contributions**

No comment.

#### **Economic Impact**

The economic impact of the proposal will not be minimal. Each house will contribute £500,000 directly into the local construction economy.

The Applicant is also a local company, and will be employing local contractors to do the work. That will support local jobs during a difficult period for the construction industry.

The new dwellings will also generate Council Tax, which will aid the Council in delivering on its priorities.

## **Conclusion**

Based upon the above, it is considered that both plots accord with Housing in the Countryside Guidance and, as such, comply with Policy 19: Housing in the Countryside in the LDP.

Furthermore, all technical matters can/have been addressed and, therefore, all other policies in the LDP can/have been complied with as well.

For those reasons, it is hoped that Planning Permission in Principle for both plots, or one of the plots, will be forthcoming in due course.





**OPINION  
OF  
RODERICK R M PAISLEY  
PROFESSOR OF SCOTS LAW  
UNIVERSITY OF ABERDEEN**

**RELATIVE TO  
  
THE CAPACITY OF THE SERVITUDE OF ACCESS  
BENEFITTING  
PROPERTY AT TETHYKNOWE  
TETHYKNOWE HOUSE  
TITLE NUMBER KNR2691  
SASINE TITLE OF 1963.**

**JUNE 2021**

**PREPARED FOR**

**WATERS RULE  
SOLICITORS  
76-78 HIGH STREET  
TILlicOUNTRY  
FK13 6AB**

**Your reference: Sharon Brown  
My reference: 21.22.65**

## **1. Subject Matter Of Opinion**

- 1.1. The matter at issue relates to the capacity for traffic of a servitude of access.
- 1.2. This servitude leads from the public road to a dominant tenement.
- 1.3. Your client wishes to purchase this dominant tenement and conduct thereon a redevelopment comprising several houses.
- 1.4. There is located on the dominant tenement a single existing house.
- 1.5. The issue therefor arises as to the change of use of the dominant tenement.
- 1.6. This leads to consideration of the legitimate burden that may be imposed on the servient tenement and whether that will be unwarrantably increased?
- 1.7. **Note 1 – Property Enquiry Certificate** I have not seen a property enquiry certificate setting out the extent of the public road and the public right of passage thereover. I have assumed this meets exactly with the servitude of access and there is no gap.
- 1.8. **Note 2 - Planning Permission** – I have not seen the planning permission or any relevant roads construction consent for the access road. I have assumed that it is to remain largely in its existing state. However, please note the servitude of access will include some impliedly constituted ancillary rights of repair, maintenance and improvement. These may assist in complying with the conditions of a statutory licence like planning permission.

### ***The Servient Title***

- 1.9. **The Title To the Servient Tenement.** I understand that this title is owned by several parties to some extent *pro indiviso*. I understand there may be perhaps five or six properties. It may be the case that they have *pro indiviso* property rights in all or part of the *solum* of the access road subject to the servitude. At least one of these servient titles is registered in the Land Register of Scotland under Title Number **KNR2689**. I have seen a copy of the Title Sheet updated to 11-06-2010. The Date of First Registration was

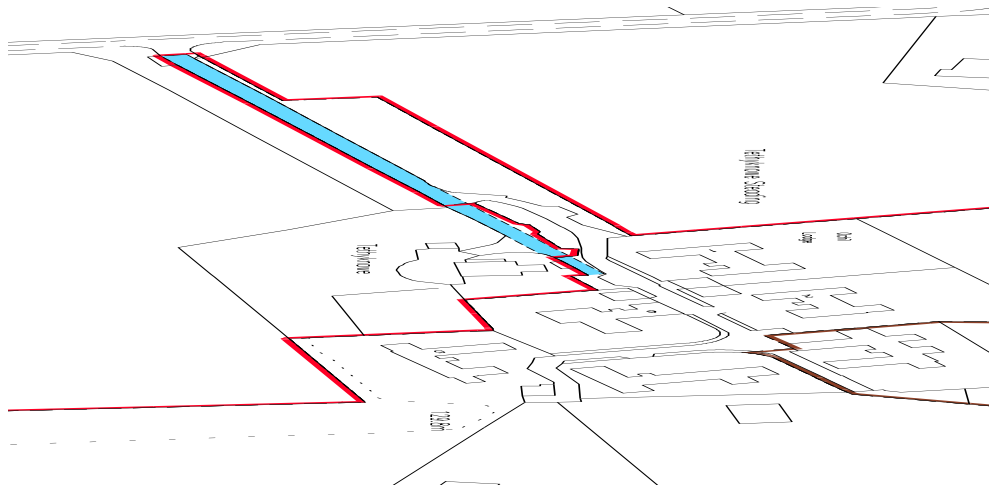
**09-03-2006.** The interest is that of proprietor. The address of the property is 3 Tethyknowe Steadings, Blairingone, Dollar FK147ND. I will use this as a sample title and assume the remainder are similar.

**1.10. The Description of the Servient Tenement.** This reads as follows in the Property Section:

“Subjects within the land edged Red on the Title Plan being 3 Tethyknowe Steadings, Blairingone, Dollar FK14 7ND edged brown on the said Plan, together with (One) a right of property in common with all proprietors of all other dwellinghouses erected or to be erected within the Development known as Tethyknowe, Blairingone, Dollar (“the Development”) in and to those parts of the said Development which on completion shall not have been exclusively alienated to purchasers of individual plots within the Development and which said parts comprise or shall comprise inter alia and without prejudice to the foregoing generality the roads and footpaths so far as not taken over by the Local Authority, areas of ornamental ground, public open spaces, parking spaces and accesses thereto, boundary and feature walls, fences, hedges, sewers, drains, sewage treatment plant, land drains, water supply pipes and electric mains and others so far as these serve or are common to all dwellinghouses within the Development (“the common parts”: (Two) the rights specified in the Deed of Conditions in Entry 2 of the Burdens Section (Three) all necessary rights of access to and egress from the subjects in this Title and the common parts and together with the subsisting rights to real burdens specified in the Schedule below.”

**1.11. The Title Plan (Servient Title).**

A relevant section of the Title Plan is as follows (on the next page):



The blue colouration relates to the servitude of access burdening this area (see below).

**1.12. Burdens Expressly Recognised in the Servient Title.** Amongst the burdens expressly recognised on the face of the Title Sheet **KNR2689** is Burdens Entry 1 relating to the Disposition by James Roberts Smith Romanes to John William MacMillan and his heirs and assignees, recorded G.R.S. (Kinross) 2 Oct. 1963, of dwellinghouse known as Tethyknowe, Dollar, to south of the development edged red on the Title Plan, contains the following rights and burdens which affect the subjects in this Title. The entry which relates to the servitude that is the subject of this opinion reads as follows:

“Together with (First) a right of access for pedestrian and vehicular traffic to the subjects hereby disposed by the access road coloured blue on the plan annexed to this Disposition leading to the farm steading of Tethyknowe, which right shall extend up to the west end of the fence and wall forming part of the northern boundary of the subjects hereby disposed and a right of access to the outer face of the said wall for the purpose of maintaining and repairing the same and (Second) a servitude right of wayleave over the remainder of the lands of Tethyknowe for all existing drains and sewers, water supply pipes, electricity cables, wires and generally all supplies and services connected with the subjects hereby disposed, with a right of access on all necessary occasions for the purpose of maintaining, repairing and renewing the same and for any other necessary purposes; And With regard to the fences and walls enclosing the subjects hereby disposed it is

hereby provided and declared that the fences, gate and wall along the access road shall be maintained wholly by my said disponent and his assigns; the wall of the farm building forming part of the eastern and northern boundaries and also the wall of the summerhouse on the eastern boundary will be maintained wholly by me and my successors in the ownership of the remainder of the lands of Tethyknowe; All other boundary walls and fences will be maintained jointly in a reasonable stock-proof condition; Reserving always to me and my successors in the ownership of the said remainder of the lands of Tethyknowe a right of access over the subjects hereby disposed for inspection and repair of the walls of the said farm building and summerhouse and also for the inspection and repair of all if any common drains and other services affecting the said remainder of the lands of Tethyknowe.”

This is accompanied by the following note:

“Note: The access road coloured blue on the plan annexed to the foregoing Disposition has been tinted blue on the Title Plan and in so far as it affects the subjects in this Title is that part which lies within the said red edge.”

***The Title of the Subjects to be Acquired (Comprising the Dominant Tenement in the Servitude of Access)***

**1.13.** The subjects to be acquired (including the dominant tenement in the servitude) comprises two parts:

(a) Lands on a Sasine title – the description derived from Disposition by James Roberts Smith Romanes to John William MacMillan and his heirs and assignees, recorded G.R.S. (Kinross) 2 Oct. 1963. These subjects are the dominant tenement in the servitude.

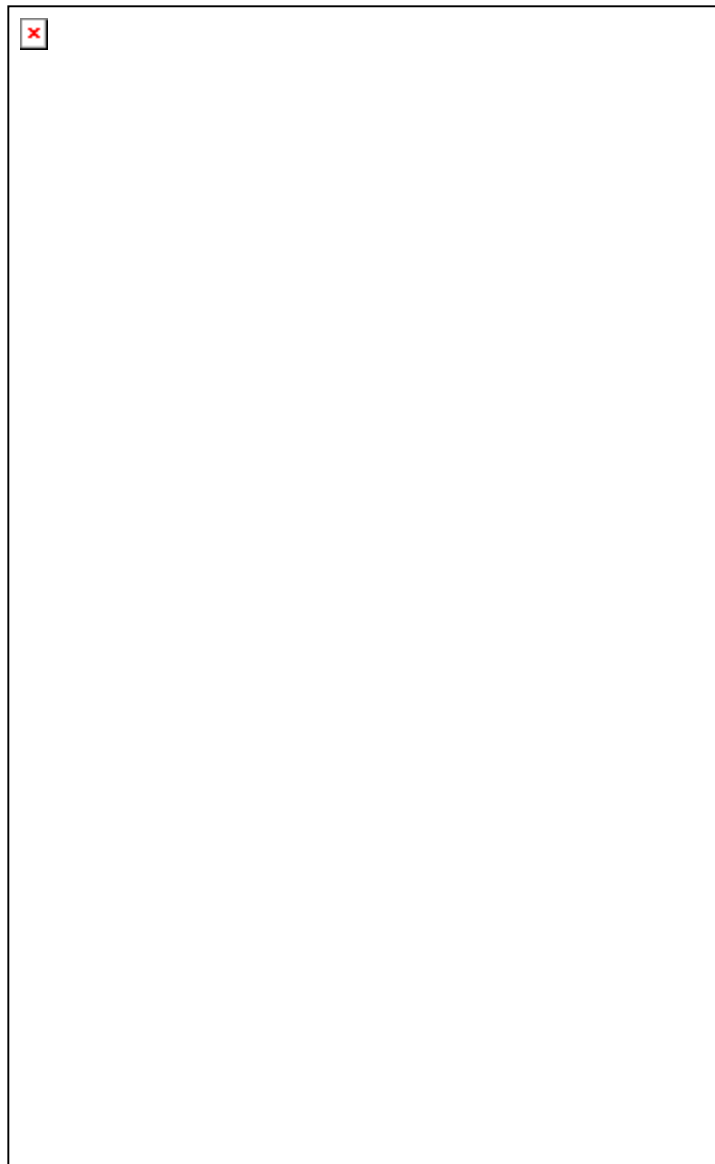
and

(b) Lands on a Land Registered Title (**KNR2691**). This is not the dominant tenement in the servitude but is an area of adjacent land. The 1963 servitude does not benefit it in terms of what is known as the dominant tenement specific rule or, after the leading

case “the *Irvine Knitters* rule” but it does not need to as access can be taken from the existing public road.

**1.14. The 1963 Disposition.** I have seen a monochrome copy of the Disposition by James Roberts Smith Romanes to John William MacMillan and his heirs and assignees, recorded G.R.S. (Kinross) and (Fife) (Book 167: Folio 126) on 2 Oct. 1963.

**1.15. The Plan of the Subjects Disposed in 1963.** A relevant part of the subjects disposed in 1963 is as follows:



Of course the length of the blue access has been abbreviated in this plan.

**1.16. The description of the Dominant Tenement in 1963 Deed.** The subjects are described as, inter alia, “ALL AND WHOLE the dwellinghouse known as Tethyknowe, Dollar, with ground attached”. The subjects are shown on the plan an excerpt of which is copied above.

**1.17.** The servitude of access is described as follows in the 1963 Disposition:

“Together with (First) a right of access for pedestrian and vehicular traffic to the subjects hereby disposed by the said access road [coloured blue on the plan annexed to the 1963 Disposition leading to the farm steading of Tethyknowe], which right shall extend up to the west end of the fence and wall forming part of the northern boundary of the subjects hereby disposed and a right of access to the outer face of the said wall for the purpose of maintaining and repairing the same ...”

**1.18.** There are other servitudes granted in 1963 expressly using the word “servitude”. Despite the absence of the word “servitude” in the primary access right, I am content that this is indeed a servitude.

***The Registered Part of the Subjects to be Acquired.***

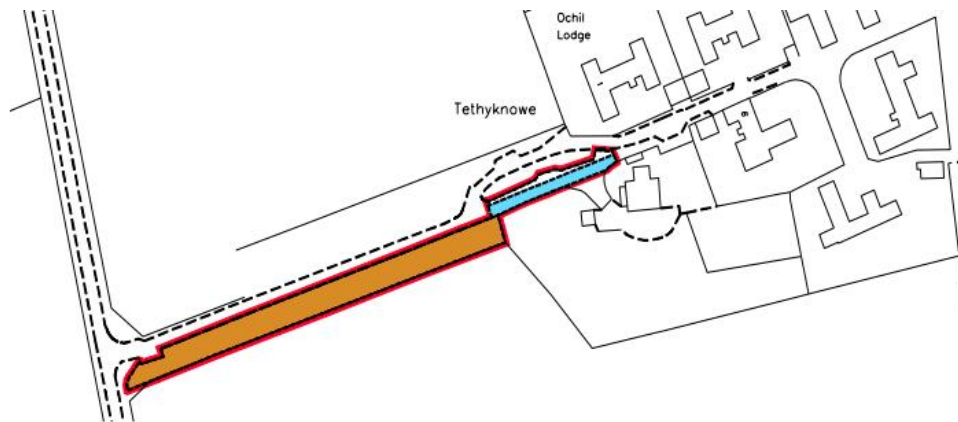
**1.19. KNR2691.** I have seen a copy of this Title updated to 10-03-2009. The Date of First Registration was **09-03-2006** (The same as the servient title). The subjects are Tethyknowe Farm, Blairingone, Dollar, FK147ND edged red on the Title Plan (See below).

**1.20.** This is subject to the same Burdens Entry 1 *i.e.* the servitude of access.

**1.21.** This Registered Title appears to me to be a split-off from the same base title as the servient title noticed above. However, the description does not carry any of the rights of common property that are attached to the servient title.

**1.22.** I see no express grant of servitudes mentioned in the registered title of **KNR2691**.

- 1.23. A relevant section of the Plan attached to Title **KNR2961** is as follows. This shows the location of the subjects.



- 1.24. The area within this title appears to have the potential to be used to widen the existing route of access.
- 1.25. Your client would wish to put several new houses on the dominant tenement.
- 1.26. I have been asked for my views on the extent of the servitude of access and I have set out my view below.

## 2. Opinion

- 2.1. The right of access granted in 1963 is a servitude despite the lack of any use of the word “servitude”. My view does not alter just because some other rights in the same constitutive deed are created by using the word “servitude”. See Cusine and Paisley, *Servitudes and Rights of Way*, 1998, SULI, Chapters 2 and 5. See also Davidson’s Farms v McSeveney, (1993) Paisley and Cusine Unreported Property Cases, 284 at 286-287 per Sheriff K.A. McLernan; Moss Bros Group plc v Scottish Mutual Assurance plc, OH, Lord Macfadyen, 23 March, 2001, GWD 12-440; 2001 SC 779; 2001 SLT 641.
- 2.2. The servitude of access is a route of primary access from the public road and is not limited to any limited purpose of activity on the dominant tenement. It is a general purpose access which may be used for any lawful purpose to which the dominant tenement may



be put now or in the future. *Alvis v Harrison* 1991 SLT 64, HL; Cusine and Paisley, *Servitudes and Rights of Way*, paras 10.04 and 14.25. This means that the servitude may be used to benefit buildings that are not yet built on the dominant tenement. As was indicated by the German Civilian scholar Conrad Joseph Clasmann (*floreat* 1704):<sup>1</sup>

“ <i>Sufficit tamen etiam utilitas futura</i> ”.	However, it does indeed suffice that there is [a hope of] future utility. <sup>2</sup>
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The Roman jurist Pomponius illustrated this as follows:<sup>3</sup>

“ <i>Futuro quoque aedificio, quod nondum est, vel imponi vel adquiri servitus potest.</i> ”	“A servitude can even be acquired for or imposed on a building which is planned, but has not yet been built.” <sup>4</sup>
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This is also the position in Scots law. It also works in reverse and a servitude of access continues to benefit the land upon which a house exists when it is demolished and reconstructed: *Irvine Knitters Ltd v North Ayrshire Co-operative Society Ltd*, 1978, S.C. 109.

- 2.3. The anticipated or permissible burden is determined objectively by reference to factors both extrinsic and intrinsic to the 1963 Disposition. The most important factors are the actual capacity of the access road to take traffic as at the time of 1963 and the alteration of use by the servient proprietors who are seeking to use the road for the very purpose that your client may wish *i.e.* access to redeveloped properties. In this regard one may refer to *Winpey Homes Holdings Ltd v Collins*.<sup>5</sup> In this case the court considered the terms of a servitude of pedestrian and vehicular access reserved

<sup>1</sup> *Conradus Josephus Clasmann, Theses Juridicae De Servitutibus Realibus*, 1704, Würzburg, *Thesis Prima*, page 3. In support of this proposition is cited *Digest* 8,2,22 (Julian), 8,2,23 (Pomponius) and 43,20,3 (Pomponius) but only the first two passages appear relevant.

<sup>2</sup> This is my own translation.

<sup>3</sup> *Digest*, 8,2,23(1) (Pomponius).

<sup>4</sup> Mommsen, Krueger, Watson, *The Digest of Justinian*, Vol. 1, University of Pennsylvania Press, 1985, page 256.

<sup>5</sup> 1999 SLT (Sh.Ct.) 17, Sheriff Principal G L Cox, QC, Airdrie Sheriff Court.

in a Disposition of the servient tenement dated in 1990. The wording relevant to servitude was contained in the dispositive clause and read as follows:

“and also with and under the following additional burden and condition that there will be reserved to me and my successors a servitude right of access over the subjects for vehicular and pedestrian purposes...”.

Earlier in the same deed the subjects disposed, over which the servitude was reserved, were described as follows:

“ALL and WHOLE that part of Branchall Road, Wishaw extending to five hundred and fourteen decimal or one thousandth parts of an acre or thereby Imperial Standard Measure, lying in the Burgh of Motherwell and Wishaw in the Parish of Cambusnethan and County of Lanark and being the area of ground delineated and shown within red boundaries on the plan thereof annexed and signed as relative hereto”.

The Sheriff Principal G L Cox Q.C. took the view that the reservation of the servitude of access was clear and unambiguous and that the dominant proprietor had a right to carry out, almost fifteen years later, works by flattening the verges and tarring the existing roadway and verges all located within the servient tenement as defined in the constitutive deed. The existing roadway was approximately 700 feet long and 12 feet wide but when the adjacent verges were added the entire width was 37 feet. However, the reservation clearly did not contain any express ancillary rights to carry out the works. So, the Sheriff Principal’s reasoning relied upon the implied constitution of the ancillary right to improve the state of the verges and to upgrade the whole servient tenement to make it fit for the taking of access. This is a reasonable approach given that the express reservation of the primary right of access was unequivocally stated to extend over areas that included those verges. However, no test for the implied constitution of such ancillary rights was explicitly set out in the judgement. However, the Sheriff Principal made the following observation:<sup>6</sup>

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<sup>6</sup> 1999 SLT (Sh.Ct.) 17 at 19-20.

“In this particular case if the dominant proprietor had made up the roadway for its full length up to local authority specification this, far from disadvantaging the servient tenement, would have saved them many thousands of pounds. It is quite wrong in my opinion to look only at the operations carried out at the behest of the dominant proprietors over the final quarter of the road. It is necessary to look at the whole, particularly in relation to the question of whether its nature is being changed to the prejudice of the servient tenement. The state of the whole road has to be taken into account. And the relevant time for consideration is not 1980, but the date when the defenders carried out the operations. By then three quarters of the road had been made up complete with pavements as demonstrated by the photographs in process. The scene has changed dramatically from the situation in 1980 when a country lane led to a disused colliery to which travelling people resorted in their caravans. Now there is a modern developed private housing estate and both the pursuers [*the servient proprietors*] and the first defender [*the dominant proprietor*] have in mind expansion of that type of development.”

In addition, the Sheriff Principal also made the following *obiter* remarks:<sup>7</sup>

“If I am wrong in reaching the conclusion that the grant is clear and unambiguous and that regard must be had to the prevailing conditions at the time in order to determine the intent of the parties then I am clearly of the view that the flattening and use of the whole width of the road would be in the reasonable contemplation of the parties. Mr Sherry [*the original granter of the deed in which the servitude was reserved*] was conveying a road to a national firm of house builders who owned plots of ground either side of it. It must be presumed to have been in the contemplation of the parties that the road was going to form an access into the housing developments and that it would require to be made up. The matter can perhaps be tested this way. Suppose Mr Sherry had retained the property in the road and had granted to Wimpey a right of access over it. Could

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<sup>7</sup> 1999 SLT (Sh.Ct.) 17 at 20.

Mr Sherry at a later date claim that Wimpey were not entitled to use the road as an access to their housing development and to make it up to a standard suitable for that purpose? In my view he could not because such a development was clearly in the contemplation of both parties at the time the right of access was granted over what was described as a road (Branchal road) the width being stated as 37 feet.”

Clearly, what the servient proprietors had done to the road had improved its capacity to take traffic in that case.

- 2.4. Description: Mention of the House.** I do not think this is limited only to the house (and others structures) that are expressly mentioned in the description in the 1963 Disposition. In Cusine and Paisley, *Servitudes and Rights of Way*, para 14.49 the authors took the following view (and I confirm this remains my view as of now):

“A negative servitude condition limiting the purpose for which a servitude may be exercised may be implied from the terms used to describe the dominant or servient tenement. No such inference will arise where the description merely locates and identifies the subjects, such as a particular description which defines the boundaries, or refers to a plan. More difficulty arises with those descriptions which refer to the building or structure located on the subjects. In this regard, *Hay v. Robertson*<sup>8</sup> is illustrative because the court considered a servitude of dam and water supply benefiting the tenement. In the deed, the various lands conveyed included “the lint-mill of Croy, part of the lands of Overcroy” and the grant of servitude identified the servient tenement as “the said grounds of Overcroy, where the basin for containing the water for the said lint-mill has been accustomed to stand”. The dominant tenement was subsequently divided and the purchaser of the lint mill wished to convert it into an iron forge mill. In a dispute about the use of the servitude for the new mill, the servient proprietor argued that the purpose of the servitude was restricted to the old lint mill. The Lord Ordinary opined that this approach was based on a “palpable fallacy” and

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<sup>8</sup> (1845) 17 Sc.Jur. 186.

continued<sup>9</sup>: “When a mill, used for the time as a lint mill, is sold, with its dam and aqueduct, it would require strong evidence indeed to shew that the purchaser was to be prevented from improving the machinery to the utmost, and converting the mill to the most profitable use of which it was capable. The supply of water is not limited to the mill so long only as it is employed as a lint-mill, but is given to the mill employed for the time as a lint-mill, but of course with all the capability of improvement of which a property of that description is susceptible.” The Inner House upheld that view unanimously.<sup>10</sup> The reference to the lint-mill was merely descriptive of the location and extent of the dominant and servient tenements and did not qualify the purpose of the grant. The decision seems justifiable on the basis that the description of the dominant tenement was no more than a general description.”

- 2.5. The Demolition of Any Buildings on the Dominant Tenement Changes Nothing.** The dominant tenement is not limited to the buildings that were located on that property as at the date of the constitution of the servitude or at any time during the prescriptive period. The servitude benefits the land and all buildings thereon now or in the future. As briefly alluded to above, demolition of any existing building on the dominant tenement does not bring the servitude of access to an end. This has actually been the law for centuries. The observation to the effect that a change in tillage on the dominant tenement does not bring a servitude to an end is found in Classical Roman law and the writing of the jurist Javolenus in **Digest 8.3.13(1) (Javolenus 10 ex cass.)** where he provides as follows:

<i>Si totus ager itineri aut actui servit, dominus in eo agro nihil facere potest, quo servitus impediatur, quae ita diffusa est, ut omnes glaebae serviant, aut si iter actusve sine ulla</i>	A servitude may be acquired in favour of certain kinds of land, as for instance, vineyards, because this would have reference rather to the soil itself than to the surface of the same;
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<sup>9</sup> *ibid.* at 187.

<sup>10</sup> *ibid.* at 186. *per* L.J.-G. (sic) Boyle, Lord Mackenzie and Lord Fullerton with the concurrence of Lord Jeffrey; Ersk., II, ix, 13, n. (c); Rankine, *Landownership*, p. 424; *Encyclopaedia of the Laws of Scotland*, Vol. XIII, para. 1241.

<i>determinatione legatus est: modo determinabitur et qua primum iter determinatum est, ea servitus constitit, ceterae partes agri liberae sunt: igitur arbiter dandus est, qui utroque casu viam determinare debet.</i>	so that, if the vineyards were removed, the servitude will remain. But if another intention existed when the servitude was created, an exception on the ground of malicious fraud will be necessary. <sup>11</sup>
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Following this passage one also find confirmation in the writing of the Roman Dutch jurist **Johannes Voet, *Commentaries*, 8,6,4, (The Selective Voet, translated by Percival Gane, Vol. 2, Butterworths, 1955, Durban, page 519) referring to *Digest* 8,3,13 (Javolenus):**

<i>“Quod si certo agrorum generi, veluti vineis, aut hortis, aut pomariis, servitus acquisita sit, sublati vero vineis aut arboribus, vineae horti pomaria esse definant, &amp; ita mutata sit facies soli, servitus tamen eo ipso non extinguatur; eo quod ad solum magis, quam ad superficiem pertinet; nisi in contrahenda servitute aliud actum sit”.</i>	“But if a servitude has been acquired in favour of a definite class of lands, such as vineyards, gardens or orchards, but through a removal of the vines or trees they cease to be vineyards, gardens or orchards, and thus the appearance of the ground is altered, still the servitude is not wiped out by the mere fact. The reason is that it belongs rather to the ground than to what is on the surface of the ground, unless something else has been arranged in contracting for the servitude”.
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This is in complete accord with Scots law. Redevelopment of a dominant tenement does not bring a servitude to an end. So, I regard demolition of parts of the existing building as irrelevant in relation to the continued existence of the servitude. That also is confirmed in the Scottish case ***Irvine Knitters v North Ayrshire Cooperative Society Limited* 1978 SC 109** where the entire building on the dominant tenement was demolished and replaced with something new and a servitude of access continued to benefit the new building on that tenement (but not on adjacent sites). It certainly does not amount to abandonment of the servitude.

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<sup>11</sup> **Digest 8,3,13,1 (Javolenus, On Cassius, Book X).**

**2.6. Construction Traffic.** A general access involves in coming in and out as the dominant proprietor please along with suppliers and invitees. It seems likely that we have here a servitude created in general terms. I am of the view that this servitude may be used for construction traffic used in connection with the development and redevelopment of the dominant tenement as a residential development. Various reasons spring to mind to indicate construction traffic is permissible. First, the servitude constituted by prescription is a potentially perpetual one – unlimited in time – but all buildings including the building proposed to be built on this dominant tenement have a “shelf life” both as regards their structure and use. All buildings need to be maintained or replaced at some time and that will involve construction and rebuilding. This suggests that construction traffic associated with development and redevelopment may use this servitude. Secondly, construction traffic is not excluded expressly in a constitutive deed because there is no constitutive deed. Let me now make the point about construction traffic by indicating a contrasting case. Where a servitude is created for a particular i.e. a limited purpose such as expressly for access to a walled garden there is an implication that construction traffic for the purpose of building a house or houses would be excluded: *Le Feuvre v Mathew*, (Royal Ct. Jersey), (1974) Jersey Law Reports 49 at 62 and 63. But such is not the case here. There is no clause in any constitutive deed for the servitude encountered here restricting the use of the servitude to that property to a particular use.

It is long recognised that the traffic passing along a servitude of access will not be consistent all the time. That is also the case with this particular servitude. There will be some bulges and occasions where there is a heavier weight of traffic. There may be some persons and types of traffic that will be used to visit a dominant tenement only at certain times. This applies whatever the dominant tenement is used for. As regards a dominant tenement with a domestic house located thereon there may be deliveries and removals. For example, in an Australian case *Young J of the Supreme Court of New South Wales*, 4<sup>th</sup> September 1997, sitting in *Finlayson v Campbell* (1997) NSW Conv R 55-825; (1997) 8 BPR 15; (1998) ANZ ConvR. 388 recognised that a servitude of access could be used for “removalist trucks” albeit they would only be needed on occasion of a house sale and purchase. This is also the case with a dominant tenement with a shop or other retail premises thereon where there would be

deliveries to the premises. In this Australian case the judge referred to another case **Grinskis v Lahood (1971) NZLR 502** where it had been held that one can use for the purpose of a motel a right of way that had been originally granted in general terms when the dominant tenement had erected on it a block of flats. The judge confirmed that a grantee is not confined to using a right of way for the purpose prevailing as at the time of grant but may use the easement for “any reasonably different purpose” – he refers here to **Bradbrook and Neave, Easements and Restrictive Covenants in Australia, Melbourne 1981 [620] (first edition)**. As regards the tenements in the case in hand – suburban residential properties – he opined – and this is relevant here for our purposes (at 391):

“the people creating the easement may well have in mind that eventually there would be some redevelopment but essentially they were creating an easement to service a single dwelling”.

Previously he had stated:

“...the properties were suburban residential properties so that one would not expect that there would be heavy traffic. However, it must have been contemplated that from time to time a large vehicle would need to enter No 24A [the dominant tenement], either a removalist truck or alternatively vehicles to assist in demolition of existing structures and erection of new structures”.

That case dealt with an expressly granted servitude and the judge went on to say that the test of working out what was in contemplation at the time of the grant has not been universally applied, but it seemed to be the test that was applied more than any other. He noted also that one ordinarily construes the grant of an easement as the date of its creation and if there is any ambiguity, one looks at the physical attributes of the land as at that date to see what sort of right of carriageway could have been intended. The judge then went on to say the following at **56,455: ((1998) ANZ ConvR. 388 at 393)**:

“Thus one looks at the grant and the rights which are expressed or implied in the grant and those are the rights which the dominant owner has and no more. The dominant owner cannot increase his position by so building on his



dominant tenement such that an additional burden is thrown on to the servient land unless that extra burden was one which is within the express or implicit terms of the grant.”

Let us move now to the Scottish case law. Construction traffic is one variant of the type of traffic that causes a bulge in traffic passing on a servitude of access. In the Scottish decision in **Carstairs v Spence, 1924 SC 380; 1924 SLT 305** it was recognised that a servitude of access created by prescriptive exercise may be used for construction traffic when houses were being built for the first time on a site previously used as a market garden. Unfortunately, the full facts in **Carstairs v Spence** are not readily ascertainable from the *Session Cases* report but some further important details may be gleaned from the other two sets of published reports<sup>12</sup> and the *Session Papers* which I have been able to read in the Advocates’ Library in Edinburgh. The published reports disclose that the dispute related to access to a field on the outskirts of St Andrews which had been used both during and prior to the prescriptive period for the purposes of agriculture and a market garden. The dominant tenement was purchased by a builder who began to construct thereon what the published reports described as “a number of workmen’s houses”<sup>13</sup> or a “colony of dwellinghouses”.<sup>14</sup> In what would seem to modern property lawyers to be a strange peculiarity in the published reports, the exact number or size of the houses is not disclosed in any of those reports and precisely the same lack of interest in these matters is to be found in all the judgements handed down in the Inner House and the Sheriff Court. Nor did the dominant or servient proprietors see fit to detail the number of houses in their pleadings.<sup>15</sup> It is only from the record of the evidence given at the proof at Cupar Sheriff Court, which is preserved in the *Session Papers*, that it becomes clear the dominant proprietor had already expended £5,000 in erecting four

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<sup>12</sup> (1924) 61 S.L.R. 297; 1924 S.L.T. 300. For relevant material in the National Archives of Scotland see *John D Spence v Jessie Lindsay or Carstairs and another: Appeal* 1925 CS251/2221.

<sup>13</sup> 1924 SC 380 at 381 and 1924 SLT 300 at 300 in the narrative.

<sup>14</sup> See 1924 S.L.T. 300 at 302; (1924) 61 S.L.R. 297 at 298, *per* Sheriff Substitute Dudley Stuart

<sup>15</sup> In the Record in the Appeal, Condescence for the Pursuers and Answers for the Defenders, pages 10 and 11, Cond V and Ans. 5, the parties respectively aver and admit that the defender had started to build an unspecified number of dwellinghouses.

workmen's houses and was then proposing to erect another four.<sup>16</sup> The dominant proprietor also indicated there was a possibility he might build up to eighty houses in total.<sup>17</sup> Nor is there any detail of the type or size of houses although, as the evidence indicated that the four yet to be built were in two blocks,<sup>18</sup> it may be surmised that they were semi-detached. Such a servitude constituted by prescriptive exercise as is observed in *Carstairs v Spence* is also regarded as a servitude in general terms – just like the servitude here. That was confirmed in *Carstairs v Spence*. Returning to the present situation: The bulge in traffic from time to time which is attendant upon the construction phase in a natural cycle of a building, a rebuilding or a foreseeable additional development, in my view, would probably be accommodated at the date of the constitution of the servitude by the then objectively anticipated burden of the servitude presently under consideration. One can look at the locale to assist. For example, in *Carstairs v Spence* 1924 SC 380; 1924 SLT 305 it was held that access for construction purposes (the “colony” of houses) fell within the proper use of a servitude of access created by prescriptive possession even though this was largely measured by past use and there never had been any houses constructed on the dominant site before. This case is all the more striking as the mechanism of establishing the burden in prescriptive servitudes is the rather backward looking means of measuring use *tantum praescriptum tantum possessum* (which is rather laxly applied) whereas an expressly granted servitude tends to open up the possibility (and likelihood) that the parties will seek to envisage something of the future.

One may also refer to a pair of related Sheriff Court cases in which a “general” right of access was constituted by prescriptive exercise. These are *Elrick v Lovie*<sup>19</sup> and *Lovie v Kirkmyres Sand and Gravel Limited*.<sup>20</sup> These two cases relate to the same prescriptively constituted servitude of access across an unmetalled private road<sup>21</sup>

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<sup>16</sup> See evidence of Charles Fleming Anderson, architect, page 12, sections D-E and evidence of John D Spence (the defender), page 65, section E and page 66, sections A and B-D.

<sup>17</sup> See evidence of John D Spence (the defender), page 66, section C.

<sup>18</sup> See evidence of John D Spence (the defender), page 65 section E and page 66, section A.

<sup>19</sup> (1991) *Paisley and Cusine Unreported Property Cases* 338.

<sup>20</sup> (1991) *Paisley and Cusine Unreported Property Cases* 341.

<sup>21</sup> At 342 per Sheriff Cameron.

passing through farmland to the dominant tenement. In addition to the dominant proprietor, that road was used by other persons other than the servient proprietor to gain access to property.<sup>22</sup> In the first case the Sheriff held that a servitude of access for pedestrian, horse and vehicular traffic had been constituted by prescriptive exercise for almost sixty years during which time the road had used for traffic of all kind in connection with the farming and general use of the dominant tenement.<sup>23</sup> Part of that tenement was then developed as a quarry and the servitude of access was the sole vehicular access to that quarry.<sup>24</sup> The traffic on the road was increased dramatically as a result and, at times, the lorries from the quarry made as many as 40-60 journeys per day.<sup>25</sup> A dispute arose in which the dominant proprietor sought declarator of the servitude. The servient proprietor denied the existence of the servitude or, should it be found to exist, argued that the new use unwarrantably increased the burden on the servient tenement and the servitude should be “restricted to the degree of use during the prescriptive period”. He was unsuccessful on both counts. Each of the parties had sought to rely on *dicta* handed down in *Carstairs v Spence*. Although the maxim *tantum praescriptum quantum possessum* is nowhere expressly referred to in his judgement it is clear that it, and the concept of a general right of access acknowledged in that case formed the basis of the Sheriff’s judgement as he too relied on *Carstairs v Spence* as the keystone of his reasoning and observed:<sup>26</sup>

“It is clear from the opinions in *Carstairs* that, in the case of servitudes constituted by prescription, the burdensomeness of a right is a question of the extent to which it encompasses the fixed categories.<sup>27</sup> ... Their Lordships went on to hold that the purposes for which a general right of way was used were not limited. In the instant case, I am satisfied that a general right of way is constituted and am of the opinion that the law does not recognise any restriction on the volume of traffic generated by the dominant tenement in the exercise of that right.”

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<sup>22</sup> At 348 per Sheriff McLernan.

<sup>23</sup> At 338 per Sheriff N McPartlin.

<sup>24</sup> At 342 per Sheriff Cameron.

<sup>25</sup> At 339 per Sheriff N McPartlin.

<sup>26</sup> At 339 per Sheriff N McPartlin.

<sup>27</sup> Here is quoted *Carstairs v Spence* 1924 SC 380 at 385 per Lord President Clyde.

Consequently, the dominant proprietor could continue to use the servitude of access for the purpose of the quarry. However, in *obiter* comments, the Sheriff indicated that the evidence of the increase in heavy traffic beyond the weight which the road was capable of supporting, the consequent damage to the verge and drains and the inconvenience and danger to the servient proprietor and his family were relevant in an issue as to whether the servitude was being exercised in a *civiliter* manner. That issue was not raised in the first action. The servient proprietor took the judicial hint and, basing his argument on that ground, he raised a second action for interdict not against the servient proprietor but against a company that had entered into a contractual arrangement to operate the quarry. The case related to the damage to the structure and surface of the road caused by the taking of access to and from the quarry.<sup>28</sup> The action became mired in over eight years of procedural delay and several stages of argument about the grant, recall and re-grant of the remedy of interdict. However, at all stages it was clear that the Sheriffs<sup>29</sup> and Sheriff Principal regarded the requirement to exercise the servitude *civiliter* as an appropriate ground upon which the servient proprietor might seek a remedy to seek an appropriate remedy. However, the factual situation in that case are far different from that which exists here. In the present situation there is a road with a reasonably good surface. In the present case there is, so far as I am aware, no private dwellinghouse near to the servitude route and no immediate danger to a family or children.

The servitude of access created in general terms, as is my view as regards the case in the present situation, can also be used for construction traffic where property on the dominant tenement is being renovated, demolished, extended or rebuilt at a later stage: e.g. **Gibb v Bruce 1 Dec. 1837, (1837) 16S. 169, no. 29; 10 Sc. Jur. 111**. This was an appeal to the Court of Session from the Sheriff of Perth. As will be seen from the first paragraph of this opinion, this case was relied upon in *Alvis v Harrison*. In that **Gibb v Bruce** case the servitude of access was constituted in a bilateral agreement from 1831 or 1833. It was contained in a deed dealing with boundary regularisation. The words used where:

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<sup>28</sup> At 342 per Sheriff Cameron.

<sup>29</sup> At 349.

“... but reserving or excepting therefrom a right or servitude of the road to the west in favour of the said Miss Margaret Bruce, her heirs or successors, for the benefit of the house of Easter Castleton, but specially excluding the same from farming purposes”.

Men (described as the “pursuer’s servants” (at **page 170 in 16S** report) were employed to drive stones for purpose of building an addition to the offices for the house for which servitude granted. In a dispute between the dominant and servient proprietors it was held that activity was within the extent of the right of servitude and interdict was refused. Proof showed the offices were near the house and were distinct from the farm offices. The description of the dominant tenement as a “house” did not restrict the servitude to “household purposes” i.e. there was no implied limitation on purpose - per **Sheriff-Substitute at 111**:

“...the use of the road was given to the house, and not to the lands of Easter Castleton. The building of the office-houses clearly was a purpose connected with the house. The defender’s reading that household purposes were meant, would lead to endless and perplexing questions as to what was, and what was not, household purposes”.

I take the view this case is consistent with the general principle I have already identified above.

- 2.7. Sub-Division of the Dominant Tenement.** The fact that the dominant tenement will be split into parts as a consequence of sales of plots does not *per se* cause an increase in the burden on the servient tenement. Where, as is here the case, a servitude benefits a dominant tenement the servitude continues despite the fact that part of the dominant tenement is split off and sold to a third party. This was accepted in Roman law. For example, the Roman jurist Paul is reported in **Digest, 8,3,23(3)** as follows:

<i>Quaecumque servitus fundo debetur, omnibus eius partibus debetur: et ideo quamvis particulatim venierit, omnes partes servitus sequitur et ita, ut singuli recte agant ius sibi</i>	Any servitude that exists in favour of an estate exists in favour of every part of that estate. Consequently, even if the estate is sold bit by bit, the servitude goes with every portion of it with the result that each individual owner has a right of action
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<i>esse eundi.</i>	to claim that he has a right of way”. <sup>30</sup>
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A similar principle is discernible from the writings of the Roman jurist Celsus recorded at **Digest 8,6,6(1)**.<sup>31</sup>

<i>Celsus respondit: si divisus est fundus inter socios regionibus, quod ad servitutem attinet, quae ei fundo debebatur, perinde est, si ab initio duobus fundis debita sit: et sibi quisque dominorum usurpat servitutem, sibi non utendo deperdit nec amplius in ea causae eorum fundorum miscentur.</i>	Celsus answered as follows. If the estate is divided between the co-owners into separate portions, then, as far as the servitude which exists in favour of the estate is concerned, it is as if it had been attached to two separate estates from the outset. So, each of the owners may exercise the servitude as his own, and each of them will lose it, as far as he is concerned, by non-use; in this matter, the legal positions of the two portions are no longer bound up with one another. <sup>32</sup>
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So too is it found in the writings of Pomponius recorded in **Digest 8,3,25** where the principle is illustrated by reference to a servitude of water supply rather than a servitude of way (that is relevant here as we are dealing with a wayleave for dirty or foul water disposal):

<i>Si partem fundi mei certam tibi vendidero, aquae ductus ius, etiamsi alterius partis causa plerumque ducatur, te quoque sequetur: neque ibi aut bonitatis agri aut usus</i>	If I sell you a particular part of my estate, a right to channel water attaching to the estate, will go to you as well, even if the right is most often exercised for the benefit of some other part of the land. In this case, there is no need to take into account the quality of the soil or the use made of the water, to
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<sup>30</sup> The Digest of Justinian, (eds. Theodor Mommsen, Paul Krueger and Alan Watson) Vol. I, University of Pennsylvania Press, Philadelphia, 1985, page 261.

<sup>31</sup> This is referred to in Voet, *Pandects*, 8,6,6: Gane’s translation published as *The Selective Voet*, 1955, Durban, Butterworth & Co, Vol. 2, page 521.

<sup>32</sup> The Digest of Justinian, (eds. Theodor Mommsen, Paul Krueger and Alan Watson) Vol. I, University of Pennsylvania Press, Philadelphia, 1985, pages 272-273.

<i>eius aquae ratio habenda est ita, ut eam solam partem fundi, quae pretiosissima sit aut maxime usum eius aquae desideret, ius eius ducendae sequatur, sed pro modo agri detenti aut alienati fiat eius aquae divisio.</i>	the end that the right to channel water should attach only to that part of the estate which is the most valuable or on which the use of the water is most often needed. The rule is that the division of the water is to be in proportion to the extent of the fields retained and conveyed respectively. <sup>33</sup>
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This Roman position clearly informed Scots law with its strong Civilian heritage. Consequently, it is no surprise that the same rule was recognised at an early date in Scots law. There is institutional authority to support it. For example, **Bankton, *Inst*, 4,45,43, Vol. 3, (1753), (Stair Society Reprint 1995, pages 58-59):**

“If one gets a servitude constituted to his tenement, it continues tho’ he sell half of the tenement...”.

Bankton’s comment may refer to division into pro indiviso shares but I think also it may apply to geographic sub-division. If one wished to take the most sceptical and restrictive interpretation of Bankton’s comment one might argue that it merely states that the servitude continues to benefit retained lands if part of the dominant tenement is split off. However, I do not think that is fair to what Bankton says. There is nothing in the comment that states the servitude ceases to benefit the lands disposed away. In my view what Bankton states is *in idem* with Roman law. It was quite a while before the matter was litigated in Scotland albeit the existence rule appears to have been assumed in some cases. Perhaps the point was so obvious that no-one bothered to litigate. It is now well established that when larger subjects are split up the servitude will continue to benefit all parts of the split up subjects unless there indications as at the date of the splitting up that the servitude over the intervening land is to be discharged. The authority is found in **National Bank of Scotland v Ritchie and others 1899 7 SLT 115, Outer House, (Lord Kyllachy)**. The case report is inadequate so I have supplemented it with material found

<sup>33</sup> The Digest of Justinian, (eds. Theodor Mommsen, Paul Krueger and Alan Watson) Vol. I, University of Pennsylvania Press, Philadelphia, 1985, page 262.

at National Archives under the reference *National Bank of Scotland Limited v John Ritchie & Co and the Lord Provost, Magistrates and Town Council of the City of Edinburgh, Declarator and Interdict CS251/646 1B463*. Prior to 1890 the National Bank of Scotland had been proprietors for many years of a tenement of houses forming the western boundary of Milne Square, through which access and egress to and from the building was obtained. In 1890 the Bank rebuilt the premises and disposed the ground-floor to a third party. From the new building there was no direct access to the square by way of a door, but sometimes the carts were brought up and their contents hoisted to the windows above, and sometimes window-cleaners and repairers approached through the square. By the *Edinburgh North Bridge Improvement Act, 1894*, the Edinburgh Corporation obtained powers to shut a number of streets, including Milne Square - but on conditions. Having acquired the buildings surrounding the square with the exception of the tenement of the National Bank, they proposed to build upon the surface of the square, and an action of declarator and interdict was raised by the Bank. The Lord Ordinary at this stage decided various things including the question of the Bank's title to sue as in right of a servitude over the square. Lord Kyllachy granted decree of declarator and interdict. Lord Kyllachy stated at 116:

“I must say at once that I cannot assent to the defenders’ argument that when a servitude of ish and entry exists in favour of a tenement consisting of a number of floors, that servitude comes to an end as regards the upper floors by the alienation of even the whole of the ground floor. I know of no authority for that proposition, and it does not seem to me to be founded on reason. It may be true that it is no longer possible to use the existing or former doorway - or the existing or former stairs. But there are, and may be, many occasions for access to and from the Bank’s upper floors, from the accustomed side, and by the accustomed way. Windows may require to be cleaned. New windows may require to be slapped out. Repairs and alterations may require to be made. Goods may require to be brought in by hoists, as seems to have been the practice in other parts of this square. Altogether it seems to me to be vain to contend that a servitude of ish and entry constituted by grant or acquired by prescription, and existing in favour of a block of buildings fronting what has been in fact for two hundred



years an open space communicating with the main streets of a city, is lost and comes to an end so soon as for forty years there has been no doorway to that open space on the ground level, or, so soon as, at any period, the ground floor has passed as a separate subject to the servient heritor”.

The same approach is more recently observed in a decision of Sheriff Principal Ireland: *Alba Homes v Duell* 1993 SLT (Sh.Ct.) 49. A further case confirming express grants of separate servitudes of access may be made together with the conveyance of the subdivided parts of a dominant tenement benefited by a single servitude of access is *Breed v Mann*, (1993) *Paisley and Cusine Unreported Property Law Cases*, 408. Of course the route of the servitudes after the splitting of the tenement must coincide with the route of the single servitude prior to splitting but that is not an issue here. There is comment on the issue to be found in *Cusine and Paisley, Servitudes and Rights of Way*, paras 1.49, 2.48 and 12.195-12.200; *van der Merwe and Paisley, Does a Servitude Road Last Forever?* 2000 *Stell. Law. Rev.* 452; (2000) *SLPQ* 196 and 333; 18 *Stair Memorial Encyclopaedia*, para 475. A subsequent splitting of these dominant subjects is also competent with each split off part enjoying the servitude. (For an example of this in a case where the benefit to each constituent part of the already split dominant tenement was assumed, albeit the point was not argued therein, see *Hay v Robertson* (1845) 17 *Sc. Jur.* 186). In theory there is no limit on how many subsequent splittings of the dominant tenement there may be except insofar as there will require to remain in each split off sufficient land to constitute a dominant tenement. One can take comfort that Scots law has not developed some odd-ball rule unknown to other similar legal systems. It appears in Common Law legal systems such as Canada: *Locke v. Scharfe* (1958) 17 *DLR* (2d) 51 (Ont. H.C.); *Dutto v. St. Louis* (1993) 36 *R.P.R.* (2d) 169 (Ont. Gen. Div.) and Australia: *Maher v Bayview Golf Club*, 4 June 2004. [2004] *NSWSC* 275, *BC200405879*, Supreme Court, New South Wales, *Campbell J.* The latter case appears to relate to an easement created by prescriptive exercise. The rule is also accepted in South Africa in several cases such as *Louw v Louw* 1921 *CPD* 320 and *Briers v Wilson* 1952 3 *SA (C)* 423 including the recent decision of the Supreme Court of Appeal (*Smith v Mukheiber* 2001 (3) *SA* 591 (SCA)) where the court stated at 595E (with reference, *inter alia*, to the Digest and Roman-Dutch sources):

“The position in our law is that, when a dominant tenement is subdivided, each portion retains the original dominant tenement’s servitudal rights.”

It is also the rule in another mixed legal system much like Scots law – the law of Louisiana: **A N Yiannopoulos, *Louisiana Civil Law Treatise: Vol. 4, Predial Servitudes*, 3<sup>rd</sup> Ed., 2004, § 11, pages 36-37.** This, in my view, is also the position of Scots law and, indeed, Scots law goes further because Scots law regards a combination of a lawful change of use of the dominant tenement and a splitting of the dominant tenement into parts as acceptable. One may look at ***Peter Forsyth and Margaret Forsyth v Alan Bruce and Fiona M E Forsyth*, 28<sup>th</sup> April 1994, unreported Aberdeen Sheriff Court, Sheriff D. Kelbie, case ref: A2689/92** which applied both ***Alvis v Harrison* 1991 SLT 64** and ***Alba Homes v Duell* 1993 SLT (Sh.Ct.) 49.** The court refused interdict against use of a road over which a servitude of access had been expressly granted for the purpose of taking access to a new house built on the dominant tenement when the servitude was still used to take access to the remainder. On the basis of these facts the servient proprietor had claimed an unjustifiable increase in the burden on the servient tenement. This claim was held to be irrelevant. At **page 4** in his opinion **Sheriff Kelbie** stated:

“It is clear from those authorities that where a dominant tenement has an express grant of unrestricted right of access, as appears to be the case here, the proprietors of the dominant tenement, if it be sub-divided, may have the servitude right of access conveyed to them and be entitled to exercise it, and that for any lawful purpose including the obtaining of access to a newly built dwellinghouse. Since the pursuers do not aver that anything other than that happened in the present case, their complaint is irrelevant”.

There is one qualification to this. If it can be shown that, after the split off has occurred, a split off or retained part of the dominant tenement receives no continuing benefit from the existing servitude (i.e. there is a lack of *utilitas* or praedial utility) one could argue that the servitude has been impliedly partially renounced upon such a split off *quoad* the part it no longer serves. (**Cusine and Paisley, *Servitudes and Rights of Way*, para 1.49, fn. 12.** See also the Canadian case ***Locke v. Scharfe* (1958) 17 DLR (2d) 51 (Ont. H.C.)**) So too is it *a fortiori* the case that an existing servitude can

be expressly partially renounced upon a splitting of the dominant tenement. (There is no express authority for this in Scots law but the point is made in Voet, Pandects, 8,6,6: Gane's translation published as *The Selective Voet*, 1955, Durban, Butterworth & Co, Vol. 2, page 521). There is no suggestion that this is going to occur in the present situation where the original dominant tenement has been divided. However, this is without prejudice to a matter of subsequent abandonment. I conclude from the above that the rule of non-increase in the burden applies to a servitude benefiting a split dominant tenement. The burden placed on the servient tenement after the dominant tenement is split must not increase beyond the maximum acceptable burden permitted before the dominant tenement was split. The juristic act of splitting the tenement, however, is not considered as a factor in assessing whether there has been an increase in the burden. (*Alba Homes v Duell* 1993 SLT (Sh.Ct.) 49). However, as I have indicated above, we are dealing with a servitude granted in general terms and, in my view, the acceptable maximum level of burden is high when one examines the nature of the access and the actings of the servient proprietor..

**2.8. Impliedly Constituted Ancillary Rights.** The servitude of access will include some impliedly constituted ancillary rights. These include:

(a) A right to repair a route of a servitude of way. “The dominant owner would be entitled, although not obliged, as a right ancillary to his right of way to do such repairs to the driveway as were necessary or desirable”.<sup>34</sup>

(c) To some extent (as long as it does not change the nature of the access) a right to improve the surface of all or part of the surface of the servient tenement in a servitude of way when the dominant proprietor reasonably requires it.<sup>35</sup> This extends, in particular circumstances, to the flattening of verges on either side of the existing carriageway, incorporating them into the road and, by

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<sup>34</sup> *Moncrieff v Jamieson*, 2008 SC HL 1 at 17, para 47 per Lord Scott (*obiter*). See also *ibid.* at 39, para 125 per Lord Neuberger. See also *Alvis v Harrison* 1991 SLT 61 at 67 per Lord Justice-Clerk Ross quoted per Lord Jauncey; *Garson v McLeish* 2010 SLT (Sh.Ct.) 131 at 143, para 75 per Sheriff D Kelly QC.

<sup>35</sup> *E.g. Stevenson v Biggart* (1867) 3 S.L.R. 184; *Alvis v Harrison* 1991 SLT 64 (HL); (1991) 62 P & CR 10 reversing 1989 SC 136; 1989 SLT 746;

tarring the road, making up the route to a specification sufficient to enable its adoption by the roads authority.<sup>36</sup>

I trust that this has made matters clearer.

Please note that this academic opinion is given on a without liability basis.

Yours faithfully,

**PROFESSOR RODERICK R M PAISLEY**

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<sup>36</sup> *Wimpey Homes Holdings v Collins* 1999 SLT (Sh.Ct.) 17, Sheriff Principal G L Cox, QC, Airdrie Sheriff Court.

# **WLC 21030 Tethyknowe House**

## **Revised Preliminary Ecological Appraisal**

17/11/2022

Prepared By:



Wildlife Consulting Ltd | Ecology | Environmental Consultancy

Company Number: SC620396

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# 1 INTRODUCTION

## 1.1 Background

Wildlife Consulting Ltd (WLC) was commissioned in December 2021, by Moving Still Architecture, to undertake of Preliminary Ecological Appraisal (PEA) in respect of a proposed residential development at Tethyknowe House, Blairngone, near Dollar.

The 2021 PEA was to inform a previous proposal to erect two new dwellings (Plot 2 and Plot 3) and extension of existing dwelling (Tethyknowe House) at the site. Plot 2 and Plot 3 will be located on sites of existing outhouses and within the existing garden of the original farm house.

The site lies under the planning jurisdiction of Perth and Kinross Council (PKC). PKC supplied pre-application advice for the project on 2<sup>nd</sup> August, 2021. As part of this advice, it was recommended that in consideration of Policy 41 (Biodiversity) of the PKC Local Development Plan<sup>i</sup>, *“Habitat surveys may be carried out to ensure that protected species (such as bats, birds and otters) are not adversely affected by the proposal, see Policy 41. The requirement for survey work will depend on the integration with the tree resource referenced above and the position layout of the scheme. The survey work may have implications on when an application can be submitted”*.

In August 2022 the proposal was revised and there are now no plans to alter Tethyknowe House. The revised proposal is to erect two dwellings in the grounds of Tethyknowe House only.

## 1.2 Site Location

The development site lies approximately 3.2km south east of the hamlet of Blairngone in Perth and Kinross. It is centred on British National Grid reference NT 01500 95261.

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<sup>i</sup> [https://www.pkc.gov.uk/media/45242/Adopted-Local-Development-Plan-2019/pdf/LDP\\_2\\_2019\\_Adopted\\_Interactive.pdf?m=637122639435770000](https://www.pkc.gov.uk/media/45242/Adopted-Local-Development-Plan-2019/pdf/LDP_2_2019_Adopted_Interactive.pdf?m=637122639435770000)

## 2 METHODS

### 2.1 Desktop Study

A desktop study was carried out at the start of the commission and ahead of the field survey. Information sources used for this study are described below:

- Google Earth (<http://earth.google.co.uk>) - aerial imagery was obtained and used to inform the field survey;
- SNH Website (protected species) – the SNH website was used to inform on relevant legislation for protected species found to be present in the vicinity of the project;
- SNH Sitelink (<http://gateway.snh.gov.uk/sitelink/>) - sitelink was used to determine the location of any sites designated for nature conservation and their qualifying features within 2km of the site; and
- NBN Atlas (<http://data.nbn.org.uk>) - the NBN was used to identify any available species records. This search was limited to commercially useable data and limited to records of protected mammal, reptile and amphibian species within 2 km of the Development site, and limited to the most recent five years of available data.

### 2.2 Preliminary Ecological Appraisal

A Preliminary Ecological Appraisal (PEA) was undertaken according to the standard Chartered Institute for Ecology and Environmental Management (CIEEM) method (CIEEM, 2017)<sup>ii</sup>. All features of ecological interest are described in Section 3. Target notes are added illustrating the locations of features of ecological interest and invasive species. Target notes and associated grid references are presented in Appendix B and illustrated on Figure 1.

The methodologies used to record evidence of protected species are listed on Table 2-1 below. The protected species selected are based on our previous knowledge of the site and surrounding area and informed by the results of the Desk Study (Section 3.1). The original survey was undertaken on 09<sup>th</sup> December, 2021 and the update survey for the revised proposal was undertaken on 16<sup>th</sup> August, 2022.

Table 2-1: Protected Species Survey Methods

Species/Guild	Survey Methods
Bats	Collins (2016). Bat Surveys for Professional Ecologists <sup>iii</sup> : Good Practice Guidelines. The buildings, woodland areas and standard trees within the site were categorised (high, medium, low or negligible) for their potential to support roosting bats.  The survey area for this receptor comprised accessible land within 50m of the Development site.

<sup>ii</sup> Chartered Institute of Ecology and Environmental Management (2017). Guidelines for Preliminary Ecological Appraisal (2<sup>nd</sup> Edition).

<sup>iii</sup> Collins (2016). Bat Surveys for Professional Ecologists: Good Practice Guidelines. 3rd Edition. Bat Conservation Trust. London.



<b>Species/Guild</b>	<b>Survey Methods</b>
<b>Red squirrel</b>	Searches for stripped cones and the presence of any drey structures in trees were undertaken within accessible land 50m of the site.
<b>Otter and Water Vole</b>	Chanin (2003) "Monitoring the Otter" <sup>iv</sup> . The survey area for otter and water vole comprised suitable habitats within 250m of the site. Searches were undertaken for otter places of rest (holts or couches), feeding signs and spraints. Searches were undertaken to record the presence of evidence of water vole presence including latrines, burrows, prints and feeding stations.  Survey area 200m from the site.
<b>Badger</b>	Harris et al. (1989) "Surveying Badgers" <sup>v</sup> . Evidence for the presence of badger was searched for including the presence of setts, foraging signs, latrines, prints, mammal paths and guard hairs, as well as any badger sightings.  The survey area for this receptor comprised accessible land within 50m of the Development site.
<b>Great crested newt</b>	A Habitat Suitability Index (HSI) following Oldham et al. 2000 <sup>vi</sup> was undertaken at a single pond within the survey area (Figure 1) to determine its suitability for the protected amphibian species great crested newt.
<b>Birds</b>	Walkover survey looking for nesting birds, actual bird sightings, bird sounds and other field signs such as feathers, pellets etc.  The survey area for this receptor comprised accessible land within 50m of the Development site.
<b>Invasive Species</b>	A walkover survey was undertaken to record the presence of any invasive species listed on Schedule 9 of the Wildlife and Countryside Act.  The survey area for this receptor comprised accessible land within 50m of the Development site.

<sup>iv</sup> Chanin P (2003). Monitoring the Otter *Lutra lutra*. Conserving Natura 2000 Rivers Monitoring Series No. 10, English Nature, Peterborough.

<sup>v</sup> Harris, S., Cresswell, P. & Jefferies, D. (1989) - Surveying for badgers. Occasional Publication of the Mammal Society No. 9. Mammal Society, Bristol.

<sup>vi</sup> Oldham R.S., Keeble J., Swan M.J.S. & Jeffcote M. (2000). *Evaluating the suitability of habitat for the Great Crested Newt (Triturus cristatus)*. Herpetological Journal 10(4), 143-155.

## 3 RESULTS

### 3.1 Desktop Study

#### 3.1.1 Statutory Designated Sites

Statutory designated sites located within 2km of the development site are considered in this assessment. Statutory designated sites are protected by EU and UK legislation and include:

- SPAs;
- Special Areas of Conservation (SAC);
- Ramsar sites;
- Sites of Special Scientific Interest (SSSI);
- National Nature Reserves (NNR); and
- Local Nature Reserves (LNR).

There are no statutory sites designated for nature conservation within the area of search. The closest statutory site designated for nature conservation is Wether Hill SSSI, which is notified on account of its blanket bog, lowland calcareous grassland and upland oak woodland habitats, lies approximately 2.3km from the site at its closest point and no effects are predicted on this receptor.

There are no known non-statutory designated sites within the 2km area of search. There are several areas of woodland listed on the ancient woodland inventory within the search area, the closest of which lies approximately 0.4km northeast of the development site at its closest point. Similarly no effects are predicted on these receptors arising from the development.

On the basis of the above, designated sites are not considered further in this report.

#### 3.1.2 Protected Mammal Species

The NBN Atlas has recorded the presence of one protected mammal species within the 2km grid square that includes the site. There are several observational records of red squirrel *Sciurus vulgaris* recorded within this search area within the last five years.

### 3.2 Field Survey

#### 3.2.1 Habitats

Tethyknowe House is a large, rectangular, disused stone building with a pitched, slate roof. There are two conically roofed bay windows protruding from the front (south) of the property and a smaller dormer, on the first floor in the centre of the front of the building directly above the main entrance to the property (Photograph 1). There is a small lean to conservatory on the west side of the building, allowing an alternative access into the property (Photograph 2).

The grounds of Tethyknowe House comprise a sloping lawn, which retains a short sward. At the base of the lawn there is a mature shelterbelt of mixed woodland around much of the south and west of the site. The trees largely comprise Scots pine *Pinus sylvestris*, sitka spruce *Picea sitchensis*, beech *Fagus sylvatica*, cherry *Prunus sp.* and sycamore *Acer pseudoplatanus* (Photograph 3).

A single pond lies approximately 150m north of the site (photograph 4). This is the only pond shown within 500m of the site in Ordnance Survey 1:25,000 mapping. The pond is of an irregular shape and lies in a shallow depression within an improved grassland field, which has a short sward. There was little in the way of aquatic macrophyte vegetation present in the pond. Much of the edges of the pond supported marginal vegetation in the form of soft rush *Juncus effusus* and great reedmace *Typha latifolia*.

The Roughcleugh Burn (a minor tributary of the Black Devon) lies approximately 160m to the south of the site. The burn was no more than 1m across within the survey area. The burn has been straightened and is little more than a field drain across the survey reach. The water depth in the channel was of a very low level (<5cm) and the channel is almost completely covered with bramble scrub and ruderal vegetation.

### 3.2.2 Protected Species

#### 3.2.2.1 Bats

Tethyknowe House was surveyed during December 2021 only and not surveyed during the August 2022 visit due to its removal from the revised proposal.

No roosting bats were recorded within Tethyknowe House. There were partially eaten insects present in the loft void, which may be evidence of the presence of bats, however no droppings or staining was noted during the survey visit, but some areas of the loft void were inaccessible due to the presence of rotten timbers. The visit was also undertaken in December during the bat hibernation period and, due to the low humidity levels in the building it is considered unlikely that it would be used as a hibernation roost.

In terms of the Bat Conservation Trust guidance<sup>iii</sup> Tethyknowe House is considered to be of 'High' suitability for supporting roosting bats during the spring summer and autumn months when bats are active. The score based on the following:

- Numerous potential ingress/egress points into the building suitable for access by bats - Gaps in soffits, gaps in mortar, some lifted flashing, and also ingress via gaps in the timber in the lean to conservatory;
- Internal and external gaps allowing access into loft void; and
- Good linear connectivity from adjacent mature woodland shelter belts, providing commuting and foraging opportunities.

The outbuildings are low in nature, of timber and corrugated iron construction and lack enclosed loft voids favoured by bats. They were considered to have negligible suitability for roosting bats.

The mature beech trees within the mature shelterbelt of mixed wood at the western and southern extents of the garden area are also considered of an age to have developed some features favoured by roosting bats, such as small rot holes, minor cracks and lifted bark and ivy coverage. These trees are considered to have low potential to support roosting bats, with the cherry, sycamore and Scots pine considered to have negligible potential for roosting bats.

The tree lines around the site offer linear commuting pathways and an invertebrate foraging resource for bats.

### 3.2.2.2 Red Squirrel

No evidence of the presence of red squirrel was recorded during the December 2021 field survey and no dreys were observed in the shelterbelt of mixed trees at the foot of the Tethyknowe House garden.

In August 2022 the update survey recorded fresh squirrel feeding remains (stripped pine cones) below two Scot's pine trees in this shelterbelt (Target Note 9). Given the background records of red squirrel, they are likely attributable to this species, rather than grey squirrel *Sciurus carolinensis*. No squirrel dreys were observed within the shelterbelt. Three structures were observed, but confirmed as woodpigeon *Columba palumbus* nests, with birds recorded exiting and returning to these features during the August 2022 survey visit.

There are larger structures considered to be squirrel dreys present in woodland surrounding the main drive way which leads to Tethyknowe House and the other existing residential properties accessed by this drive way (Target notes 10 and 11).

### 3.2.2.3 Otter and Water Vole

Due to its minor nature and historical management the Roughcleugh Burn is considered to be of negligible suitability for either otter *Lutra lutra* or water vole *Arvicola amphibius* and no evidence of the presence of either of these species was recorded within 250m of the site on either of the survey visits.

### 3.2.2.4 Badger

No evidence of the presence of badger *Meles meles* was recorded on either of the survey visits and this species is not considered further in this report.

### 3.2.2.5 Great Crested Newt

The HSI results as shown on table below show the pond scores poorly in terms of its potential to support the protected species, great crested newt *Triturus cristatus*. Its lack of suitability for this species is largely based on its ephemeral nature and its isolation from any other nearby ponds (within 500m). It is suitable for common amphibian species such as common frog *Rana temporaria*.

Table 3-1: Great Crested Newt HSI Results

Pond 1		
HSI Element Number	HSI Element	HSI Score
SI No	SI Description	SI Value
1	Geographic location	0.5
2	Pond area	0.95
3	Pond permanence	0.1
4	Water quality	0.33
5	Shade	1
6	Waterfowl effect	0.67
7	Fish presence	1
8	Pond Density	0.318471338
9	Terrestrial habitat	0.33

Pond 1		
HSI Element Number	HSI Element	HSI Score
10	Macrophyte cover	0.5
HSI Score		0.47
Pond Suitability*		Poor

\* HSI Score Pond Suitability

< 0.50 Poor

0.50 - 0.59 Below average

0.60 - 0.69 Average

0.70 - 0.79 Good

> 0.80 Excellent

### 3.2.3 Invasive Species

No invasive plant species were recorded during the first survey visit in December 2021. Although due to the late time of year it was not possible to conclusively confirm the presence, or not, of invasive flora. Two stands of Himalayan balsam *Impatiens glandulifera* were recorded during the August 2022 survey. The locations of these stands are given in Target Notes 7 and 8.

### 3.2.4 Birds

The trees in Tethyknowe House garden are likely to support nesting birds during the breeding season (April – August) and indeed woodpigeon were confirmed as nesting within the shelterbelt at the foot of the Tethyknowe House garden during the update survey visit in August 2022.

Bird species were recorded during the survey visits are presented on Table 3-2 below.

Table 3-2: Bird Sightings

Species	Species	Species
Black-headed gull <i>Chroicocephalus ridibundus</i>	Great tit <i>Parus major</i>	Jackdaw <i>Corvus monedula</i>
Buzzard <i>Buteo buteo</i>	Greenfinch <i>Chloris chloris</i>	Pied wagtail <i>Motacilla alba</i>
Blackcap <i>Sylvia atricapilla</i>	Herring gull <i>Larus argentatus</i>	Robin <i>Erithacus rubecula</i>
Blue tit <i>Cyanistes caeruleus</i>	House sparrow <i>Passer domesticus</i>	Wren <i>Troglodytes troglodytes</i>
Chaffinch <i>Fringilla coelebs</i>	Sparrowhawk <i>Accipiter nisus</i>	Treecreeper <i>Certhia familiaris</i>
Raven <i>Corvus corax</i>		

## **4 Appraisal, Mitigation and Enhancement**

### **4.1 Bats**

Given the removal of works to Tethyknowe House from the proposals no further surveys are required to determine as there is no need for licensable bat works at this property.

It is understood all existing trees will be retained under the proposals. It is advised that as a minimum 10m distance is maintained from the footprint of the works to the existing trees and that this boundary is demarcated prior to the commencement of any works by Heras fencing or similar. In addition, it is advised that any temporary construction lighting or permanent lighting at residential dwellings is directed away from tree lines. With the implementation of these measures it is considered that disturbance to potentially roosting bats will be avoided and disturbance to commuting and foraging bats will be negligible.

### **4.2 Red Squirrel**

Two squirrel dreys are present in the woodland surrounding the driveway which leads to the Tethyknowe House and the existing residential development, which lies adjacent to it (Target Note 10) and squirrel feeding cones were recorded under the shelterbelt which forms the southern boundary of Tethyknowe House garden (Target Note 9).

It is understood that all trees will be retained under the revised proposals. The mature trees on site provide a food source and continued opportunities for drey making. It is advised that as a minimum 10m distance is maintained from the footprint of the works to the existing trees and that this boundary is demarcated prior to the commencement of any works by Heras fencing or similar. In addition, it is advised that any temporary construction lighting or permanent lighting at residential dwellings is directed away from tree lines.

In addition to the above, during construction deep excavations should either be covered at the end of the day, or fitted with mammal ramps, or graded sides to avoid the risk of red squirrel, or other mammal species becoming trapped.

With the implementation of these measures it is considered that disturbance to red squirrel will be avoided.

### **4.3 Birds**

A range of common bird species are considered likely to be breed within the development site. The bird breeding season runs from April to August inclusive.

It is recommended that construction is timed to either avoid the breeding season altogether, or Scheduled to start before the breeding season starts (ideally before mid-March) so that birds returning to the area to breed can choose a territory/nest location away from potentially disturbing activities. In the event this is not possible, prior to the commencement of clearance works, all suitable nesting habitat (trees/scrub and Tethyknowe House) should first be checked to determine the presence of any active nests. If an active nest is confirmed to be present, an exclusion zone should be erected around the nest until all dependent young have fledged, or if the nest is no longer active.

#### **4.4 Invasive Species**

Two stands of the invasive species Himalayan balsam were recorded on site during the August 2022 visit, which were not observed in December 2021 due to the die back of his species within winter months. Himalayan balsam is listed as an invasive species on schedule 9 of the Wildlife and Countryside Act and under the Wildlife and Natural Environment (Scotland) Act 2011 (WANE Act), it is illegal to cause the spread of this species in the wild.

Himalayan balsam spreads by means of explosive seed pods in late August. NatureScot advise referring to the Property Care Association (PCA) 2015 Guidance Note – Management of Himalayan Balsam for methods to control this species. There are a range of options available but some, such as disposal in a licenced facility can be both environmentally unsound and expensive. On consideration of this guidance and the current site, it is recommended in this instance to leave this plant in situ over the winter and then hand pull the plants in late spring/early summer period prior to seed pods developing (note several visits may be required over this period to ensure newly germinated plants are removed over the course of the growing season. The pulled plants can be piled on a tarpaulin, where they will die and dry out and appropriately disposed of, such as buried on site within the extent of the stand, and thus preventing the further spread of this invasive species.

#### **4.5 Ecological Enhancement**

The habitats around the site support red squirrel and nesting birds, and contain suitable habitat for bats and also hedgehog *Erinaceus europaeus*. It is advised that opportunities for these receptors are augmented as part of the development. This can be achieved by the incorporation of the following measures.

- 1) Installation of bat, squirrel and bird boxes on existing trees and hedgehog boxes in and around woodland edges;
- 2) Swift *Apus apus* boxes can be incorporated onto new buildings;
- 3) New planting to comprise native species of local provenance, including fruit bearing species to benefit foraging wildlife; and
- 4) Leaving gaps under any new fencing sufficient to allow continued hedgehog passage in and out of the site.

## 5 APPENDICES



5.1 Appendix A (Photographs)

<p>1) Tethyknowe House</p> 	<p>2) Lean to conservatory</p> 
<p>3) Shelterbelt in garden (south and west)</p> 	<p>4) Pond north of site</p> 
<p>5) Rotted fascia boards</p> 	<p>6) Rotted fascia boards</p> 
<p>7) Rotted fascia and soffit boards</p> 	<p>8) Loft void</p> 

9) Rotted joists and gaps in mortar in interior of Tethyknowe House



10) Interior of Tethyknowe House showing stripped lath and plaster



11) Rear (northern) gable



12) Outbuilding to rear of Tethyknowe House



13) Outbuildings used as sawmill



14) Outbuildings used as sawmill



15) Himalayan balsam



16) Squirrel feeding cones



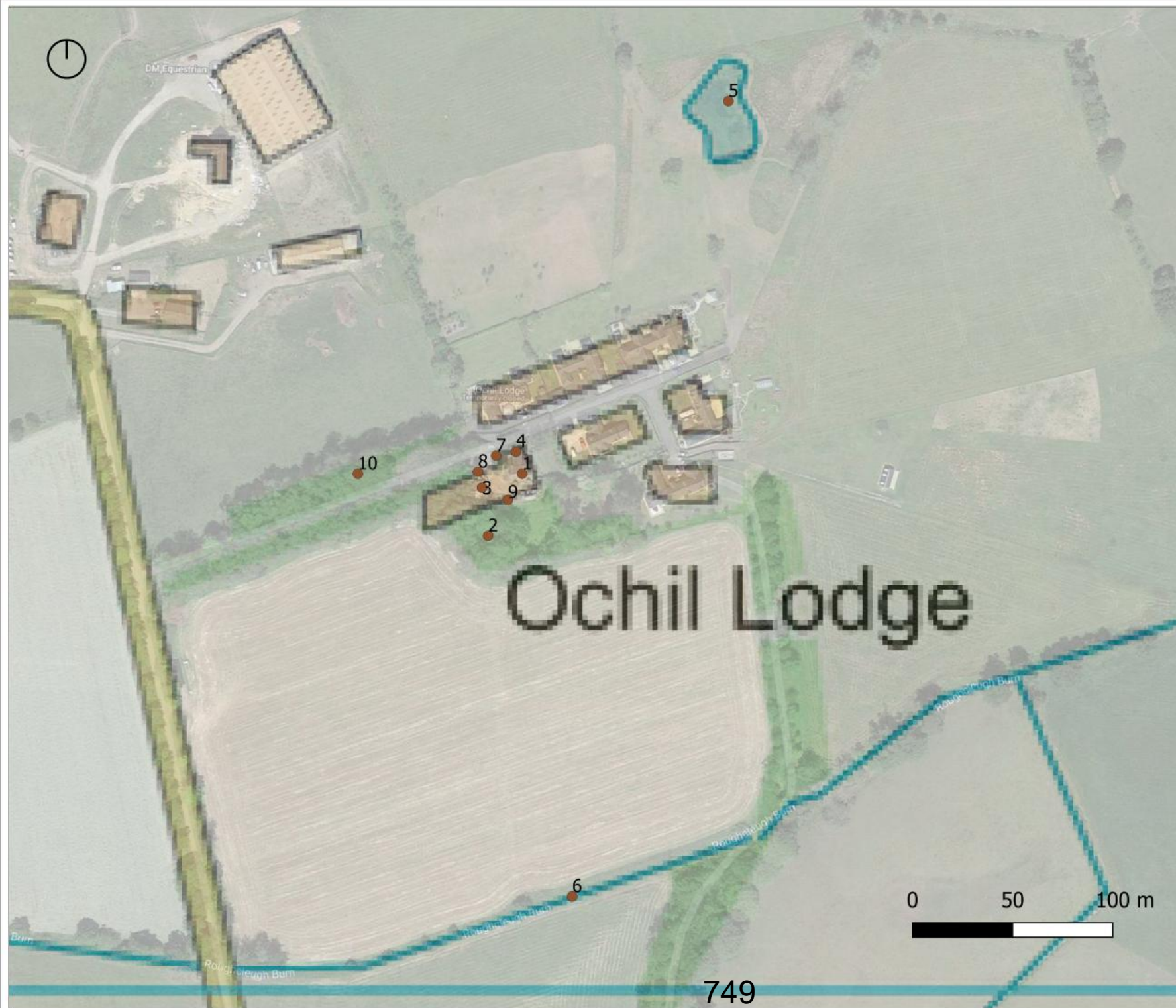
17) Squirrel drey



### 5.3 Appendix B (Target Notes)

Target Number	Note	Grid Reference	Feature
1		NT 01495 95258	Tethyknowe House. Disused. Stone construction. Gaps in mortar. Rotted soffits/facia. Ingress/egress points allowing potential access for bats and birds.
2		NT 01478 95227	Mature shelterbelt of mixed woodland. Beech, sitka spruce, Scot's pine. Potential to support red squirrel, nesting birds and roosting bats.
3		NT 01475 95251	Outbuildings. Wood structure and corrugated iron roof. Negligible wildlife potential.
4		NT 01492 95269	Outbuilding. Wood structure and corrugated iron roof. Negligible wildlife potential.
5		NT 01598 95444	Pond. Shallow/likely ephemeral. Lack of aquatic macrophytes. Marginal vegetation – great reedmace and soft rush.
6		NT 01520 95047	Roughcleugh Burn. Historically straightened for field drainage. Little water. Overgrown banks (bramble scrub and ruderal).
7		NT 01482 95267	Himalayan balsam.
8		NT 01473 95259	Himalayan balsam.
9		NT 01488 95245	Squirrel feeding cones.
10		NT 01413 95258	Two squirrel dreys.





## LEGEND

● Target Notes

Copyright Information:  
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Moving Still Architecture  
Tethyknowe

Ecology Survey  
Figure 1 - Site Location and Target Notes

Version: 1.0  
Date: 14/11/2022  
Scale: 1:2,500





Kaas Ventures Ltd  
c/o Houghton Planning Ltd  
Paul Houghton MRTPI  
Alloa Business Centre  
Whins Road  
Alloa  
FK10 3RF

Pullar House  
35 Kinnoull Street  
PERTH  
PH1 5GD

Date of Notice : **8th November 2022**

## **TOWN AND COUNTRY PLANNING (SCOTLAND) ACT**

Application Reference: **22/01009/IPL**

I am directed by the Planning Authority under the Town and Country Planning (Scotland) Acts currently in force, to refuse your application registered on 24th June 2022 for permission for **Erection of a dwellinghouse and garage (in principle) Land 35 Metres South West Of Tethyknowe House Blairingone** for the reasons undernoted.

**David Littlejohn**  
**Head of Planning and Development**

### **Reasons for Refusal**

1. The proposed development is contrary to Placemaking Policies 1A and 1B of the Perth and Kinross Local Development Plan 2 (2019). Residential development of this site would not contribute positively to the built and natural environment and detract from the landscaped setting of the existing building group.
2. The proposal is contrary to Policy 19, Housing in the Countryside, of the Perth and Kinross Local Development Plan 2 (2019) and the associated Housing in the Countryside Supplementary Guidance (March 2020) as it does not meet any of the criteria within the categories 1) Building Groups, 2) Infill sites, 3) New houses in the open countryside, 4) Renovation or replacement of houses, 5) Conversion or replacement of redundant non-domestic buildings and 6) Development on rural brownfield land.

Development of the proposed site would not integrate into or enhance the surrounding environment and would detract from the visual amenity of the existing building group and surrounding area.

3. The proposal is contrary to Policy 39, Landscape, of the Perth and Kinross Local Development Plan 2 (2019). This requires proposals to be compatible with the distinctive characteristics and features of Perth and Kinross's landscapes and not erode local distinctiveness, diversity and quality and the quality of landscape experience. Development of the site would significantly diminish the landscape setting of the wider building group and would erode local distinctiveness and the historic and cultural dimension of the local landscape.
4. The proposal is contrary to Policy 40A, Forest and Woodland Strategy, of the Perth and Kinross Local Development Plan 2 (2019) that seeks to protect existing trees and woodland. It is also contrary to Policy 40B, Trees, Woodland and Development, of the Perth and Kinross Local Development Plan 2 (2019) which states that there will be a presumption in favour of protecting woodland resources. It has not been demonstrated that development of the site can be achieved without significant impact on the existing woodland resource.

### **Justification**

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

**The plans and documents relating to this decision are listed below and are displayed on Perth and Kinross Council's website at [www.pkc.gov.uk](http://www.pkc.gov.uk) "Online Planning Applications" page**

### **Plan Reference**

01  
02  
03  
04  
05  
06  
07  
08



## REPORT OF HANDLING

### DELEGATED REPORT

<b>Ref No</b>	22/01009/IPL	
<b>Ward No</b>	P8- Kinross-shire	
<b>Due Determination Date</b>	23rd August 2022 Extended to 11th November 2022	
<b>Draft Report Date</b>	7th November 2022	
<b>Report Issued by</b>	PB	Date 7th November 2022

**PROPOSAL:** Erection of a dwellinghouse and garage (in principle)

**LOCATION:** Land 35 Metres South West Of Tethyknowe House  
Blairingone

#### SUMMARY:

This report recommends refusal of the application as the development is considered to be contrary to the relevant provisions of the Development Plan and there are no material considerations apparent which justify setting aside the Development Plan.

#### Background and description of proposal

Planning permission is sought for the erection of a dwellinghouse and garage at a site to the south west of Tethyknowe House, around 3 kilometres south east of Blairingone.

The application is in principle.

Tethyknowe House is a substantial unlisted period style property. A modern development of 6 detached houses is located to the north and east of Tethyknowe House.

This application and a related application to the east (22/01010/IPL) propose residential development within the wooded grounds around the house. This area acts as a natural screen and biodiversity habitat and contributes significantly to the wider landscaped setting of the building group.

#### SITE HISTORY

22/01010/IPL Erection of a dwellinghouse (in principle) Pending decision

#### PRE-APPLICATION CONSULTATION

Pre application Reference: 21/00385/PREAPP, 22/00138/PREAPP

#### NATIONAL POLICY AND GUIDANCE

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**

The Development Plan for the area comprises the TAYplan Strategic Development Plan 2016-2036 and the Perth and Kinross Local Development Plan 2 (2019).

TAYplan Strategic Development Plan 2016 – 2036 - Approved October 2017

Whilst there are no specific policies or strategies directly relevant to this proposal the overall vision of the TAYplan should be noted. The vision states “By 2036 the TAYplan area 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.”

Perth and Kinross Local Development Plan 2 – Adopted November 2019

The Local Development Plan 2 (LDP2) is the most recent statement of Council policy and is augmented by Supplementary Guidance.

The principal policies are:

Policy 1A: Placemaking

Policy 1B: Placemaking

Policy 5: Infrastructure Contributions

Policy 15: Public Access

Policy 19: Housing in the Countryside

Policy 32: Embedding Low & Zero Carbon Generating Technologies in New Development

Policy 39: Landscape

Policy 40A: Forestry, Woodland and Trees: Forest and Woodland Strategy

Policy 40B: Forestry, Woodland and Trees: Trees, Woodland and Development

Policy 41: Biodiversity

Policy 53B: Water Environment and Drainage: Foul Drainage

Policy 53C: Water Environment and Drainage: Surface Water Drainage

Policy 53E: Water Environment and Drainage: Water Supply

Policy 58A: Contaminated and Unstable Land: Contaminated Land

Policy 58B: Contaminated and Unstable Land: Unstable Land

Policy 59: Digital Infrastructure

Policy 60B: Transport Standards and Accessibility Requirements: New Development Proposals

## **OTHER POLICIES**

Housing in the Countryside Supplementary Guidance adopted 2020

Developer Contributions and Affordable Housing Supplementary Guidance adopted 2020

Placemaking Supplementary Guidance adopted 2020

Planning for Nature: Development Management and Wildlife Guide adopted 2022

## **CONSULTATION RESPONSES**

Environmental Health (Contaminated Land)  
No objection subject to contaminated land condition.

Fossoway And District Community Council  
Comments made with regard to the design of any new buildings, promotion of biodiversity and a requirement for passing places along the minor road.

The Coal Authority  
Informative note required with regard coal consultation area.

Scottish Water  
No objection. No Scottish Water waste water infrastructure in the area. Private arrangements required.

INEOS FPS Ltd  
No response in timescale.

Transport Planning  
No objection subject to condition.

Development Contributions Officer  
Condition required to ensure compliance with policy 5, infrastructure contributions, primary education.

Biodiversity/Tree Officer  
Further detail and surveys required with full application.

## **REPRESENTATIONS**

5 representations were received of which 3 object to the application.

The representations relate to the following:

- Contrary to housing in the countryside policy;
- Red line site boundaries do not tie up leaving space for further infill in the south;
- Ownership of track is not shared, access rights to Tethyknowe House only, no rights to access the application site;
- No agreement in place for utility connections to site – would be disruption;
- Water supply and drainage issues;
- Trees have been felled on the site, page 5 of the covering letter is out of date;
- Shortcomings in ecological report – more information required on bats and does not mention hedgehogs and red squirrels which are present on site;
- Blue line ownership boundary is incorrect;
- Passing places required;
- Design should be sympathetic to neighbouring buildings;
- Cost of school travel to Council – unsustainable travel patterns.

The material planning considerations will be addressed in the report below. Issues with regard to private access rights and land ownership are not material planning considerations.

## ADDITIONAL STATEMENTS

Screening Opinion	EIA Not Required
Environmental Impact Assessment (EIA): Environmental Report	Not applicable
Appropriate Assessment	Habitats Regulations AA Not Required
Design Statement or Design and Access Statement	Not Required
Report on Impact or Potential Impact eg Flood Risk Assessment	Geoenvironmental Report and Ecological Report Submitted

## APPRAISAL

Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for the area comprises the approved TAYplan and the adopted LDP2.

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.

### Policy Appraisal

The local development plan seeks to encourage development to within settlements that are defined by a settlement boundary in the Local Development Plan. This site lies out with a settlement boundary where policy 19 Housing in the Countryside applies. Policy 19 and its associated guidance acknowledges that opportunities do exist for housing in rural areas to support the viability of communities, meet development needs in appropriate locations while safeguarding the character of the countryside as well as ensuring that a high standard of siting and design is achieved.

The Housing in the Countryside Supplementary Planning Guidance identified six categories and criteria within them where development will be permitted under Policy 19. The categories are as follows:-

1. Building Groups.
2. Infill sites.
3. New houses in the open countryside on defined categories of sites as set out in section 3 of the Supplementary Guidance.
4. Renovation or replacement of houses.

5. Conversion or replacement of redundant non-domestic buildings.

6. Development on rural brownfield land

Information submitted with the application suggests that the site is brownfield as there are existing buildings there and de-contamination will be required prior to development. However the brownfield category has specific requirements. Where buildings exist these should be capable of conversion or re-use and in general non-traditional domestic buildings under category 5 are not appropriate for conversion to a dwellinghouse. Category 6 requires the site to be cleared of buildings and to require remediation before being re-used. If this is the case a remediation plan would be required to be submitted with the planning application. Whilst an initial survey has been submitted this does not appear to suggest that the whole site is contaminated and the former outbuildings and industrial compound only affects a small part of the site. The criteria in the brownfield part of the housing in the countryside policy are therefore not met.

The building group category is of most relevance to this proposal. The policy states that where buildings appear as an obvious group within their landscape setting permission may be granted for development within the group or by adding to the group.

The Guidance states that permission will be granted for houses within building groups providing it can be demonstrated that:

- New housing will respect the character, scale and form of the existing group, and will be integrated into the existing layout and building pattern.
- New housing will not detract from the visual amenity of the group when viewed from the wider landscape.
- A high standard of residential amenity will be provided for both existing and new housing.

In addition permission may be granted, subject to the criteria above, for houses which extend the group into a readily definable adjacent site. This will be formed by existing topography, roads or well-established existing landscape features such as a watercourse or mature tree belt which will provide a suitable setting.

In this case Tethyknowe House is a traditional dwellinghouse with a significant woodland resource which contributes to the setting of the house and the new steading style development to the north and east.

The formation of a house plot to the southwest of the existing dwellinghouse does not respect the character and form of the existing group. Development here, along with the proposed site to the east (application no. 22/01010/IPL) would engulf and surround the existing house and would not integrate into the existing layout and building pattern. Development would detract from the visual amenity of the group when viewed from the wider landscape. In addition with the plot being forward of the

principal elevation of the Tethyknowe House, along with the road layout, a high standard of residential amenity may not be provided for both the existing and new housing.

Taking account of the above there is no support for the principle of residential development on this site under Policy 19 and the associated Housing in the Countryside Guide.

Other aspects of the proposal will be considered in the report below.

## **Design and Layout**

As the application is in principle, there is no detailed dwelling proposal. However, the plans do include an indicative layout that shows a dwellinghouse and garage located to the southwest of the existing house within the wooded area.

Placemaking policies require developments to contribute positively to the quality of the surrounding built and natural environment. Housing in the Countryside “For All Proposals” criteria requires developments to enhance the surrounding environment.

The indicative siting of the proposed house and garage is likely to impact significantly on the setting and amenity of the existing house and also impact on the existing woodland. The covering letter suggests that full advantage would be taken of the southern aspect of the site to benefit from solar gain. To take full advantage of this it is likely that additional trees would be required to be removed which would diminish the landscape setting of the wider building group and would not contribute positively to the quality of the surrounding built and natural environment nor would it enhance the surroundings.

## **Landscape**

The site is part of an established landscaped area that contributes positively to the setting of the building group. The existing woodland effectively screens the existing development and contributes to the character of the area. Policy 39 requires proposals to be compatible with the distinctive characteristics and features of Perth and Kinross's landscapes and not erode local distinctiveness, diversity and quality and the quality of landscape experience.

The tree survey submitted with the application indicates that the existing trees have extensive root protection areas. Whilst it is noted in supporting information that the indicative siting seeks to avoid the trees an Arboricultural Impact Assessment would be required to demonstrate this and to assess the full impact on the existing trees. Policy 40A, Forest and Woodland Strategy that seeks to protect existing trees/woodland and Policy 40B, Trees, Woodland and Development, states that there will be a presumption in favour of protecting woodland resources. Development as proposed is likely to result in tree loss and pressure for further removal of trees if development is supported in this location. This would be to the detriment of the landscape setting of the building group and lead to an erosion of local distinctiveness, diversity and quality and the quality of landscape experience.

## **Residential Amenity**

Planning control has a duty to future occupiers not to create situations of potential conflict between neighbours. An acceptable level of amenity for the proposed properties is required.

As this is a planning in principle application the exact impact on existing amenity and the proposed residential amenity of future occupiers of housing within the development cannot be fully determined. However as mentioned above there is concern that the presence of trees close to any proposed dwellinghouse is likely to result in low amenity in terms of natural light into the house and sunlight into garden areas which is likely to result in pressure to remove further trees following occupation.

## **Visual Amenity**

The site is elevated from the public road to the south and as such the site is visually prominent. There is potential for an adverse visual impact if development occurs in the existing wooded area that could weaken the landscaped setting of the existing building group.

## **Roads and Access**

The site is accessed along an existing track from a minor road. The private track serves other houses and is also a potential recreational route having been safeguarded in earlier planning permissions. Should permission be given a condition to protect the path would be required.

Representations have been received expressing a desire to see additional passing places provided along the public road on the approach to the private access. Transport Planning has been consulted and whilst this is not specifically one of their requirements a condition is requested, if approved, to ensure all access matters and other transport facilities and infrastructure (including the disposal of surface water) shall be in accordance with the National Roads Development Guide.

An objection has been received expressing concern that further development would lead to unsustainable travel patterns. It is agreed that the site is not well served by public transport and could contribute to additional journeys that could be avoided if development was within a settlement closer to facilities and services.

## **Drainage and Flooding**

The site is not in an area identified as being at risk of river flooding.

The site will be served by mains water and a private sewage treatment plant. The application form states that a sustainable urban drainage system will be used to treat surface water. This application is being refused for other reasons however full details of surface water and foul drainage infrastructure would be required should any detailed proposals be put forward.

## **Conservation Considerations**

The property is not listed nor within a conservation area. The site is of some historic interest with Tethyknowe House being recorded on historic maps since 1866. The area to the south was previously set out as formal gardens with the woodland areas to the south and west and tree lined driveway developing over time. The positioning of residential development would disrupt this historic relationship and detract from the setting of the main house.

## **Natural Heritage and Biodiversity**

A Preliminary Ecological Appraisal Report and Tree Survey has been submitted. A range of biodiversity enhancements and requirements for further survey have been set out by the Biodiversity Officer to inform any further detailed submission. Policy 40 requires all proposals to enhance biodiversity. If this application is approved a condition would be attached requiring further ecological survey work to be undertaken and enhancement measures included in any detailed submission.

## **Contaminated Land**

Three objections have been received relating to contaminated land concerns. Supporting information provided by the applicant includes the submission of a Geo-Environmental Design Report prepared by Corebrook Engineering dated December 2021. Further investigations and works will be required on this site before development is carried out.

If approved a contaminated land condition would be applied.

## **Coal**

The Coal Authority has been consulted. The application site does not fall within the defined Development High Risk Area and is located instead within the defined Development Low Risk Area. This means that there is no requirement under the risk-based approach that has been agreed with the Local Planning Authority (LPA) for a Coal Mining Risk Assessment to be submitted or for The Coal Authority to be consulted. An informative note would be required.

## **Zero Carbon**

Policy 32 seeks to ensure use of low and zero-carbon technologies. Compliance with this policy would be required should a detailed application be submitted.

## **Developer Contributions**

### **Primary Education**

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 at over 80% and is likely to be operating



following completion of the proposed development, extant planning permissions and Local Development Plan allocations, at or above 100% of total capacity.

This proposal is within the catchment of Fossoway Primary School.

Any approval would require a condition to ensure any future development is in accordance with the requirements of Perth & Kinross Council's Developer Contributions and Affordable Housing Supplementary Guidance 2020 in line with Policy 5: Infrastructure Contributions of the Perth & Kinross Local Development Plan 2 (2019) with particular regard to primary education infrastructure, or such subsequent Guidance and Policy which may replace these.

### **Economic Impact**

The economic impact of the proposal is likely to be minimal and limited to the construction phase of the development.

### **VARIATION OF APPLICATION UNDER SECTION 32A**

This application was not varied prior to determination, in accordance with the terms of section 32A of the Town and Country Planning (Scotland) Act 1997, as amended.

### **PLANNING OBLIGATIONS AND LEGAL AGREEMENTS**

None required.

### **DIRECTION BY SCOTTISH MINISTERS**

None applicable to this proposal.

### **CONCLUSION AND REASONS FOR DECISION**

To conclude, 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 be contrary to the Development Plan. Account has been taken of the relevant material considerations and none has been found that would justify overriding the adopted Development Plan.

Accordingly the proposal is refused on the grounds identified below.

### **Reasons**

- 1 The proposed development is contrary to Placemaking Policies 1A and 1B of the Perth and Kinross Local Development Plan 2 (2019). Residential development of this site would not contribute positively to the built and natural environment and detract from the landscaped setting of the existing building group.
- 2 The proposal is contrary to Policy 19, Housing in the Countryside, of the Perth and Kinross Local Development Plan 2 (2019) and the associated Housing in the Countryside Supplementary Guidance (March 2020) as it does not meet any of the criteria within the categories 1) Building Groups, 2) Infill sites, 3) New houses in the open countryside, 4) Renovation or replacement of

houses, 5) Conversion or replacement of redundant non-domestic buildings and 6) Development on rural brownfield land.

Development of the proposed site would not integrate into or enhance the surrounding environment and would detract from the visual amenity of the existing building group and surrounding area.

- 3 The proposal is contrary to Policy 39, Landscape, of the Perth and Kinross Local Development Plan 2 (2019). This requires proposals to be compatible with the distinctive characteristics and features of Perth and Kinross's landscapes and not erode local distinctiveness, diversity and quality and the quality of landscape experience. Development of the site would significantly diminish the landscape setting of the wider building group and would erode local distinctiveness and the historic and cultural dimension of the local landscape.
- 4 The proposal is contrary to Policy 40A, Forest and Woodland Strategy, of the Perth and Kinross Local Development Plan 2 (2019) that seeks to protect existing trees and woodland. It is also contrary to Policy 40B, Trees, Woodland and Development, of the Perth and Kinross Local Development Plan 2 (2019) which states that there will be a presumption in favour of protecting woodland resources. It has not been demonstrated that development of the site can be achieved without significant impact on the existing woodland resource.

### **Justification**

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

### **Informatives**

None.

### **Procedural Notes**

Not Applicable.

### **PLANS AND DOCUMENTS RELATING TO THIS DECISION**

01  
02  
03  
04  
05  
06  
07  
08



Pullar House 35 Kinnoull Street Perth PH1 5GD Tel: 01738 475300 Fax: 01738 475310 Email: [onlineapps@pkc.gov.uk](mailto:onlineapps@pkc.gov.uk)

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100567320-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Type of Application

What is this application for? Please select one of the following: \*

- ☐ Application for planning permission (including changes of use and surface mineral working).
- ☒ Application for planning permission in principle.
- ☐ Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- ☐ Application for Approval of Matters specified in conditions.

## Description of Proposal

Please describe the proposal including any change of use: \* (Max 500 characters)

Single dwelling and garage

Is this a temporary permission? \*

☐ Yes ☒ No

If a change of use is to be included in the proposal has it already taken place?  
(Answer 'No' if there is no change of use.) \*

☐ Yes ☒ No

Has the work already been started and/or completed? \*

☒ No ☐ Yes – Started ☐ Yes - Completed

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☐ Applicant ☒ Agent

## Agent Details

Please enter Agent details

Company/Organisation:	Houghton Planning Ltd		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Paul	Building Name:	Alloa Business Centre
Last Name: *	Houghton MRTPI	Building Number:	
Telephone Number: *	07780117708	Address 1 (Street): *	Whins Road
Extension Number:		Address 2:	Alloa
Mobile Number:		Town/City: *	Clacks
Fax Number:		Country: *	Scotland
		Postcode: *	FK10 3RF
Email Address: *	paul@houghtonplanning.co.uk		
Is the applicant an individual or an organisation/corporate entity? *			
<input type="checkbox"/> Individual <input checked="" type="checkbox"/> Organisation/Corporate entity			

## Applicant Details

Please enter Applicant details

Title:		You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	Unit 4
First Name: *		Building Number:	
Last Name: *		Address 1 (Street): *	Cooperage Way
Company/Organisation	Kaas Ventures Ltd	Address 2:	
Telephone Number: *		Town/City: *	Alloa
Extension Number:		Country: *	Clacks
Mobile Number:		Postcode: *	FK10 3LP
Fax Number:			
Email Address: *	paul@houghtonplanning.co.uk		

## Site Address Details

Planning Authority:

Perth and Kinross Council

Full postal address of the site (including postcode where available):

Address 1:

TETHYKNOWE HOUSE

Address 2:

BLAIRINGONE

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

DOLLAR

Post Code:

FK14 7ND

Please identify/describe the location of the site or sites

Northing

695260

Easting

301493

## Pre-Application Discussion

Have you discussed your proposal with the planning authority? \*

☒ Yes ☐ No

## Pre-Application Discussion Details Cont.

In what format was the feedback given? \*

☐ Meeting ☐ Telephone ☐ Letter ☒ Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) \* (max 500 characters)

.

Title:

Mr

Other title:

Development Management

First Name:

John

Last Name:

Russell

Correspondence Reference  
Number:

21/00385/PREAPP

Date (dd/mm/yyyy):

02/08/2021

Note 1. A Processing agreement involves setting out the key stages involved in determining a planning application, identifying what information is required and from whom and setting timescales for the delivery of various stages of the process.

## Site Area

Please state the site area:

0.20

Please state the measurement type used:

☒ Hectares (ha) ☐ Square Metres (sq.m)

## Existing Use

Please describe the current or most recent use: \* (Max 500 characters)

Garden and industrial site

## Access and Parking

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

☐ Yes ☒ No

If Yes please describe and show on your drawings the position of any existing. Altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any change to public paths, public rights of way or affecting any public right of access? \*

☐ Yes ☒ No

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

## Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? \*

☒ Yes ☐ No

Are you proposing to connect to the public drainage network (eg. to an existing sewer)? \*

- ☐ Yes – connecting to public drainage network  
☒ No – proposing to make private drainage arrangements  
☐ Not Applicable – only arrangements for water supply required

As you have indicated that you are proposing to make private drainage arrangements, please provide further details.

What private arrangements are you proposing? \*

- ☐ New/Altered septic tank.  
☒ Treatment/Additional treatment (relates to package sewage treatment plants, or passive sewage treatment such as a reed bed).  
☐ Other private drainage arrangement (such as chemical toilets or composting toilets).

Please explain your private drainage arrangements briefly here and show more details on your plans and supporting information: \*

.

<p>Do your proposals make provision for sustainable drainage of surface water?? * (e.g. SUDS arrangements) *</p> <p>Note:-</p> <p>Please include details of SUDS arrangements on your plans</p> <p>Selecting 'No' to the above question means that you could be in breach of Environmental legislation.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
---	---

<p>Are you proposing to connect to the public water supply network? *</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No, using a private water supply</p> <p><input type="checkbox"/> No connection required</p> <p>If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).</p>
---

<h2 style="margin: 0;">Assessment of Flood Risk</h2>	
<p>Is the site within an area of known risk of flooding? *</p> <p>If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.</p> <p>Do you think your proposal may increase the flood risk elsewhere? *</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Don't Know</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Don't Know</p>

<h2 style="margin: 0;">Trees</h2>	
<p>Are there any trees on or adjacent to the application site? *</p> <p>If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>

<h2 style="margin: 0;">All Types of Non Housing Development – Proposed New Floorspace</h2>	
<p>Does your proposal alter or create non-residential floorspace? *</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>

<h2 style="margin: 0;">Schedule 3 Development</h2>	
<p>Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013 *</p> <p>If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.</p> <p>If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Don't Know</p>

<h2 style="margin: 0;">Planning Service Employee/Elected Member Interest</h2>	
<p>Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? *</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>

## Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? \*

☐ Yes ☒ No

Is any of the land part of an agricultural holding? \*

☐ Yes ☒ No

Are you able to identify and give appropriate notice to ALL the other owners? \*

☒ Yes ☐ No

## Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate B



# Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

I hereby certify that

(1) - No person other than myself/the applicant was an owner [Note 4] of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application;

or –

(1) - I have/The Applicant has served notice on every person other than myself/the applicant who, at the beginning of the period of 21 days ending with the date of the accompanying application was owner [Note 4] of any part of the land to which the application relates.

Name: . WJ and FE Lindsay

Address: 1, Tethyknowe Steading, Blairingone, Dollar, Scotland, FK14 7ND

Date of Service of Notice: \* 31/05/2022

Name: . G and J Pye

Address: 2, Tethyknowe Steading, Blairingone, Dollar, Scotland, FK14 7ND

Date of Service of Notice: \* 31/05/2022

Name: . RI and MA McArthur

Address: 3, Tethyknowe Steading, Blairingone, Dollar, Scotland, FK14 7ND

Date of Service of Notice: \* 01/06/2022

Name: . JM McBrien

Address: 4, Tethyknowe Steading, Blairingone, Dollar, Scotland, FK14 7ND

Date of Service of Notice: \* 31/05/2022

Name: . JP Davey

Address: 5, Tethyknowe Steading, Blairingone, Dollar, Scotland, FK14 7ND

Date of Service of Notice: *	31/05/2022
Name:	. MRA and SM O'Bryen
Address:	6, Tethyknowe Steading, Blairingone, Dollar, Scotland, FK14 7ND
Date of Service of Notice: *	31/05/2022

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding;

or –

(2) - The land or part of the land to which the application relates constitutes or forms part of an agricultural holding and I have/the applicant has served notice on every person other than myself/himself who, at the beginning of the period of 21 days ending with the date of the accompanying application was an agricultural tenant. These persons are:

Name:	
Address:	

Date of Service of Notice: *	
------------------------------	--

Signed: Paul Houghton MRTPI

On behalf of: Kaas Ventures Ltd

Date: 01/06/2022

☒ Please tick here to certify this Certificate. \*

## Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? \*

☐ Yes ☐ No ☒ Not applicable to this application

b) If this is an application for planning permission or planning permission in principle where there is a crown interest in the land, have you provided a statement to that effect? \*

☐ Yes ☐ No ☒ Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? \*

☐ Yes ☐ No ☒ Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? \*

☐ Yes ☐ No ☒ Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? \*

☐ Yes ☐ No ☒ Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? \*

☐ Yes ☐ No ☒ Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

☒ Site Layout Plan or Block plan.

☐ Elevations.

☐ Floor plans.

☐ Cross sections.

☐ Roof plan.

☐ Master Plan/Framework Plan.

☐ Landscape plan.

☐ Photographs and/or photomontages.

☐ Other.

If Other, please specify: \* (Max 500 characters)

Provide copies of the following documents if applicable:

A copy of an Environmental Statement. \*

☐ Yes ☒ N/A

A Design Statement or Design and Access Statement. \*

☐ Yes ☒ N/A

A Flood Risk Assessment. \*

☐ Yes ☒ N/A

A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). \*

☐ Yes ☒ N/A

Drainage/SUDS layout. \*

☐ Yes ☒ N/A

A Transport Assessment or Travel Plan

☐ Yes ☒ N/A

Contaminated Land Assessment. \*

☒ Yes ☐ N/A

Habitat Survey. \*

☒ Yes ☐ N/A

A Processing Agreement. \*

☐ Yes ☒ N/A

Other Statements (please specify). (Max 500 characters)

Tree Survey

## Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mr Paul Houghton MRTPI

Declaration Date: 01/06/2022

## Payment Details

Pay Direct

Created: 01/06/2022 12:27

31<sup>st</sup> May 2022

Planning and Development,  
Pullar House,  
Kinnoull Street,  
Perth  
PH1 5GD

Our Ref.: PH

Dear Sirs,

**Tethyknowe House, Blairingone, Dollar, FK14 7ND – West Plot**

Houghton Planning Ltd has been instructed by Kaas Ventures Ltd to submit an Application for Planning Permission in Principle for a 'Single dwelling and garage' at the above site.

This is one of two Applications being submitted in relation to the wider Tethyknowe site, which are being described as Tethyknowe West Plot and Tethyknowe East Plot. This Covering Letter deals with the West Plot, and a separate Covering Letter has been prepared for the East Plot.

Tethyknowe itself is excluded from both Applications, and will likely be refurbished and sold in due course, with a smaller garden area assuming one or both of the current Applications are successful.

The whole of the Tethyknowe site has been the subject of a pre-application enquiry ref: 21/00385/PREAPP. The response received includes information on the policy and guidance basis for decision-making on houses in the countryside, and offers advice on what the relevant planning issues will be.

This Application for the West Plot is accompanied by the following.

- (this) Covering Letter.
- Location Plan.
- Site Plan.
- Geo-environmental Design Report.
- Tree Survey.
- Preliminary Ecological Appraisal.

## **The Site**

Tethyknowe is situated just over 3 kilometres south east of Blairingone. It comprises a large detached and dilapidated villa, which is set within mature gardens, with trees within and fringing the site.

The house forms part of a Building Group, with six other newer substantial detached properties, which all take access via a private tree-lined road that connects to the B913, and which itself connects with the wider road network to the west and east. The private road is owned by all the properties forming the Building Group.

The newer properties were consented in 2005 and 2006, and replaced various farm buildings on what was Tethyknowe Farm

There are no core paths in this locale, with walkers or cyclists using the B913.

Tethyknowe is not the subject of any national, regional, or local, designations, and is not within an area that is identified as at risk of flooding. That said, because of the mature gardens and trees both a Tree Survey and Preliminary Ecological Assessment have been prepared, and are being submitted with this Application. These cover the entirety of the site, i.e. both the West Plot and East Plot and, indeed, Tethyknowe house itself.

The West Plot lies to the south west of Tethyknowe. It can be distinguished from the East Plot in that it has been the subject of previous industrial use, which has only recently ended. This has significantly degraded this site, and so it can be considered to be brownfield. This area has the remnants of heavy engineering tools, oil drums and equipment, and various buildings, which were used for metal fabrication. A full intrusive investigation has not taken place, but commentary of this land is included in the Geo-environmental Design Report, and there is likely to be contamination that needs to be dealt with in developing the land for a new dwelling.

## **The Proposal**

The proposal is to build a single detached dwelling on the plot, probably with a separate garage. This would be served by connecting to the existing Tethyknowe driveway, and then via that to the existing shared private road.

The Site Plan shows an indicative position, and orientation, for the dwelling that avoids the trees on site, but all details, other than access, are being left for later approval.

The proposed dwelling will be designed to take full advantage of the southern aspect, with the Applicant's aspiration being for a contemporary design, grounded by vernacular materials and detailing, but tending toward Passive House type standard in its environmental credentials.

Foul drainage for the dwelling will be to a bio-disc treatment plant and below ground soak-away.

Storm water outfall from the development will be taken to neighbouring water course to the south via an existing piped discharge.

## Planning Policy and Guidance

The Perth and Kinross Local Development Plan 2 (LDP) includes the following relevant policies:

- Policy 1A: Placemaking
- Policy 1B: Placemaking
- Policy 5: Infrastructure Contributions
- Policy 6: Settlement Boundaries
- Policy 19: Housing in the Countryside
- Policy 39: Landscape
- Policy 40A: Forestry, Woodland and Trees: Forest and Woodland Strategy
- Policy 40B: Forestry, Woodland and Trees: Trees, Woodland and Development
- Policy 41: Biodiversity
- Policy 53B: Water Environment and Drainage: Foul Drainage
- Policy 53C: Water Environment and Drainage: Surface Water Drainage
- Policy 53E: Water Environment and Drainage: Water Supply
- Policy 60B: Transport Standards and Accessibility Requirements: New Development Proposals

The most relevant supplementary planning guidance is.

- Housing in the Countryside Supplementary Guidance

The Housing in the Countryside Guidance allows for new dwellings to be built in the countryside if they can be demonstrated to fall within one of the following categories.

- Building Groups.
- Infill sites.
- New houses in the open countryside on defined categories of sites as set out in section 3 of the Supplementary Guidance.
- Renovation or replacement of houses.
- Conversion or replacement of redundant non-domestic buildings.
- Development on rural brownfield land

The two categories that are relevant here are 'Development on rural brownfield land' and to a lesser extent 'Building Groups'.

Technically, because the site has buildings on it, the appropriate section of the guidance is 'Category 5 - Conversion or replacement of redundant traditional non-domestic buildings'. This states that in proposing the redevelopment of such sites, it needs to be shown that the remaining buildings are incapable of being reused, and are surplus to requirements. Both of these are straightforward to show in this case because the buildings are barely standing, and are well beyond reuse, whilst the business that was occupying the site has already decamped elsewhere. When in situ it constituted a 'bad neighbour use', and its relocation is both beneficial in terms of the residential amenity of existing dwellings in this area, but will also allow for the proper remediation of the site.

'Category 1 - Building Groups' defines a Building Group as having *"3 or more existing buildings of a size at least equivalent to a traditional cottage and which, when viewed within their*

*landscape setting, appear as a group*". This is considered to exist at Tethyknowe, and this was accepted by the case officer in responding to the pre-application enquiry.

In such cases, the guidance states that.

*"Permission will be granted for houses within building groups providing it can be demonstrated that:*

- *New housing will respect the character, scale and form of the existing group, and will be integrated into the existing layout and building pattern.*
- *New housing will not detract from the visual amenity of the group when viewed from the wider landscape.*
- *A high standard of residential amenity will be provided for both existing and new housing."*

## **Planning Appraisal**

### **Principle**

The main argument in favour of a new dwelling on the West Plot is that this site is severely degraded, due to its previous industrial use, and its redevelopment will allow for the contamination that is almost certainly present to be dealt with. As such, it is acceptable under 'Category 5 - Conversion or replacement of redundant traditional non-domestic buildings'.

Furthermore, although it need not be shown that it also complies with another Category, it can also be argued that 'Category 1 - Building Groups' is relevant. This is because the West Plot clearly sits within the landscape setting of the Building Group that is defined on this edge by the mature planting and trees on the edge of the Tethyknowe garden.

Viewed on an Ordnance Survey base (first image below), you can identify the Group in two ways. Firstly, you can define it as including all dwellings, gardens and roads, including the private road and the trees that fringe that road (blue line below), or, secondly, you can exclude the private road, and instead define it as just including those areas that are dwellings and their related domestic gardens (red line below). Whichever one you use, the West Plot clearly falls within the Group. This is even more obvious if you look at an aerial image (second image below) where the Group is easy to pick out, with the mature trees defining it to the west and south, and gardens boundaries to the north and east, and with the West Plot falling full square within the Group.





Dealing with the remaining requirements for a plot to be accepted within a Group, then the existing trees will also mean that the new dwelling will barely be seen in the wider landscape. The only views of the Group are from the B913, which will be transitory, and, due the distance involved, the existing houses are barely seen (see image below). In this photograph, 5 Tethyknowe is just visible on the eastern extremity of the view, and a small part of the roof of 4 Tethyknowe is also just visible next to this. Tethyknowe itself can just be seen through the trees if you look really hard.



Also, because of where the plot sits, in relation to the Group, the new dwelling will in no way detract from the setting of any the existing dwellings, or the one proposed on the East Plot, or Tethyknowe itself.

Furthermore, the plot is generous enough, and the positioning is such, that there will be no residential amenity impacts.

With a strong argument in favour of a dwelling being acceptable on the plot that just leaves the details to be considered.

### **Design and Layout**

The design and layout is being left for later approval, as explained above. However, the positioning and orientation of the proposed dwelling, as far as that is shown on the indicative Site Plan does fit with the wider Group.

### **Residential Amenity**

There will be overlooking, loss of privacy, or loss of sunlight/daylight, issues for existing, or, indeed, proposed dwellings.

### **Trees and Woodland**

A Tree Survey has been prepared, and this shows how development can take place without leading to the loss of any of the remaining mature trees. Site infrastructure also takes cognisance of the existing woodland resource.

### **Biodiversity**

A preliminary Ecological Assessment has been prepared and concludes that development can take place on the site.

Based upon the above, it is considered that the proposal accords with Housing in the Countryside Guidance and, as such, complies with Policy 19: Housing in the Countryside in the LDP. Furthermore, all technical matters can/have been addressed and, therefore, all other policies in the LDP can/have been complied with as well. For that reason, it is hoped that Planning Permission in Principle will be forthcoming in due course.

In the meantime, if you require any further information to allow this Application to be validated please get in touch.

Yours faithfully

Paul Houghton MRTPI  
Director on behalf of Houghton Planning Ltd







The use of this data by the recipient acts as an agreement of the following statements. Do not use this data if you do not agree with any of the following statements:-

Only scale for planning purposes. Use figured dimensions in all cases. Check all dimensions on site. Report any discrepancies in writing to the author of this drawing before proceeding.



Amendment

Status  
Planning

Project  
Tethyknowe  
Blairingone  
Dollar

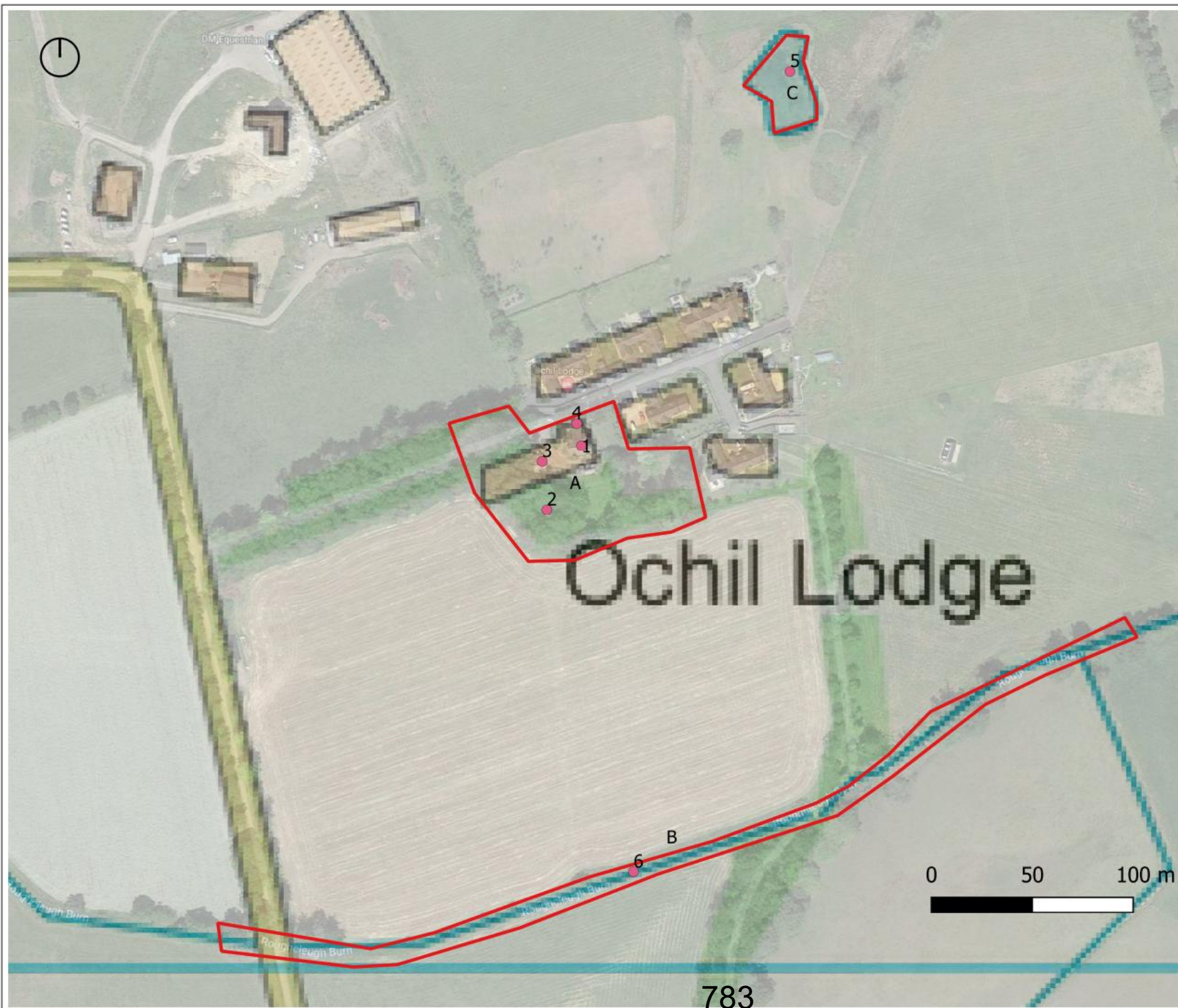
Drawing  
Location Plan

Drawing No.	Originator	Level	Type	Role	Number
Project ID	-	-	-	-	PL_101
Project	Scale at A3	Drawn By	Status	Revision	
045	1:2500	JD			









## LEGEND

- Target note
- Survey Area

Copyright Information:  
OpenStreetMap contributors



Moving Still Architecture Ltd

Tethyknowe

Preliminary Ecological Appraisal

Figure 1 - Survey Area and Target Notes

Version: 1.0  
Date: 30/03/2022  
Scale: 1:2,500

# **Geo-environmental design report**

Site: Tethyknowe House, Blairingone, near Dollar

Project: New multi dwelling development

Document number: 0096/REP/003 revision P1

Revision history:

Rev P0	First issue	dated: 25 <sup>th</sup> November 2021
Rev P1	Second issue	dated 9 <sup>th</sup> December 2021



**Corebrook Engineering Limited**

Consulting Civil, Structural and Environmental Engineers

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## Executive summary

Corebrook Engineering Limited have been appointed by Amal Construction Limited to review the proposal to make alterations and extension to an existing house, with two new domestic dwellings in the grounds. Although one of the new dwellings is proposed to sit within the gardens of Tethyknowe House, the second is proposed to be located within the footprint of a manufacturing/industrial unit which is considered as development within a brownfield site. This is likely to present an advanced enabling works that addresses any contamination concerns raised. This Geo Environmental report therefore takes this into account through a stage 2 contaminated land risk assessment along with findings from a geotechnical and soil percolation tests.

## Introduction

The following geo-environmental design report has been prepared to support the civil and structural design of two new dwellings within the confines of Tethyknowe House near Blairingone. This report also includes a phase 2 contaminated land risk assessment, along with supporting intrusive soil investigation and chemical testing undertaken in conjunction with the geotechnical investigations.

This report and the geotechnical investigations have been prepared in reference to BS 5930:2015 +A1:2020 Code of practice for ground investigations, and BRE Report 365 – Soakaway Design. The conceptual model used for the contamination risk assessment has been prepared in reference to the R&D Publication CLR10 published by the Department for the Environment and Rural Affairs (DEFRA).

This design report has been prepared to support the initial outline design phase of the development and is subject to ongoing development and revision as architectural details and structural recommendations are developed, both influencing the choice and parameters of the foundation design and strategy of a ground contamination mitigation and control.

### Geotechnical category of the proposed structure

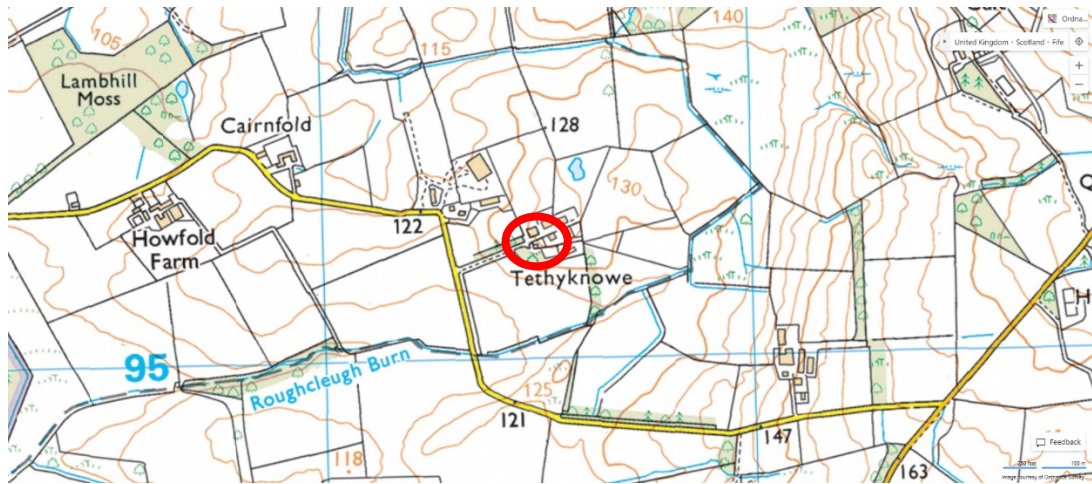
The ground investigation should be appropriate to the proposed structure and yield sufficient information for which the geotechnical design should be based upon. It is anticipated that the development will consist of two detached, storey and a half dwellings. The foundations are likely to consist of conventional foundation arrangements with no exceptional risk or difficult soil or loading conditions, supported with routine procedures for field and laboratory testing, designed through quantitative geotechnical data and structural analysis to develop appropriate load cases and foundation assessments. The geotechnical category has therefore been determined as a category 1, small simple structures with negligible risk.

### Site history

The presence of Tethyknowe House has been recorded on historic maps since 1866, and there is no known significant change to the main dwelling since, other than a rear extension. A site reconnaissance recorded the presence of a heavy engineering tools and equipment and was later to be understood that the outbuildings and industrial compound that includes metal fabrication and alike. The ground to the southern elevation of the main house have been used as featured gardens and also includes a tennis court.

### Topography

The site lies at between 125m and 130m AOD, with the ground level falling to the south down towards Roughcleugh Burn which lies around 120mAOD at the closest point.



Site location plan

## Investigation and appraisal strategy

The proposed intrusive investigation includes a series of trial holes, soakway tests and soil chemical sampling which can be passed to an MCERT and UKAS accredited laboratory for testing. Natural stratigraphy is anticipated at shallow depth therefore a 1.8 tonne mini excavator with a reach of around 2.2m should be sufficient to excavate down through any made ground, superficial deposits down to natural consistent soils.

The methods of assessment used to create the report sections pertaining to the contaminated land environmental assessment are developed in accordance with the Department of the Environment, Transport and the Regions Circular 01/2006, Statutory Guidance on Contaminated Land dated September 2006, and the DEFRA/ Environment Agency, Model Procedures for the Management of Land Contamination, CLR11, September 2004 and the Department of the Environment, Transport and the Regions, Environment Agency and Institute of Environmental Health's Guidelines for Environmental Risk Assessment and Management. Further reference is also made to CIRIA C552 - Contaminated Land Risk Assessment, A Guide to Good Practice, with the investigations being scheduled with reference to the British Standard Investigation of potentially contaminated sites BS10175:2011+A1:2013.

These best practise methods, which are accepted by regulators, require the development of a site specific assessment using "source-pathway-receptor pollution linkages". For risk to exist each stage of the pollution linkage must be present. If there is no pollution linkage, then there is no risk. If a pollution linkage is established, the assessment will then consider the level of risk and whether any further works or actions are required to clarify, manage or mitigate the risk.

While land contamination is a material consideration in ensuring a site is suitable for its planned use, references to the phrase "contaminated land" in this report, relate to the statutory definition of Contaminated Land under the Environmental Protection Act 1990: Part IIa Contaminated Land, unless otherwise stated.

That definition is:

"any land which appears to the Local Authority in whose area it is situated to be in such condition, by reason of substances on, in or under the land that:

- (a) Significant harm is being caused or there is a significant possibility or such harm being caused; or
- (b) Significant pollution of the water environment is being caused or there is a significant possibility of such pollution being caused".

### Risk assessment framework

To determine if a site presents environmental risks and whether or not the risks are acceptable the risks are evaluated initially by development of a carefully structured process in accord with relevant guidance. This starts by reviewing historic land-use to establish if this may have caused contamination to be present, constituting a source of hazard. The environmental setting must then be reviewed to establish if anything in the nature or context of the site and its location may create pathways which allow hazards to come into contact with environmentally sensitive uses. Lastly the process must consider the current and/or proposed use of a site to establish if receptors such as site users, the water environment, property etc.

may be at risk from contamination hazards. Completing this process as Stage 1 allows recommendations to be made regarding potential environmental liabilities associated with purchase or proposed development of land and what type of further information is required to qualify and quantify these hazards and risks and determine if remedial measures are necessary to reduce them.

### Planned Developments

To gain regulatory approval developments on brownfield or previously used land, typically a contamination risk assessment along with proposed remedial action statement is required to ensure land is suitable for use and not classified as contaminated land. This involves submission to the Planning authority of up to 4 stages of risk assessment and management reporting. The accepted procedure for undertaking an environmental risk assessment uses the source-pathway-receptor methodology to develop a Conceptual Site Model (CSM) of risk linkages.

"Risks identified at Stage 1 are indicative and speculative based upon a desk study of historic activity and the environmental setting in context of the development proposals. The CSM developed at stage 1 establishes how possible contamination hazards may cause harm or pollution and an assessment of potential risk informs recommendations for the stage 2 ground investigation, to qualify and quantify hazards and pathways, and evaluate actual risk using site data. Recommendation is made at stage 2, as necessary for remedial measures with a stage 3 remediation plan being submitted for agreement by the Planning Authority. The agreed remedial measures are then validated at stage 4 with a Remediation Validation report of the as built construction, providing various details, specifications, photographs and drawings of remediation. This is submitted for agreement by the Planning Authority at Stage 4, demonstrating the site has been made suitable for use and is not considered as contaminated whilst also obtaining final discharge of the contaminated land planning condition.

### Current Land Use

The former land uses are the principal sources of hazard which may cause concern over contamination or environmental pollution occurring on or due to a site. A walkover inspection of the site is undertaken to view the site and adjacent land in its current condition. Evidence of historic activities, derelict structures or utilities as well as the general condition of the land are noted and factored into the risk evaluation process.

### Historical Land Use

Information about the environmental setting and history of development at a site is obtained by review of historic Ordnance Survey maps. Some of the oldest nationwide mapping from the 19th century is available to view online free at websites such as <http://maps.nls.uk/index.html>. These provide an excellent record of the historical uses of a site, are often the best source of information and are the minimum requirement for completing a Stage 1 assessment.

On some more intensively developed areas additional databases are beneficial in compiling a history of past contaminative uses. These include licensed activities regarding storage of fuels, waste management, permitted industrial processes and registers of incidents. Historic aerial photography and postal registers can also be useful. Providers include reporting from Landmark Envirocheck.

### Environmental Setting

The environmental setting of a site is reviewed to establish if anything in the context of a sites location may create pathways for hazards to cause risk. This includes a review of published information on the geology, hydrogeology and hydrology of the land. Consideration is also made of environmental sensitivity in the area, such as designated land-use as nature reserve or protected water environment.

The sensitivity is assessed using British Geological Survey (BGS) information and data on groundwater and surface water protected areas from SEPA and the local authorities. Some data on water abstractions can be purchased from environmental database companies. The vulnerability of surface water and groundwater is based on sensitivity to pollution, distance from abstractions, type and nature of groundwater and type of overlying strata.

Having established a sites environmental setting, the level of contamination, if any on site, can be evaluated in context. Soil contamination and even water pollution if present in a “non-sensitive” setting may not be a material consideration for evaluating land in its current condition or for the purpose of proposed re-development.

### Environmental Legislation

The need to evaluate land quality is prescribed in Part IIA of the Environmental Protection Act 1990 (EPA 1990) and the Water Resources Act 1991. These Acts address environmental protection measures for land, water and air in the UK. The Local Authority are primary regulator of air and land quality and SEPA for water quality. While some information is available from environmental database companies, other more site specific data may be requested from local authorities’ under the Environmental Information (Scotland) Regulations 2004. This information usually identifies if the authority already has concerns about contamination at a site.

### Environmental risk assessment

The first stage of qualitative risk assessment is to develop a conceptual site model for the site specific scenario. The first consideration is to establish if a source of contamination or pollution hazard has been present or still exists on the land and define the associated potential contaminants of concern. As well as the type of source, the extent, concentration and availability of a contaminant is also assessed.

The level of risk associated with a hazard is largely governed by the sensitivity of a receptor. Receptors may typically include people, buildings, animals, plants and local resources (such as groundwater, surface waters, nature reserves). For example, if a commercial site is to be redeveloped into a residential housing estate, a residential use is considered more sensitive than a commercial use. Contamination hazards are more likely to present risks if present in a private garden than if buried under a concrete slab. The presence of contamination (as a potential hazard) does not necessarily mean that there is a risk. It is the exposure pathway and the quantity of contamination that reaches the receptor which may determine the effect on a receptor. For example if a concrete slab covers the contamination it may be considered a barrier preventing contaminant contact with site users and preventing infiltration of rainwater from washing contamination off-site into the water environment.

The risk classification for both likelihood and consequence is based on methodology presented in Contaminated Land Risk Assessment, A Guide to Good Practice (CIRIA C552, 2001) and has been developed from procedures outlined in DETR Circular 02/2000. The DETR,



with the Environment Agency (EA), SEPA and Institute of Environment & Health, has also published guidance on risk assessment (Guidelines for Environmental Risk Assessment and Management). The guidance states that the designation of risk is based upon consideration of both:

The magnitude of the consequence (severity) of risk occurring, which takes account of both the potential severity of the hazard and the sensitivity of the receptor; and the likelihood of an event occurring (probability) which takes of both the presence of the hazard and receptor and the integrity of the pathway.

#### Environmental risk assessment methodology

The magnitude of consequence (severity) and likelihood (probability) are defined in the CIRIA guidance, together with examples. Scores are allocated in this report to receptor sensitivity and hazard severity to enable a matrix evaluation of the relative magnitude of consequence if a pollution linkage were to exist.

## Stage 1 - preliminary conceptual site model

### General

The establishment of a site model will inform the potential presence and impact of contamination at the site, considering the environmental context and the geology, topography, hydromorphology and past and present land use.

The key parameters of the model are the conjectured conditions at the site and the potential sources of contamination, routes or migration pathways and the possible receptors. The initial sources were determined from the reconnaissance visit, and supported with the detailed survey and intrusive investigation.

### Geology and mining

It is noted that an opencast coal mine is located at Meadowhill, Forestmill which lies around 3.0 miles to the west of the site. There is no known mining beneath or within close vicinity of the site, nor would the nearby opencast influence the development.

In review of the geological mapping provided by the British Geological Survey ([www.bgs.ac.uk](http://www.bgs.ac.uk)) the stratigraphy underlying the site footprint comprises Devensian Till above a sedimentary rock seam, with a bounding limestone seam.

### Surface water infiltration

It was anecdotally concluded that the impervious nature of the underlying firm clays presented an effectively impervious formation with pluvial surface water run-off is shed across the adjacent agricultural land and discharges into the Roughcleugh Burn. Subsequent soil percolation testing, as detailed in later chapters of this report concurred with this assumption.

### Hydrogeology

The interpretation of the hydrogeology considers the topsoil, superficial deposits and underlying bedrock. The typical permeability rate of each is considered to be medium, very low and low respectively. The underlying limestone bedrock could potentially support a groundwater body, although due to the recorded presence of a near impermeable soil strata which could act as an aquiclude which would restrict ant interaction of shallow and deeper

groundwater bodies, it is considered that any intermixing between perched shallow groundwater and the deeper aquifer would be limited.

#### Potentially contaminative sources

The site has historically been allocated for mature gardens with features such as a tennis court, sunken ornate circular terraced planter and stone rockeries and walls, with the potential contamination sources being more likely limited to the more recent industrial activity.

Sources are summarised as;

1. Asbestos from workshop roof panels
2. Diesel storage tanks (x2)
3. Heating oil storage tank
4. Operation and maintenance of mechanical plant and machinery
5. Oil separator and discharge from the garage inspection pit

#### Asbestos roofing

The survey noted that the timber framed workshop includes a concrete fibre / asbestos sheeting which are currently intact and contained to the roofing. No sheet remnants, fragments or damage was noted to suggest that asbestos contamination has spread beyond the roof footprint.

#### Diesel storage tanks

Two diesel oil tanks were noted, one with 1000 litre capacity and the other with 1800 litre capacity. Both tanks are perched on stilts above the ground level and benefit from the inclusion of brick containment bunds. Although complete, the capacity for liquid retention could not be ascertained.

#### Heating oil storage tank

To the east of the existing main house, lies a plastic 1800 litre kerosene oil storage tank which is understood to feed the heating boiler of the main house. The tank is supported from two masonry piers and unlike the other tanks does not have any spill containment.

#### Mechanical plant and machinery

The survey noted the presence of a diesel fork lift truck in addition to plant which contain, use or dispense heavy oils.

#### Oil separator

It is understood that the outflows from the bunds, surface water drainage and workshop service trench outlet discharges into a soil separator located to the south of the workshop building. It is unknown of the maintenance history or construction of the separator and therefore poses a risk to chemical and hydrocarbon discharge to the surrounding soils.

#### Proposed development

In addition to the renovation of the original Tethyknowe House, two further dwellings are proposed within the site boundaries. The footprints are likely to overlap with the existing workshops and garden area to the south east of the original house. Access roads are also to be formed that links all three dwellings to the existing gateway.

#### Potential sources/receptors/pathway relationships

The presence of the oil storage tanks, of which the two tanks within the workshop confines are of steel plate construction, are aged and likely to be beyond their serviceable life. The tanks do however include brick bunds built up from a concrete slab but due their age and condition are unlikely to contain the oils should fracture occur.

The Kerosene tank which lies to the east of Tethyknowe House is a Klargestor HDPE plastic tank, sitting on brick piers, but does not have any secondary bunding containment. It was however found to be in good condition.

The heavy plant (forklift) was also identified as a potential source along with routine maintenance and operational activity. With this and the oil storage, the pathways are alike in that discharge could seep into the lower fall towards the south west corner of the site, across the top soil, but unlikely to percolate through the underlying clay formation, but adopting a more ground water flow which is diluted with storm water rainfall, ultimately discharging across the agricultural fields to the south and onward to the Roughcleugh Burn, replicating the current storm water flow pathways. Potential contamination capture could be experienced with the top soil and organic material.

The oil separator which is located to the south of the existing garage and inspection pit, is understood to be of brick construction with a precast concrete cover slab. Access was limited at the time of the survey but it is assumed that the separator has an increased risk of being a source, and any fractures within the brickwork would could prompt migration into the sub soils, albeit the underlying clays would provide an impermeable barrier. It was most likely identified as discharging into the local well pit and feed into the drainage channel which mixes with storm water run off into the adjacent agricultural field and onto Roughcleugh Burn. Due to ageing and speculative limited servicing of the oil separator, the risk rating of the oil separator has been assessed as high risk with the high potential as a source.

#### Limitations of preliminary conceptual site model

The above stage 1 model is based upon visual reconnaissance, along with a desktop assessment informed by data retrievable from online publishing, along with hearsay from the previous owner.

## Stage 2 - Environmental risk assessment

#### Risk assessment methodology

In accordance with the guidance given in Defra and Environmental Agency document "CLR11 Model Procedures for the management of Land Contamination", there are three tiers of environmental risk assessment;

- Tier 1 - Identification of possible pollutant linkages and creation of PCSM
- Tier 2 - Non site specific assessment of chemical data using generic assessment criteria (GACs)
- Tier 3 - Site specific assessment of chemical data using site specific assessment criteria (SSACs)

This report comprises a Tier 3 assessment and includes an updated conceptual site model (CSM). The results of the environmental laboratory testing have been compared to the CLEA - Soil Guideline Values (SGCs) for assessment on chemical analysis and risk rating.

The proposed development comprises two dwellings with gardens, therefore the standard exposure scenario of residential with plant uptake has been used to determine the source/pathway/receptor linkages for human health. Water, flora and fauna and property receptors have also been included in the CSM.

#### Quantitative risk assessment

##### Human health

The soil samples subjected to chemical analysis provided within the TerraTek laboratory report included within Appendix 4, which provide the basis for characterising the soils to outline the potential impact on human health.

#### Results from soil analysis

The screening process which reviews the presence of Phenols, PAH's, Benzenes, Phthalates and other SVOC's all return values which are less than the limit of detection therefore the samples can be considered as minimal risk for residential development for both residential development with and without plant uptake.

#### Asbestos

During the trial pitting, asbestos was only noted on the complete roofing sheets used on the side garage. There was no evidence of disposal of asbestos sheets within the property, and since the retrieved soil samples consisted of natural soils (no made ground), asbestos screening was not considered necessary.

#### TPHs

Levels of TPHs were not identified to be above the limit of detection within any of the trial holes undertaken across the site, which supports the assessment that there has not been any migration of TPH's across the site from the historic industrial activities. It is however anticipated that the oil storage tanks and supporting and containing structures will present a high risk and shall be decommissioned and removed appropriately, not leaving any spillage, residue or associated items on site.

#### Ground gas

Cursory review of the UK Radon maps ([www.ukradon.org](http://www.ukradon.org)) noted that the risk of radon varies between 0% and 10% therefore a detailed report was requested. This report can be found within Appendix 2. The report confirms that Radon Gas protection measures are not required. It is also noted that the foundations and underlying ground conditions include a band of firm clay that will contribute to acting as a gas migration barrier.

#### Stage 2 environmental risk assessment

A stage 2 risk assessment has been prepared which assigns a risk rating against the identified source, pathway and receptor. This is included within Appendix 3.

## Geotechnical Design Report

The following calculations and assessments have been prepared in accordance with BS EN 1997-1:2004 +A1:2013 – Geotechnical design – general rules and appropriate and referenced national annexes and technical guidance.

### Proposed structure including actions

The structure shall be designed in accordance with BS EN 1991-1-1:2002 Actions on structures General actions – densities, self-weight, imposed loads for buildings and associated national annexes and supplier data sheets as necessary. The design actions shall include wind actions, snow loading, permanent and variable actions to suit the site-specific terrain, location and proposed use. It is anticipated that the structural design will lead to the adoption of strip footings down onto the natural firm clay formations. The design of such shall be undertaken during the detailed design and building warrant approval phase. The building designer shall develop a full suite of structural actions and details to ensure continuity of design. During the Building Warrant approval and SER Certification. The arrangement is subject to detailed design and validation following receipt of the Architectural drawings and specification prepared to support the design development.

### Summary of findings

In reference to trial hole records TP01, TP02, TP03 and TP04, the following geotechnical summary has been developed. Below the superficial topsoil, the underlying light brown very firm clay was found in all trial holes and was found to be very difficult to dig and beyond the capacity of the excavator and recorded as the natural deposits. The below summarises the findings.

Strata	Depth	Parameter	Nominal values
Topsoil	0 to 0.3m		
Stiff to very stiff slightly gravelly clay	0.3 to below 0.9m	Shear strength	50 to 100 kN/m <sup>2</sup>
		Bearing capacity	150 to 600 kPa

During the detailed design, the Geotechnical Engineer shall determine further characteristic design values for soils and to suit the proposed foundation arrangement.

### Soil percolation testing

Four soil percolation tests were undertaken in each of the trial holes the firm to stiff clay to determine soil percolation rates that can inform the infiltration design of any captured storm water. During the trial holes, no ground water table was encountered. The water level dropped no more than 30mm across the four holes, over a 120 minute duration therefore soil infiltration rates could not be determined, concluding that the underlying clay is not suitable for soakway or infiltration arrangements.

It is noted that the storm water run-off is shed towards the southern boundary and across the agricultural land towards Roughcleugh Burn.

### Foundation recommendations

To control differential settlement and to ensure a consistent foundation design it is recommended that the geotechnical parameters at foundation formation level is consistent and uniform. With the absence of more detailed structural actions from the development, it

is anticipated that strip foundations will be cast at a nominal 0.6m depth therefore not susceptible to frost heave and has a consistent bearing capacity in excess of 150kPa with respective settlements less than 25mm.

#### Contamination risk assessment recommendations

The assessment and chemical analysis have informed the conclusion that the primary sources of contamination are the three oil storage tanks, the underground oil separator and presence of the asbestos roof. Due to the age and condition, these three sources are considered to be high risk for significant contamination to the soils and of being a pathway which can be hazardous to human health. The migration of contamination from the underground oil separator is however likely to be contained by the impervious nature of the firm clays, albeit the outlet can present a pathway for wider downstream contamination.

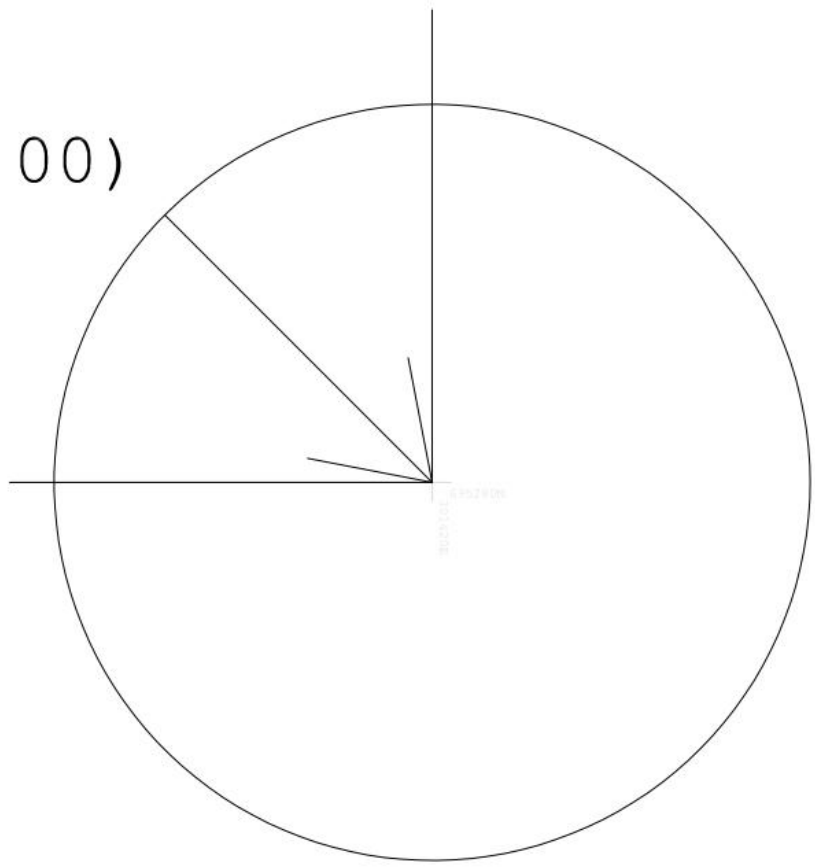
The chemical analysis of the soil samples taken on site support the assessment that the contamination has not spread through the sub soils and is therefore contained to each location. Adjacent soils are however to be removed along with the tanks and considered as hazardous waste. All other earthworks are to be considered as inert.

It is therefore recommended, that all tanks are emptied by a competent contractor and that all associated infrastructure and adjacent soils are removed off site, in advance of any further development.

## Appendices

### Appendix 1 – Investigation location plan

Drawing 0096.DWG.100 rev P0 – Exploratory hole location plan



Exploratory hole location plan  
scale 1:200

NOTES

General notes

1. Trial hole locations are shown indicative only.

LEGEND

P0	JB	JB	11/21	First issue
Revision	By	Chk'd By	Date	Comments

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Project

Tethyknowe housing development

Drawing Title

Exploratory hole location plan

Scale	AS SHOWN	Date	Nov '21
Drawing Number	0096.DWG.100	Revision	P0

FOR INFORMATION

100 - Exploratory hole location plan.dwg



## Appendix 2 – UK Radon Map report

# Report of address search for radon risk

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Address searched: Tethyknowe House, Blairingone, Dollar, FK14 7ND

Date of report: 25 November 2021

## **Guidance for existing properties**

### **Is this property in a radon Affected Area? - No**

A radon Affected Area is defined as where the radon level in at least one property in every hundred is estimated to exceed the Action Level.

### **The estimated probability of the property being above the Action Level for radon is: 0-1%**

The result may not be valid for buildings larger than 25 metres.

If this site is for redevelopment, you should undertake a GeoReport provided by the British Geological Survey.

This report informs you of the estimated probability that this particular property is above the Action Level for radon. This does not necessarily mean there is a radon problem in the property; the only way to find out whether it is above or below the Action Level is to carry out a radon measurement in an existing property.

Radon Affected Areas are designated by the UK Health Security Agency. UKHSA advises that radon gas should be measured in all properties within Radon Affected Areas.

If you are buying a currently occupied property in a Radon Affected Area, you should ask the present owner whether radon levels have been measured in the property. If they have, ask whether the results were above the Radon Action Level and if so, whether remedial measures were installed, radon levels were re-tested, and the results of re-testing confirmed the effectiveness of the measures.

Further information is available from UKHSA or <https://www.ukradon.org>

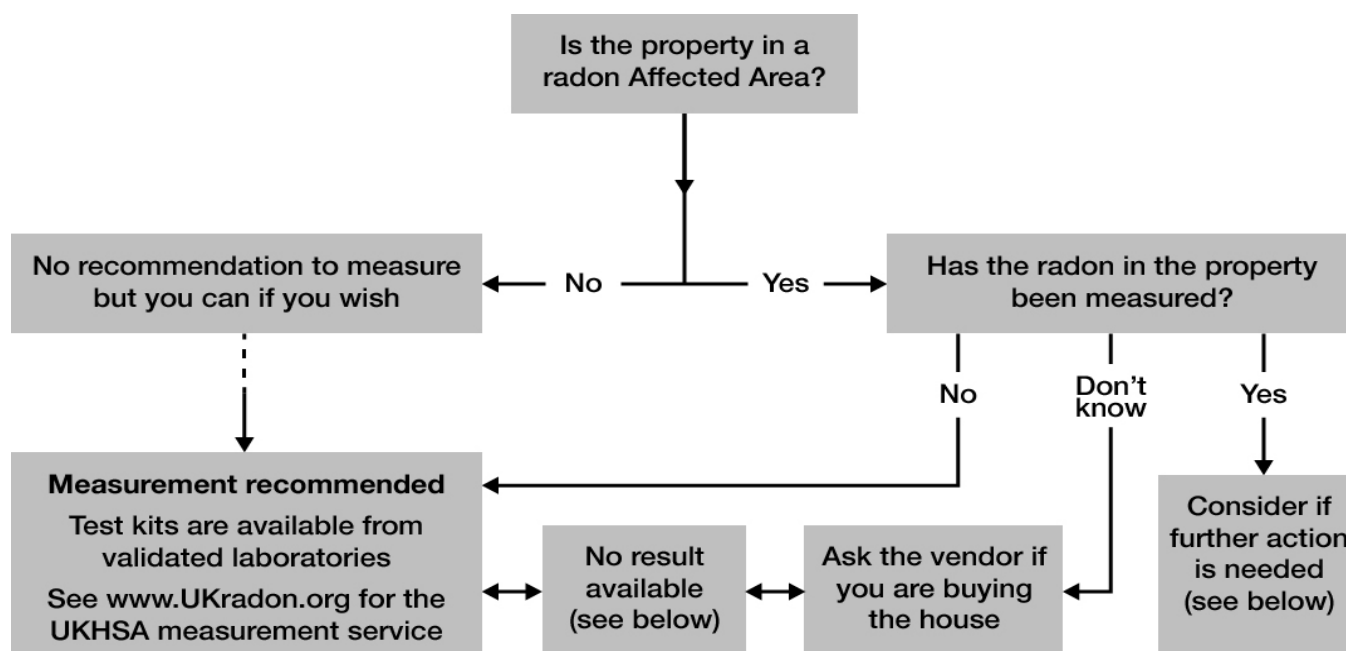
## **Guidance for new buildings and extensions to existing properties**

### **What is the requirement under Building Regulations for radon protection in new buildings and extensions at the property location? - None**

If you are buying a new property in a Radon Affected Area, you should ask the builder whether radon protective measures were incorporated in the construction of the property.

See the Radon and Building Regulations for more details.

## UKHSA guidance for occupiers and prospective purchases



**Existing radon test results:** There is no public record of individual radon measurements. Results of previous tests can only be obtained from the seller. Radon levels can be significantly affected by changes to the building or its use, particularly by alterations to the heating and ventilation which can also be affected by changes in occupier. If in doubt, test again for reassurance.

**Radon Bond:** This is simply a retained fund, the terms of which are negotiated between the purchaser and the vendor. It allows the conveyance of the property to proceed without undue delay. The purchaser is protected against the possible cost of radon reduction work and the seller does not lose sale proceeds if the result is low. Make sure the agreement allows enough time to complete the test, get the result and arrange the work if needed.

**High Results:** Exposure to high levels of radon increases the risk of developing lung cancer. If a test in a home gives a result at or above the Action Level of 200 Becquerels per cubic metre of air (Bq/m<sup>3</sup>), formal advice will be given to lower the level. Radon reduction will also be recommended if the occupants include smokers or ex-smokers when the radon level is at or above the Target Level of 100 Bq/m<sup>3</sup>; these groups have a higher risk. Information on health risks and radon reduction work is available from UKHSA. Guidance about radon reduction work is also available from some Local Authorities, the Building Research Establishment and specialist contractors.

UKHSA designated radon website:

<https://www.ukradon.org>

Building Research Establishment:

<http://www.bre.co.uk/page.jsp?id=3137>

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## Appendix 3 – Stage 2 Environmental risk assessment

## Stage 2 Preliminary environmental risk assessment

Receptors	Sensitivity	Hazards	Hazard severity	Pathways	Consequence	Likelihood	Risk rating
Residents	High	Elevated hydrocarbons within soil	Low	Ingestion of soil	Mild	Unlikely	Low / moderate
Residents	High	Elevated hydrocarbons within soil	Low	Dermal contact with soil	Mild	Unlikely	Low / moderate
Ground workers	High	Elevated hydrocarbons within soil	Low	Dermal contact with soil	Mild	Unlikely	Low / moderate
Ground workers	High	Elevated hydrocarbons within soil	Low	Ingestion of soil	Mild	Unlikely	Low / moderate
Contractors	High	Asbestos on roofs	High	Direct contact, inhalation, ingestion, dermal contact	Substantial	Likely	Moderate / high
Contractors / ground workers	High	Elevated hydrocarbons within soil	Medium	Consumption of contaminated produce	Mild	Unlikely	Moderate
Residents	High	Elevated hydrocarbons within soil	Medium	Consumption of contaminated produce	Mild	Likely	Moderate
Groundwater	Low	Hydrocarbons within ground water	Low	Soils percolations and migration	Mild	Unlikely	Low
Groundwater, subsoils, residents, ground workers, livestock	High	Existing oil separator	High	Migration through surrounding soils and direct discharge to adjacent well point and drainage ditch	High	Likely	High
Residents, groundworkers, contractors, subsoils, livestock	High	Fracture of oil storage tanks and discharge/spillage of tank contents (diesel/kerosene)	High	Overland flow	High	Likely	High

## Appendix 4 – Terratek chemical analysis and laboratory test report

**Corebrook Engineering Ltd**

 Upper Yelts  
 Near Dollar  
 Clackmannanshire  
 FK14 7JU

For the attention of Jonathan Bacon

 Report No: B27725  
 Issue No 01

**LABORATORY TEST REPORT**

Project Name <b>HOUSING DEVELOPMENT TETHYKNOWE, NEAR BLAIRINGONE</b>			
Project Number <b>B27725</b>		Date samples received	01/11/2021
Your Ref		Date written instructions received	03/11/2021
Purchase Order		Date testing commenced	03/11/2021
<b>Please find enclosed the results as summarised below</b>			
Figure / Table	Test Quantity	Description	ISO 17025 Accredited
1	2	Sulphate (acid soluble) - Soil	Yes
2	2	SVOCs - Soil	Yes
3	2	VOCs - Soil	Yes
4 - 5	4	WAC Suite - Soil	See report
Remarks :			
Issued by : Stephen Langman		Date of Issue : 18/11/2021	Key to symbols used in this report S/C : Testing was sub-contracted
Approved Signatories : <span style="background-color: black; color: black;">[REDACTED]</span> S Langman (Laboratory Coordinator), D Bowen (Production Manager)			
<p>Unless we are notified to the contrary, samples will be disposed after a period of one month from this date.</p> <p>Samples tested for asbestos are retained for 6 months from the date of analysis.</p> <p>The results reported relate to samples received in the laboratory only.</p> <p>All results contained in this report are provisional unless signed by an approved signatory</p> <p>This report should not be reproduced except in full without the written approval of the laboratory.</p> <p>Under multisite accreditation the testing contained in this report may have been performed at another Terra Tek laboratory.</p> <p>The enclosed results remain the property of Terra Tek Limited and we reserve the right to withdraw our report if we have not received cleared funds in accordance with our standard terms and conditions</p> <p><b>Only those results indicated in this report are UKAS accredited and any opinions or interpretations expressed are outside the scope of UKAS accreditation.</b></p> <p>Feedback on the this report may be left via our website <a href="http://www.terratek.co.uk/contact-us">www.terratek.co.uk/contact-us</a></p>			


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 Terra Tek Ltd is registered in Scotland No. 121594  
 Offices in Airdrie, Birmingham, Belfast and Aston Clinton

Head Office : 62 Rochesollich Road, Airdrie, ML6 9BG

<div><div>TERRA TEK</div><div>SITE INVESTIGATION AND LABORATORY SERVICES</div></div>				Site HOUSING DEVELOPMENT TETHYKNOWE, NEAR BLAIRINGONE															Contract No <b>B27725</b>				
				Client Corebrook Engineering Ltd																			
				Engineer																			
Sample Identification				Lab Sample ID	Sulphate (acid soluble as SO4)  %																		
Hole	Depth m	Sample Ref	Sample Type																				
TP01	0.00-0.00		B	797968	0.04																		
TP04	0.00-0.00		B	797972	0.04																		
Limits of Detection Terra Tek Analysis Method Accreditation M=Mcerts U=UKAS N=No accreditation					0.01 TP171 M																		
Originator	Checked & Approved		BRE SUITE																		<div><div>Tk</div><div>Figure 1</div><div>Sheet 1 of 1</div></div>		
DAB	<div><div></div><div>18/11/2021</div></div>																						



<div>TERRA TEK</div> <div>SITE INVESTIGATION AND LABORATORY SERVICES</div>				Site HOUSING DEVELOPMENT TETHYKNOWE, NEAR BLAIRINGONE																	Contract No B27725			
				Client Corebrook Engineering Ltd																				
				Engineer																				
Sample Identification				Lab Sample ID	Phenols												PAHs							
Hole	Depth m	Sample Ref	Sample Type		Phenol µg/kg	2 - Chlorophenol µg/kg	2 - Methylphenol µg/kg	4 - Methylphenol µg/kg	2 - Nitrophenol µg/kg	2,4 - Dimethylphenol µg/kg	2,4 - Dichlorophenol µg/kg	4 - Chlora - 3 - Methylphenol µg/kg	2,4,6 - Trichlorophenol µg/kg	2,4,5 - Trichlorophenol µg/kg	2,4 - Dinitrophenol µg/kg	4 - Nitrophenol µg/kg	Pentachlorophenol µg/kg	Naphthalene µg/kg	Acenaphthylene µg/kg	Acenaphthene µg/kg	Fluorene µg/kg	Phenanthrene µg/kg	Anthracene µg/kg	Fluoranthene µg/kg
TP03	0.00-0.00		B		797970	<100	<100	<100	<100	<100	<100	<100	<100	<100	<500	<100	<80	<100	<100	<100	<100	<100	<100	<100
TP03	0.00-0.00		B	797971	<100	<100	<100	<100	<100	<100	<100	<100	<100	<100	<500	<100	<80	<100	<100	<100	<100	<100	<100	<100
Limits of Detection Terra Tek Analysis Method					100 TP145 M	100 TP145 M	100 TP145 M	100 TP145 M	100 TP145 M	100 TP145 U	100 TP145 M	100 TP145 M	100 TP145 M	500 TP145 U	100 TP145 M	80 TP145 M	100 TP145 M	100 TP145 M	100 TP145 M	100 TP145 M	100 TP145 M	100 TP145 M	100 TP145 M	100 TP145 M
Accreditation M=Mcerts U=UKAS N=No accreditation																								
Originator	Checked & Approved		SEMI-VOLATILE ORGANIC COMPOUNDS (USEPA 625) - SOIL									KEY								<div>Tk</div> <div>Figure 2</div> <div>Sheet 1 of 4</div>				
DAB	<div></div> <div>18/11/2021</div>											* - deviating result (refer to Appendix S2 for details) ^ - result expressed on as-received basis												

<div>TERRA TEK</div> <div>SITE INVESTIGATION AND LABORATORY SERVICES</div>				Site HOUSING DEVELOPMENT TETHYKNOWE, NEAR BLAIRINGONE																			Contract No B27725				
				Client Corebrook Engineering Ltd																							
				Engineer																							
Sample Identification				Lab Sample ID	PAHs										Benzenes												
Hole	Depth m	Sample Ref	Sample Type		Pyrene µg/kg	Benzo (a) anthracene µg/kg	Chrysene µg/kg	Benzo (b) fluoranthene µg/kg	Benzo (k) fluoranthene µg/kg	Benzo (a) pyrene µg/kg	Indeno (1,2,3 - cd) pyrene µg/kg	Dibenzo (an) anthracene µg/kg	Benzo (ghi) perylene µg/kg	2 - Methylnaphthalene µg/kg	2 - Chloronaphthalene µg/kg	1,3 - Dichlorobenzene µg/kg	1,4 - Dichlorobenzene µg/kg	1,2 - Dichlorobenzene µg/kg	Nitrobenzene µg/kg	1,3,5 - Trichlorobenzene µg/kg	1,2,4 - Trichlorobenzene µg/kg	1,2,3 - Trichlorobenzene µg/kg	Pentachlorobenzene µg/kg	Azobenzene µg/kg			
TP03	0.00-0.00		B		797970	<100	<100	<100	<100	<100	<100	<100	<100	<100	<100	<100	<100	<100	<100	<100	<100	<100	<100	<100	<100		
TP03	0.00-0.00		B	797971	<100	<100	<100	<100	<100	<100	<100	<100	<100	<100	<100	<100	<100	<100	<100	<100	<100	<100	<100	<100			
Limits of Detection Terra Tek Analysis Method					100 TP145 M	100 TP145 M	100 TP145 M	100 TP145 M	100 TP145 M	100 TP145 M	100 TP145 M	100 TP145 M	100 TP145 M	100 TP145 M	100 TP145 M	100 TP145 M	100 TP145 M	100 TP145 M	100 TP145 U	100 TP145 M	100 TP145 M	100 TP145 M	100 TP145 M	100 TP145 M			
Originator		Checked & Approved		SEMI-VOLATILE ORGANIC COMPOUNDS (USEPA 625) - SOIL										KEY										<div>Tk</div> <div>Figure 2</div> <div>Sheet 2 of 4</div>			
DAB		<div></div> <div>18/11/2021</div>												* - deviating result (refer to Appendix S2 for details) ^ - result expressed on as-received basis													

255 - SVOCs SOIL - B27725 01.xls

Lab Project No B27725 : 18/11/2021 16:01:18

<div>TERRA TEK</div> <div>SITE INVESTIGATION AND LABORATORY SERVICES</div>				Site HOUSING DEVELOPMENT TETHYKNOWE, NEAR BLAIRINGONE																			Contract No B27725			
				Client Corebrook Engineering Ltd																						
				Engineer																						
Sample Identification				Lab Sample ID		Phthalates						Other SVOCs														
Hole	Depth m	Sample Ref	Sample Type		Hexachlorobenzene µg/kg	Dimethyl phthalate µg/kg	Diethyl phthalate µg/kg	Di-n-butyl phthalate µg/kg	Butyl benzyl phthalate µg/kg	bis (2 - ethylhexyl) phthalate µg/kg	Di - n - octyl phthalate µg/kg	Aniline µg/kg	bis (2 - chloroethyl) ether µg/kg	Benzyl alcohol µg/kg	Hexachloroethane µg/kg	n - Nitrosodi - n - Propylamine µg/kg	Isophorone µg/kg	bis (2 - chloroethoxy) methane µg/kg	4 - Chloroaniline µg/kg	Hexachlorobutadiene µg/kg	Hexachlorocyclopentadiene µg/kg	2 - Nitroaniline µg/kg	3 - Nitroaniline µg/kg	4 - Nitroaniline µg/kg		
TP03	0.00-0.00		B	797970	<100	<500	<500	<200	<500	<1000	<500	<100	<100	<100	<100	<100	<100	<100	<100	<100	<100	<100	<100	<100		
TP03	0.00-0.00		B	797971	<100	<500	<500	<200	<500	<1000	<500	<100	<100	<100	<100	<100	<100	<100	<100	<100	<100	<100	<100	<100		
Limits of Detection Terra Tek Analysis Method					100 TP145 M	500 TP145 M	500 TP145 M	200 TP145 M	500 TP145 M	1000 TP145 M	500 TP145 M	100 TP145 U	100 TP145 M	100 TP145 M	100 TP145 M	100 TP145 M	100 TP145 M	100 TP145 M	100 TP145 M	100 TP145 M	100 TP145 U	100 TP145 M	100 TP145 M	100 TP145 M		
Accreditation M=Mcerts U=UKAS N=No accreditation																										
Originator	Checked & Approved		SEMI-VOLATILE ORGANIC COMPOUNDS (USEPA 625) - SOIL									KEY * - deviating result (refer to Appendix S2 for details) ^ - result expressed on as-received basis										<div>Tk</div> <div>Figure 2</div> <div>Sheet 3 of 4</div>				
DAB	<div></div> <div>18/11/2021</div>																									

2256 - SVOCs SOIL - B27725 01.xls

Lab Project No B27725 : 18/11/2021 16:01:21

<div><div>TERRA TEK</div><div>SITE INVESTIGATION AND LABORATORY SERVICES</div></div>				Site HOUSING DEVELOPMENT TETHYKNOWE, NEAR BLAIRINGONE																	Contract No <b>B27725</b>					
				Client Corebrook Engineering Ltd																						
				Engineer																						
Sample Identification				Lab Sample ID	Other SVOCs																					
Hole	Depth m	Sample Ref	Sample Type		2,6 - Dinitrotoluene µg/kg	Dibenzofuran µg/kg	2,4 - Dinitrotoluene µg/kg	4 - Chlorophenyl phenyl ether µg/kg	Diphenylamine µg/kg	4 - Bromophenylphenyl ether µg/kg	Carbazole µg/kg												Samples received in appropriate container			
TP03	0.00-0.00		B		797970	<100	<100	<150	<100	<100	<100	<100											No			
TP03	0.00-0.00		B	797971	<100	<100	<150	<100	<100	<100	<100											No				
Limits of Detection Terra Tek Analysis Method Accreditation M=Mcerts U=UKAS N=No accreditation					100 TP145 M	100 TP145 M	150 TP145 M	100 TP145 M	100 TP145 M	100 TP145 M	100 TP145 M															
Originator		Checked & Approved		<b>SEMI-VOLATILE ORGANIC COMPOUNDS (USEPA 625) - SOIL</b>								<b>KEY</b> * - deviating result (refer to Appendix S2 for details) ^ - result expressed on as-received basis										<div><div>Tk</div><div>Figure 2</div><div>Sheet 4 of 4</div></div>				
DAB		<div><div></div><div>18/11/2021</div></div>																								

<div>TERRA TEK</div> <div>SITE INVESTIGATION AND LABORATORY SERVICES</div>				Site HOUSING DEVELOPMENT TETHYKNOWE, NEAR BLAIRINGONE																			Contract No B27725			
				Client Corebrook Engineering Ltd																						
				Engineer																						
Sample Identification				Lab Sample ID	1,1,1,2 - Tetrachloroethane	1,1,1 - Trichloroethane	1,1,2,2 - Tetrachloroethane	1,1,2 - Trichloroethane	1,1 - Dichloroethane	1,1 - Dichloroethene	1,1 - Dichloropropene	1,2,3 - Trichloropropane	1,2,4 - Trimethylbenzene	1,2 - Dibromoethane	1,2 - Dichlorobenzene	1,2 - Dichloroethane	1,2 - Dichloropropane	1,3,5 - Trimethylbenzene	1,3 - Dichlorobenzene	1,3 - Dichloropropane	1,4 - Dichlorobenzene	2,2 - Dichloropropane	2 - Chlorotoluene	4 - Chlorotoluene		
Hole	Depth m	Sample Ref	Sample Type		µg/kg	µg/kg	µg/kg	µg/kg	µg/kg	µg/kg	µg/kg	µg/kg	µg/kg	µg/kg	µg/kg	µg/kg	µg/kg	µg/kg	µg/kg	µg/kg	µg/kg	µg/kg	µg/kg	µg/kg		
TP03	0.00-0.00		B		797970	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5		
TP03	0.00-0.00		B	797971	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5			
Limits of Detection Terra Tek Analysis Method					5 TP154 M	5 TP154 M	5 TP154 M	5 TP154 M	5 TP154 M	5 TP154 M	5 TP154 M	5 TP154 M	5 TP154 U	5 TP154 M	5 TP154 M	5 TP154 U	5 TP154 U	5 TP154 M	5 TP154 U	5 TP154 M	5 TP154 M	5 TP154 M	5 TP154 M			
Originator		Checked & Approved		VOLATILE ORGANIC COMPOUNDS - SOIL										KEY								<div>Tk</div> <div>Figure 3</div>				
DAB		<div></div> <div>18/11/2021</div>												* - deviating result (refer to Appendix S2 for details) ^ - result expressed on as-received basis												Sheet 1 of 3

<div>TERRA TEK</div> <div>SITE INVESTIGATION AND LABORATORY SERVICES</div>				Site HOUSING DEVELOPMENT TETHYKNOWE, NEAR BLAIRINGONE																			Contract No B27725			
				Client Corebrook Engineering Ltd																						
				Engineer																						
Sample Identification				Lab Sample ID	4 - Isopropyltoluene  µg/kg	Benzene  µg/kg	Bromobenzene  µg/kg	Bromochloromethane  µg/kg	Bromodichloromethane  µg/kg	Tribromomethane  µg/kg	Bromomethane  µg/kg	Tetrachloromethane  µg/kg	Chlorobenzene  µg/kg	Chloroethane  µg/kg	Chloroform  µg/kg	Chloromethane  µg/kg	cis 1,2 - Dichloroethene  µg/kg	cis 1,3 - Dichloropropene  µg/kg	Dibromochloromethane  µg/kg	Dibromomethane  µg/kg	Dichlorodifluoromethane  µg/kg	Ethylbenzene  µg/kg	iso - Propylbenzene  µg/kg	m & p - Xylene  µg/kg		
Hole	Depth m	Sample Ref	Sample Type																							
TP03	0.00-0.00		B																						797970	<5
TP03	0.00-0.00		B	797971	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<10		
Limits of Detection Terra Tek Analysis Method Accreditation M=Mcerts U=UKAS N=No accreditation					5 TP154 U	5 TP154 M	5 TP154 M	5 TP154 M	5 TP154 M	5 TP154 U	5 TP154 U	5 TP154 M	5 TP154 M	5 TP154 M	5 TP154 M	5 TP154 M	5 TP154 M	5 TP154 M	5 TP154 M	5 TP154 U	5 TP154 M	5 TP154 M	5 TP154 M	10 TP154 M		
Originator	Checked & Approved		VOLATILE ORGANIC COMPOUNDS - SOIL										KEY * - deviating result (refer to Appendix S2 for details) ^ - result expressed on as-received basis										<div>Tk</div> Figure 3			
DAB	<div></div> <div>18/11/2021</div>																									
Sheet 2 of 3																										



<div>TERRA TEK</div> <div>SITE INVESTIGATION AND LABORATORY SERVICES</div>				Site HOUSING DEVELOPMENT TETHYKNOWE, NEAR BLAIRINGONE																	Contract No B27725			
				Client Corebrook Engineering Ltd																				
				Engineer																				
Sample Identification				Lab Sample ID	Methylene chloride (Dichloromethane)  µg/kg	n - Butylbenzene  µg/kg	n - Propylbenzene  µg/kg	o - Xylene  µg/kg	sec - Butylbenzene  µg/kg	Styrene  µg/kg	tert - Butylbenzene  µg/kg	Tetrachloroethene  µg/kg	Toluene  µg/kg	Trans - 1,2 - Dichloroethene  µg/kg	Trans - 1,3 - Dichloropropene  µg/kg	Trichloroethene  µg/kg	Trichlorofluoromethane  µg/kg	Chloroethene  µg/kg						Sample received in appropriate container
Hole	Depth m	Sample Ref	Sample Type																					
TP03	0.00-0.00		B	797970	<50	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5						No
TP03	0.00-0.00		B	797971	<50	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5	<5						No
Limits of Detection Terra Tek Analysis Method Accreditation M=Mcerts U=UKAS N=No accreditation					50 TP154 U	5 TP154 U	5 TP154 M	5 TP154 M	5 TP154 M	5 TP154 U	5 TP154 M	5 TP154 U	5 TP154 M	5 TP154 M	5 TP154 M	5 TP154 M	5 TP154 M							
Originator	Checked & Approved	VOLATILE ORGANIC COMPOUNDS - SOIL											KEY * - deviating result (refer to Appendix S2 for details) ^ - result expressed on as-received basis										<div>Tk</div> Figure 3	
DAB	<div></div> <div>18/11/2021</div>																							
Sheet 3 of 3																								

<div>TERRA TEK</div> <div>SITE INVESTIGATION AND LABORATORY SERVICES</div>				Site HOUSING DEVELOPMENT TETHYKNOWE, NEAR BLAIRINGONE											Contract No B27725								
				Client Corebrook Engineering Ltd																			
				Engineer																			
Sample Identification				Lab Sample ID	Total organic carbon  %	Total PAHs (USEPA 16 + coronene)  mg/kg	Loss on Ignition  %	pH  	Acid Neutralisation capacity  Mol/kg	Sample received in appropriate container	BTEX (sum)  µg/kg	Total PCBs (7 congeners)  µg/kg	Mineral Oils (C10-C40)  mg/kg	Sample received in appropriate container									
Hole	Depth m	Sample Ref	Sample Type																				
TP02	0.00-0.00		B	797969	0.4	<1.6	~	7.6	~	Yes	<30	<3.5	<1	Yes									
TP03	0.00-0.00		B	797970	0.3	<1.6	~	6.8	~	Yes	<30	<3.5	<1	Yes									
TP03	0.00-0.00		B	797971	1.8	<1.6	~	7.1	~	Yes	<30	<3.5	<1	Yes									
TP04	0.00-0.00		B	797972	0.3	<1.6	~	6.1	~	Yes	<30	<3.5	<1	Yes									
WASTE ACCEPTANCE CRITERIA																							
Inert landfill																3	100	~	~	~	6000	1000	500
Stable, non-reactive hazardous waste in non-hazardous landfill																5	~	~	>6	~	~	~	
Hazardous landfill					6	~	10	~	~	~	~	~	~										
Limits of Detection Terra Tek Analysis Method Accreditation M=Mcerts U=UKAS N=No accreditation					0.1 TP174 U	1.6 TP045 N	0.1 TP042 M	~ TP019 M	2 S/C N		30 TP154 N	3.5 TP110 M	1 TP067 M										
Originator	Checked & Approved		NOTE										KEY			<div>Tk</div> <div>Figure 4</div> <div>Sheet 1 of 1</div>							
DAB	<div></div> <div>18/11/2021</div>		A WAC test will not identify whether a waste is hazardous or not. Waste must be classified using characterisation assessment and analysis in accordance with WM3 first. Then if a waste hierarchy assessment determines that landfill is the appropriate disposal option then chemical WAC testing must be undertaken for wastes destined for inert, stable non-reactive hazardous or hazardous classes of landfill.										* - deviating result (refer to Appendix S2 for details) ^ - result expressed on as-received basis										



<div>TERRA TEK</div> <div>■ ■ ■ ■ Site Investigation &amp; Laboratory Services</div>				Site HOUSING DEVELOPMENT TETHYKNOWE, NEAR BLAIRINGONE																			Contract No <b>B27725</b>	
				Client Corebrook Engineering Ltd																			All results expressed at L/S ratio 10:1	
				Engineer																				
Sample Identification				Lab Sample ID	Arsenic  mg/kg	Barium  mg/kg	Cadmium  mg/kg	Chromium  mg/kg	Copper  mg/kg	Mercury  mg/kg	Molybdenum  mg/kg	Nickel  mg/kg	Lead  mg/kg	Antimony  mg/kg	Selenium  mg/kg	Zinc  mg/kg	Chloride  mg/kg	Fluoride  mg/kg	Sulphate  mg/kg	Dissolved Solids  mg/kg	Phenol  mg/kg	Dissolved Organic Carbon  mg/kg	ASSESSMENT	
Exploratory Hole	Depth m	Sample Ref	Sample Type																					
TP02	0.00-0.00		B	797969	<0.05	0.03	<0.04	<0.1	<0.1	<0.005	<0.01	<0.1	<0.2	<0.05	<0.05	<0.2	<40	<1	<100	208	<0.1	21	Inert	
TP03	0.00-0.00		B	797970	<0.05	0.02	<0.04	<0.1	<0.1	<0.005	<0.01	<0.1	<0.2	<0.05	<0.05	<0.2	<40	<1	<100	305	<0.1	<10	Inert	
TP03	0.00-0.00		B	797971	<0.05	0.06	<0.04	<0.1	<0.1	<0.005	<0.01	<0.1	<0.2	<0.05	<0.05	<0.2	<40	<1	<100	196	<0.1	41	Inert	
TP04	0.00-0.00		B	797972	<0.05	0.02	<0.04	<0.1	<0.1	<0.005	<0.01	<0.1	<0.2	<0.05	<0.05	<0.2	<40	<1	<100	176	<0.1	<10	Inert	
WASTE ACCEPTANCE CRITERIA																								
Inert landfill					0.5	20	0.04	0.5	2	0.01	0.5	0.4	0.5	0.06	0.1	4	800	10	1000	4000	1	500		
Stable, non-reactive hazardous waste in non-hazardous landfill					2	100	1	10	50	0.2	10	10	10	0.7	0.5	50	15000	150	20000	60000	~	800		
Hazardous landfill					25	300	5	70	100	2	30	40	50	5	7	200	25000	500	50000	100000	~	1000		
Limits of Detection Terra Tek Analysis Method Accreditation M=Mcerts U=UKAS N=No accreditation					0.05 TP156 N	0.01 TP156 N	0.04 TP156 N	0.1 TP156 N	0.1 TP156 N	0.005 TP156 N	0.01 TP156 N	0.1 TP156 N	0.2 TP156 N	0.05 TP156 N	0.05 TP156 N	0.2 TP156 N	40 TP068 N	1 TP080 N	100 TP065 N	50 TP035 N	0.1 TP060 N	10 TP162 U		
Originator	Checked & Approved		<div>NOTE</div> <div>A WAC test will not identify whether a waste is hazardous or not. Waste must be classified using characterisation assessment and analysis in accordance with WM3 first. Then if a waste hierarchy assessment determines that landfill is the appropriate disposal option then chemical WAC testing must be undertaken for wastes destined for inert, stable non-reactive hazardous, or hazardous classes of landfill.</div>																				<div>Tk</div> <div>Figure 5</div> <div>Sheet 1 of 1</div>	
DAB	<div></div> <div>18/11/2021</div>																							

<div>TERRA TEK</div> <div>SITE INVESTIGATION AND LABORATORY SERVICES</div>				Site      HOUSING DEVELOPMENT TETHYKNOWE, NEAR BLAIRINGONE					Contract No      B27725		
				Client      Corebrook Engineering Ltd							
				Engineer							
Sample Identification						Temperature on receipt °C	PRIMARY MATRIX	Secondary Matrix	Additional matrix	% Loss at 30C	% Retained 2mm
Exploratory Hole	Depth m	Sample Ref	Sample Type								
TP02	0.00-0.00		B	797969	19/10/21	14.6	CLAY	Fine to medium gravel		7.6	23.2
TP03	0.00-0.00		B	797970	19/10/21	14.6	CLAY	Fine to medium gravel		15.5	3.1
TP03	0.00-0.00		B	797971	19/10/21	14.6	Sandy CLAY	Fine to medium gravel		19.4	9.5
TP04	0.00-0.00		B	797972	19/10/21	14.6	CLAY	Fine to medium gravel		17.5	5.1
<div>Notes</div> <div>Terra Tek are accredited for clay, sand and loam matrix types only, where they constitute the major component of the sample. Other coarse granular materials such as gravel, are not accredited where they comprise the major component of the sample.</div> <div>Results are expressed on a dry-weight basis (samples dried at &lt;30°C) except where stated. Samples for asbestos testing are dried at 85°C.</div> <div>With the exception of samples analysed for asbestos, the laboratory removes any material &gt; 2mm prior to analysis. The quantity and nature of the material is shown as the secondary and additional matrix types in the above table.</div> <div>Where a parameter cannot be determined in house it is our policy to use a UKAS/MCERTS accredited laboratory wherever possible. Terra Tek will assume responsibility for the quality of subcontracted tests and the performance of the subcontractor chosen. Where there is no known UKAS/MCERTS laboratory for a particular parameter, a laboratory listed within the Terra Tek Approved Subcontractors List, which is subject to performance assessment, will be selected.</div>											
Originator	Checked & Approved	SAMPLE DESCRIPTIONS							Appendix S1		
DAB	<div><div></div><div>18/11/2021</div></div>										
Sheet 1 of 1											

<b>TERRA TEK</b> SITE INVESTIGATION AND LABORATORY SERVICES				Site HOUSING DEVELOPMENT TETHYKNOWE, NEAR BLAIRINGONE		Contract No <b>B27725</b>						
				Client Corebrook Engineering Ltd								
				Engineer								
Sample Identification				Lab Sample ID	Date Sampled	Deviating conditions						Preservatives used
Exploratory Hole	Depth m	Sample Ref	Sample Type			Sampling date has not been provided	Exceeded maximum holding time for selected test(s)	Presence of headspace in sample vial	Poorly fitting cap or lid	Damaged container		
TP01	0.00-0.00		B	797968	19/10/21							
TP02	0.00-0.00		B	797969	19/10/21							
TP03	0.00-0.00		B	797970	19/10/21							
TP03	0.00-0.00		B	797971	19/10/21							
TP04	0.00-0.00		B	797972	19/10/21							
<b>NOTES</b> 1 Results reported for samples classified as deviating may be compromised. Deviation types are shown as "X" or "Yes" in the table above. 2 The absence of "X" or "Yes" in the table above indicates no reported deviations. 3 Deviations due to use of incorrect sample container are shown on result tables. 4 Deviating results are indicated within result tables.												
Originator		Checked & Approved		<b>DEVIATING SAMPLES - SOIL</b>					 <b>Appendix S2</b>  Sheet 1 of 1			
DAB		 18/11/2021										

<div>TERRA TEK</div> <div>SITE INVESTIGATION AND LABORATORY SERVICES</div>		Site	HOUSING DEVELOPMENT TETHYKNOWE, NEAR BLAIRINGONE		Contract No <b>B27725</b>	
		Client	Corebrook Engineering Ltd			
		Engineer				
Method Code	Reference	Description of Method		ISO17025 Accredited	MCERTS Accredited	Wet/Dry Sample Tested
GP001	BS1377, Part 3, 1990: Soils for Civil Engineering Purposes.	Preparation of soil samples for chemical analysis		Yes	Yes	N/A
GP012	BS EN 12457-3: Characterisation of Waste - Compliance test for leaching of granular waste materials and sludges (two-stage batch test)	Preparation of soil samples for two-stage leachate test				Dry
TP019	BS1377, Part 3, 1990: Soils for Civil Engineering Purposes.	Determination of pH in 2.5:1 water/soil extract using pH meter.		Yes	Yes	Dry
TP032	MAFF Book 427: The Analysis of Agricultural Materials: Method 8	Determination of water soluble boron by ICP-OES		Yes		Dry
TP040	APHA/AWWA, 19th edition: Method 3500Cr-D	Determination of hexavalent chromium by colorimetry.		Yes		Dry
TP041	BS1377, Part 3, 1990: Soils for Civil Engineering Purposes.	Determination of organic matter by titrimetry.		Yes		Dry
TP042	BS1377, Part 3, 1990: Soils for Civil Engineering Purposes.	Determination of loss on ignition at 50-440°C by gravimetry		Yes	Yes	Dry
TP045	GACHAMJA A.M. Chromatography and Analysis: 1992 9-11 (modified)	Determination of polyaromatic hydrocarbons extractable in dichloromethane, by GC/MS		Yes	Yes	Dry
TP046	MEWAM method: Phenols in water and Effluents: 4-aminoantipyrine method	Determination of monohydric phenols by steam distillation/colorimetry		Yes	Yes	Dry
TP047	MEWAM method: Cyanide in Waters etc	Determination of free cyanide by steam distillation/colorimetry		Yes		Dry
TP048	MEWAM method: Cyanide in Waters etc	Determination of total cyanide by steam distillation/colorimetry.		Yes	Yes	Dry
TP049	MEWAM method: Cyanide in Waters etc	Determination of complex cyanide by calculation		Yes		Dry
TP050	MEWAM method: Determination of Thiocyanate ,1985	Determination of thiocyanate by colorimetry		Yes	Yes	Dry
TP051	USEPA Method 9030B	Determination of acid soluble sulphides by steam distillation/colorimetry.		Yes	Yes	Wet
TP067	TNRCC Method 1005: 2001 (modified)	Determination of pentane/acetone extractable petroleum hydrocarbons (C8 - C40) by GC/FID		Yes	Yes	Wet
TP072	In-house documented method	Determination of ammoniacal nitrogen by colorimetry				Dry
TP074	In-house documented method	Determination of water soluble fluoride by ion selective electrode				Dry
TP098	BS1377, Part 3, 1990: Soils for Civil Engineering Purposes.	Determination of acid soluble chloride by titrimetry				Dry
TP099	BS1377, Part 3, 1990: Soils for Civil Engineering Purposes.	Determination of water soluble chloride by titrimetry		Yes	Yes	Dry
TP100	Wisconsin DNR Modified GRO method, Method for Determining Gasoline Range Organics	Determination of Volatile Petroleum Hydrocarbons/GRO.		Yes	Yes	Wet
<div>Notes</div> <div>1. Terra Tek (Birmingham) are MCERTS accredited for clay, sand &amp; loam matrix types only, where they constitute the major component of the sample. Other coarse granular materials, ie gravel, are not accredited where they comprise the major component of the sample. 2. Results are expressed on a dry-weight basis (samples dried at &lt;30°C) except where stated. Samples tested for asbestos are dried at &lt;90°C. 3. With the exception of samples analysed for asbestos, the laboratory removes any material &gt;2mm prior to analysis. The quantity and nature of any material removed from samples is recorded and the information is available on request. 4. The laboratory records the date of analysis of each parameter. This information is available on request. 5. The test results pertain only to the samples provided and is not guaranteed to be representative of the parent material in whole or part from which the sample was taken. Sample location, site address, taken by and client reference are included where provided by the client, Terra Tek accepts no responsibility for the validity or accuracy of this information.</div>						
Originator	Checked & Approved	<div>SUMMARY OF IN-HOUSE ANALYTICAL TEST METHODS (SOIL)</div>			<div><div>Tk</div>Appendix S3</div>	
N/A	N/A					
						Sheet 1 of 2

<div>TERRA TEK</div> <div>SITE INVESTIGATION AND LABORATORY SERVICES</div>		Site	HOUSING DEVELOPMENT TETHYKNOWE, NEAR BLAIRINGONE		Contract No <b>B27725</b>
		Client	Corebrook Engineering Ltd		
		Engineer			
Method Code	Reference	Description of Method	ISO17025 Accredited	MCERTS Accredited	Wet/Dry Sample Tested
TP110	USEPA Methods 8082A & 3665A	Determination of Total & Speciated 7 PCB Congeners by GC/MS SIM	Yes	Yes	Wet
TP114	BS1377, Part 3, 1990: Soils for Civil Engineering Purposes.	Determination of carbonate in soil (rapid titration method)			Dry
TP126	TNRCC Method 1006 (modified)	Extracted petroleum hydrocarbons from TP067 split into aromatic and aliphatic fractions. Analysed by GC/FID.	Yes		Wet
TP129	In-house documented method	Determination of total sulphur by ICP-OES spectroscopy	Yes	Yes	Dry
TP134	In-house documented method	Determination of water soluble chloride by titrimetry	Yes	Yes	Dry
TP135	USEPA Methods 8100 & 8270D. In-house method TP045	Determination of polyaromatic hydrocarbons extractable in dichloromethane, by GC/MS (with concentration stage)			Dry
TP137	BS7755: Section 3.9: 1995/ISO 11466:1995	Determination of acid extractable metals in soil by ICP-OES	Selected	Selected	Dry
TP145	USEPA Methods 3550C & 8270D	Determination of Semi-Volatile Organic Compounds by GC/MS	Yes	Yes	Wet
TP147	USEPA Methods 8082A & 3665A	Determination of total & speciated WHO 12 PCB Congeners by GC/MS SIM.			Wet
TP150	USEPA Methods 8081B & 8141B	Determination of pesticides and herbicides in soil by GC/MS SIM			Dry
TP152	USEPA Method 556	Determination of carbonyls by GC/MS.			Wet
TP154	USEPA Method 5021. Wisconsin DNR modified GRO method	Determination of volatiles in by GC/MS headspace	Yes	Selected	Wet
TP158	USEPA Method 1671	Determination of glycols by GC/FID DI			Wet
TP169	In-house documented method	Determination of water soluble sulphate in 2:1 water/soil extract by ICP-OES spectroscopy	Yes	Yes	Wet
TP171	In-house documented method	Determination of acid soluble sulphate by ICP-OES spectroscopy	Yes	Yes	Dry
TP174	In-house documented method	Determination of Total Organic Carbon in soils by high temperature combustion & NDIR detection	Yes		Dry
TP178	In-house documented method	Determination of water soluble nitrate by ion selective electrode			Dry
TP181	HSG 248 Asbestos: The Analysts Guide (Appendix 2), Edition 2 (May 2021)	Asbestos Identification in bulk materials	Yes	No	Dry
TP183	HSG 248 Asbestos: The Analysts Guide (Appendix 2), Edition 2 (May 2021) & Standing Committee of Analysts: The Quantification of Asbestos in Soil (2017, withdrawn Oct 2020)	Asbestos Identification & Quantification in soils	Yes	No	Dry
TP185	In-house documented method	Determination of loss on ignition at 150-440°C by gravimetry	No	No	Dry
<div>Notes</div> <div>1. Terra Tek (Birmingham) are MCERTS accredited for clay, sand &amp; loam matrix types only, where they constitute the major component of the sample. Other coarse granular materials, ie gravel, are not accredited where they comprise the major component of the sample.</div> <div>2. Results are expressed on a dry-weight basis (samples dried at &lt;30°C) except where stated. Samples tested for asbestos are dried at &lt;90°C.</div> <div>3. With the exception of samples analysed for asbestos, the laboratory removes any material &gt;2mm prior to analysis. The quantity and nature of any material removed from samples is recorded and the information is available on request.</div> <div>4. The laboratory records the date of analysis of each parameter. This information is available on request.</div> <div>5. The test results pertain only to the samples provided and is not guaranteed to be representative of the parent material in whole or part from which the sample was taken. Sample location, site address, taken by and client reference are included where provided by the client, Terra Tek accepts no responsibility for the validity or accuracy of this information.</div>					
Originator	Checked & Approved	<div>SUMMARY OF IN-HOUSE ANALYTICAL TEST METHODS (SOIL)</div>			<div><div>Tk</div>Appendix S3</div>
N/A	N/A				
					Sheet 2 of 2

# **WLC 21030 Tethyknowe House**

## **Preliminary Ecological Appraisal**

30/03/2022

Prepared By:



Wildlife Consulting Ltd | Ecology | Environmental Consultancy

Company Number: SC620396

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# 1 INTRODUCTION

## 1.1 Background

Wildlife Consulting Ltd (WLC) was commissioned by Moving Still Architecture, to undertake of Preliminary Ecological Appraisal in respect of a proposed residential development at Tethyknowe House, Blairngone, near Dollar.

There is a proposal to erect two new dwellings (Plot 2 and Plot 3) and extension of existing dwelling (Tethyknowe House) at the site. Plot 2 and Plot 3 will be located on sites of existing outhouses and within the existing garden of the original farm house.

The site lies under the planning jurisdiction of Perth and Kinross Council (PKC). PKC supplied pre-application advice for the project on 2<sup>nd</sup> August, 2021. As part of this advice, it was recommended that in consideration of Policy 41 (Biodiversity) of the PKC Local Development Plan<sup>i</sup>, *“Habitat surveys may be carried out to ensure that protected species (such as bats, birds and otters) are not adversely affected by the proposal, see Policy 41. The requirement for survey work will depend on the integration with the tree resource referenced above and the position layout of the scheme. The survey work may have implications on when an application can be submitted”*.

## 1.2 Site Location

The development site lies approximately 3.2km south east of the hamlet of Blairngone in Perth and Kinross. It is centred on British National Grid reference NT 01500 95261.

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<sup>i</sup> [https://www.pkc.gov.uk/media/45242/Adopted-Local-Development-Plan-2019/pdf/LDP\\_2\\_2019\\_Adopted\\_Interactive.pdf?m=637122639435770000](https://www.pkc.gov.uk/media/45242/Adopted-Local-Development-Plan-2019/pdf/LDP_2_2019_Adopted_Interactive.pdf?m=637122639435770000)



## 2 METHODS

### 2.1 Desktop Study

A desktop study was carried out at the start of the commission and ahead of the field survey. Information sources used for this study are described below:

- Google Earth (<http://earth.google.co.uk>) - aerial imagery was obtained and used to inform the field survey;
- SNH Website (protected species) – the SNH website was used to inform on relevant legislation for protected species found to be present in the vicinity of the project;
- SNH Sitelink (<http://gateway.snh.gov.uk/sitelink/>) - sitelink was used to determine the location of any sites designated for nature conservation and their qualifying features within 2km of the site; and
- NBN Atlas (<http://data.nbn.org.uk>) - the NBN was used to identify any available species records. This search was limited to commercially useable data and limited to records of protected mammal, reptile and amphibian species within 2 km of the Development site, and limited to the most recent five years of available data.

### 2.2 Preliminary Ecological Appraisal

A Preliminary Ecological Appraisal (PEA) was undertaken according to the standard Chartered Institute for Ecology and Environmental Management (CIEEM) method (CIEEM, 2017)<sup>ii</sup>. All features of ecological interest are described in Section 3. Target notes are added illustrating the locations of features of ecological interest and invasive species. Target notes are presented in Appendix B and illustrated on Figure 1.

The methodologies used to record evidence of protected species are listed on Table 2-1 below. The protected species selected are based on our previous knowledge of the site and surrounding area and informed by the results of the Desk Study (Section 3.1). The survey was undertaken on 09<sup>th</sup> December, 2021.

Table 2-1: Protected Species Survey Methods

Species/Guild	Survey Methods
Bats	<p>Collins (2016). Bat Surveys for Professional Ecologists<sup>iii</sup>: Good Practice Guidelines. The buildings, woodland areas and standard trees within the site were categorised (high, medium, low or negligible) for their potential to support roosting bats.</p> <p>The survey area for this receptor comprised accessible land within 50m of the Development site.</p>

<sup>ii</sup> Chartered Institute of Ecology and Environmental Management (2017). Guidelines for Preliminary Ecological Appraisal (2<sup>nd</sup> Edition).

<sup>iii</sup> Collins (2016). Bat Surveys for Professional Ecologists: Good Practice Guidelines. 3rd Edition. Bat Conservation Trust. London.

<b>Species/Guild</b>	<b>Survey Methods</b>
<b>Red squirrel</b>	Searches for stripped cones and the presence of any drey structures in trees were undertaken within accessible land 50m of the site.
<b>Otter and Water Vole</b>	Chanin (2003) "Monitoring the Otter" <sup>iv</sup> . The survey area for otter and water vole comprised suitable habitats within 250m of the site. Searches were undertaken for otter places of rest (holts or couches), feeding signs and spraints. Searches were undertaken to record the presence of evidence of water vole presence including: latrines, burrows, prints and feeding stations.
<b>Badger</b>	Harris et al. (1989) "Surveying Badgers" <sup>v</sup> . Evidence for the presence of badger was searched for including the presence of setts, foraging signs, latrines, prints, mammal paths and guard hairs, as well as any badger sightings.  The survey area for this receptor comprised accessible land within 50m of the Development site.
<b>Great crested newt</b>	A Habitat Suitability Index (HSI) following Oldham et al. 2000 <sup>vi</sup> was undertaken at a single pond within the survey area (Figure 1) to determine its suitability for the protected amphibian species great crested newt.
<b>Birds</b>	Walkover survey looking for nesting birds, actual bird sightings, bird sounds and other field signs such as feathers, pellets etc.  The survey area for this receptor comprised accessible land within 50m of the Development site.
<b>Invasive Species</b>	A walkover survey was undertaken to record the presence of any invasive species listed on Schedule 9 of the Wildlife and Countryside Act.

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<sup>iv</sup> Chanin P (2003). Monitoring the Otter *Lutra lutra*. Conserving Natura 2000 Rivers Monitoring Series No. 10, English Nature, Peterborough.

<sup>v</sup> Harris, S., Cresswell, P. & Jefferies, D. (1989) - Surveying for badgers. Occasional Publication of the Mammal Society No. 9. Mammal Society, Bristol.

<sup>vi</sup> Oldham R.S., Keeble J., Swan M.J.S. & Jeffcote M. (2000). *Evaluating the suitability of habitat for the Great Crested Newt (Triturus cristatus)*. Herpetological Journal 10(4), 143-155.

## 3 RESULTS

### 3.1 Desktop Study

#### 3.1.1 Statutory Designated Sites

Statutory designated sites located within 2km of the development site are considered in this assessment. Statutory designated sites are protected by EU and UK legislation and include:

- SPAs;
- Special Areas of Conservation (SAC);
- Ramsar sites;
- Sites of Special Scientific Interest (SSSI);
- National Nature Reserves (NNR); and
- Local Nature Reserves (LNR).

There are no statutory sites designated for nature conservation within the area of search. The closest statutory site designated for nature conservation is Wether Hill SSSI, which is notified on account of its blanket bog, lowland calcareous grassland and upland oak woodland habitats, lies approximately 2.3km from the site at its closest point and no effects are predicted on this receptor.

There are no known non-statutory designated sites within the 2km area of search. There are several areas of woodland listed on the ancient woodland inventory within the search area, the closest of which lies approximately 0.4km northeast of the development site at its closest point. Similarly no effects are predicted on these receptors arising from the development.

On the basis of the above, designated sites are not considered further in this report.

#### 3.1.2 Protected Mammal Species

The NBN Atlas has recorded the presence of one protected mammal species within the 2km grid square that includes the site. There are several observational records of red squirrel *Sciurus vulgaris* recorded within this search area within the last five years.

### 3.2 Field Survey

#### 3.2.1 Habitats

Tethyknowe House is a large, rectangular, disused stone building with a pitched, slate roof. There are two conically roofed bay windows protruding from the front (south) of the property and a smaller dormer, on the first floor in the centre of the front of the building directly above the main entrance to the property (Photograph 1). There is a small lean to conservatory on the west side of the building, allowing an alternative access into the property (Photograph 2).

The grounds of Tethyknowe House comprise a sloping lawn, which retains a short sward. At the base of the lawn there is a mature shelterbelt of mixed woodland around much of the south and west of the site. The trees largely comprise Scots pine *Pinus sylvestris*, sitka spruce *Picea sitchensis* and beech *Fagus sylvatica* (Photograph 3).

A single pond lies approximately 150m north of the site (photograph 4). This is the only pond shown within 500m of the site in Ordnance Survey 1:25,000 mapping. The pond is of an irregular shape and lies in a shallow depression within an improved grassland field, which has a short sward. There was little in the way of aquatic macrophyte vegetation present in the pond. Much of the edges of the pond supported marginal vegetation in the form of soft rush *Juncus effusus* and great reedmace *Typha latifolia*.

The Roughcleugh Burn (a minor tributary of the Black Devon) lies approximately 160m to the south of the site. The burn was no more than 1m across within the survey area. The burn has been straightened and is little more than a field drain across the survey reach. The water depth in the channel was of a very low level (<5cm) and the channel is almost completely covered with bramble scrub and ruderal vegetation.

### 3.2.2 Protected Species

#### 3.2.2.1 Bats

No roosting bats were recorded within Tethyknowe House. There were partially eaten insects present in the loft void, which may be evidence of the presence of bats, no droppings or staining was noted during the survey visit, but some areas of the loft void were inaccessible due to the presence of rotten timbers. The visit was also undertaken in December during the bat hibernation period and, due to the low humidity levels in the building it is considered unlikely that it would be used as a hibernation roost.

In terms of the Bat Conservation Trust guidance<sup>iii</sup> Tethyknowe House is considered to be of 'High' suitability for supporting roosting bats during the spring summer and autumn months when bats are active. The score based on the following:

- Numerous potential ingress/egress points into the building suitable for access by bats - Gaps in soffits, gaps in mortar, some lifted flashing, and also ingress via gaps in the timber in the lean to conservatory;
- Internal and external gaps allowing access into loft void; and
- Good linear connectivity from adjacent mature woodland shelter belts, providing commuting and foraging opportunities.

The outbuildings are low in nature, of timber and corrugated iron construction and lack enclosed loft voids favoured by bats.

The mature beech trees within the mature shelterbelt of mixed wood at the western and southern extents of the garden area are also considered of an age to have developed features favoured by roosting bats, such as rot holes, cracks and splits.

#### 3.2.2.2 Red Squirrel

No evidence of the presence of red squirrel was recorded during the field survey and no dreys were observed. The desk study returned an observational record of a red squirrel in the grounds of Tethyknowe House within the last five years.

#### 3.2.2.3 Otter and Water Vole

Due to its minor nature and historical management the Roughcleugh Burn is considered to be of negligible suitability for either otter *Lutra lutra* or water vole *Arvicola amphibius* and no evidence of the presence of either of these species was recorded within 250m of the site.

#### 3.2.2.4 Badger

No evidence of the presence of badger *Meles meles* was recorded and this species is not considered further in this report.

#### 3.2.3 Great Crested Newt

The HSI results as shown on table below show the pond scores poorly in terms of its potential to support the protected species, great crested newt *Triturus cristatus*. Its lack of suitability for this species is largely based on its ephemeral nature and its isolation from any other nearby ponds (within 500m). It is suitable for common amphibian species such as common frog *Rana temporaria*.

Table 3-1: Great Crested Newt HSI Results

Pond 1		
HSI Element Number	HSI Element	HSI Score
SI No	SI Description	SI Value
1	Geographic location	0.5
2	Pond area	0.95
3	Pond permanence	0.1
4	Water quality	0.33
5	Shade	1
6	Waterfowl effect	0.67
7	Fish presence	1
8	Pond Density	0.318471338
9	Terrestrial habitat	0.33
10	Macrophyte cover	0.5
HSI Score		0.47
Pond Suitability*		Poor

\* HSI ScorePond Suitability

< 0.50 Poor

0.50 - 0.59 Below average

0.60 - 0.69 Average

0.70 - 0.79 Good

> 0.80 Excellent

#### 3.2.4 Invasive Species

No invasive plant species were recorded during the survey visit.

#### 3.2.5 Birds

Given the time of year (December) a breeding bird survey was not undertaken. The trees in Tethyknowe House garden are likely to support nesting birds during the breeding season (April – August). Additionally, There are bird droppings in the loft void at Tehthyknowe House and there is potential for hirundine species, such as swallow *Hirundo rustica*, to nest within or on the building. Bird species were recorded during the survey visit are presented on Table 3-2 below.

Table 3-2: Bird Sightings

<i>Species</i>	<i>Species</i>	<i>Species</i>
Black-headed gull <i>Chroicocephalus ridibundus</i>	Great tit <i>Parus major</i>	Jackdaw <i>Corvus monedula</i>
Buzzard <i>Buteo buteo</i>	Greenfinch <i>Chloris chloris</i>	Pied wagtail <i>Motacilla alba</i>
Blackcap <i>Sylvia atricapilla</i>	Herring gull <i>Larus argentatus</i>	Robin <i>Erithacus rubecula</i>
Blue tit <i>Cyanistes caeruleus</i>	House sparrow <i>Passer domesticus</i>	Wren <i>Troglodytes troglodytes</i>
Chaffinch <i>Fringilla coelebs</i>		

## **4 Appraisal and Mitigation**

### **4.1 Bats**

Further surveys are recommended to determine whether or not roosting bats will be affected by the works and to inform the need for any licensing.

Tethyknowe House is considered to be of High Suitability for supporting roosting bats. This would trigger the need for three emergence/return survey visits under Bat Conservation Trust Guidance<sup>Error! Bookmark not defined.</sup>. The survey window for undertaking this work is May – September inclusive, but at least two of the survey visits would need to take place between May and August. There should also be a minimum of two weeks between each survey.

It is advised that the trees are retained on site, but should any trees require removal to facilitate the works it is advised that they are demarcated and surveyed separately to determine whether they have the potential to support roosting bats to ensure legislative compliance.

All other buildings within the Development Site are considered to have negligible suitability to support roosting bats and require no further survey.

### **4.2 Red Squirrel**

The desk study has returned an observational record of this species on site, but there are no dreys recorded. The mature trees on site provide a food source and opportunities for drey making. It is advised that the trees are retained on site, but if felling or limbing works are required, then a pre-clearance check is advised, to inform the need for any licensing works and ensure legal compliance should a drey have been constructed.

### **4.3 Birds**

A range of common bird species are considered likely to be breed within the development site. The bird breeding season runs from April to August inclusive.

It is recommended that construction is timed to either avoid the breeding season altogether, or Scheduled to start before the breeding season starts (ideally before mid-March) so that birds returning to the area to breed can choose a territory/nest location away from potentially disturbing activities. In the event this is not possible, prior to the commencement of clearance works, all suitable nesting habitat (trees/scrub and Tethyknowe House) should first be checked to determine the presence of any active nests. If an active nest is confirmed to be present, an exclusion zone should be erected around the nest until all dependent young have fledged, or if the nest is no longer active.

## **5 APPENDICES**



## 5.1 Appendix A (Photographs)

<p>1) Tethyknowe House</p> 	<p>2) Lean to conservatory</p> 
<p>3) Shelterbelt in garden (south and west)</p> 	<p>4) Pond north of site</p> 
<p>5) Rotted fascia boards</p> 	<p>6) Rotted fascia boards</p> 
<p>7) Rotted fascia and soffit boards</p> 	<p>8) Loft void</p> 

9) Rotted joists and gaps in mortar in interior of Tethyknowe House



10) Interior of Tethyknowe House showing stripped lath and plaster



11) Rear (northern) gable



12) Outbuilding to rear of Tethyknowe House



13) Outbuildings used as sawmill



14) Outbuildings used as sawmill



### 5.3 Appendix B (Target Notes)

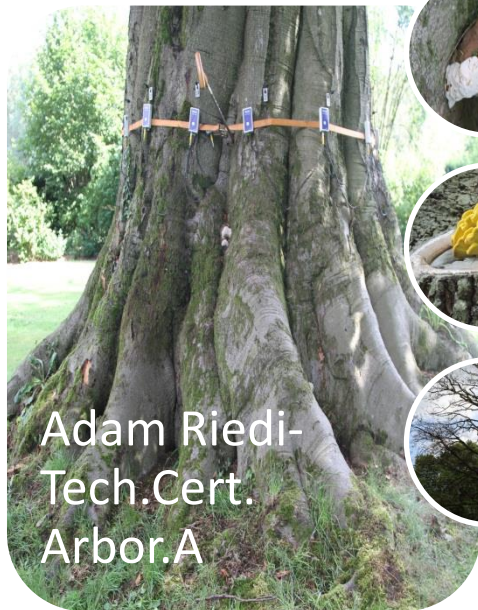
<i>Target Number</i>	<i>Note</i>	<i>Grid Reference</i>	<i>Feature</i>
1		NT 01495 95258	Tethyknowe House. Disused. Stone construction. Gaps in mortar. Rotted soffits/facia. Ingress/egress points allowing potential access for bats and birds.
2		NT 01478 95227	Mature shelterbelt of mixed woodland. Beech, sitka spruce, Scot's pine. Potential to support red squirrel, nesting birds and roosting bats.
3		NT 01475 95251	Outbuildings. Wood structure and corrugated iron roof. Negligible wildlife potential.
4		NT 01492 95269	Outbuilding. Wood structure and corrugated iron roof. Negligible wildlife potential.
5		NT 01598 95444	Pond. Shallow/likely ephemeral. Lack of aquatic macrophytes. Marginal vegetation – great reedmace and soft rush.
6		NT 01520 95047	Roughcleugh Burn. Historically straightened for field drainage. Little water. Overgrown banks (bramble scrub and ruderal).

# BLEBO TREE *Surgery*



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Adam Riedi-  
Tech.Cert.  
Arbor.A



BS 5837 Tree Survey  
Report



Tethyknowe House,  
Blairingone,  
Dollar,  
FK14 7ND



18/11/2021

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## **Part One**

### **General introduction**



## **Client brief**

Mr Alister Macmillan of Amal construction asked us to carry out a pre-development tree survey, in accordance with BSI 5837: 2012, *“Trees in relation to design, demolition and construction-Recommendations”*.

The purpose of the survey is to establish the constraints and opportunities in integrating building structures and services into the existing tree population and is submitted to comply with LPA conditions.

Consequently, having had the tender accepted, Blebo Tree Surgery carried out an arboricultural survey and the findings are presented within this report.

## **The author and surveying team – qualifications and experience**

Adam Riedi holds the Arboricultural Association Technicians Certificate, and also holds the LANTRA Professional Tree Inspection Certificate. He has been working in the industry since 1995 as both a contracting and consulting arborist. As part of a continuing professional development programme, he is currently working towards the Royal Forestry Society Professional Diploma in Arboriculture.

Mr Riedi was the Secretary of the Scottish Branch of the Arboricultural Association where his role included the organisation of seminars and events. In May 2010 he chaired a seminar given by world-leading tree expert Professor Claus Mattheck (Institute of Materials Research, Karlsruhe University, Germany). He has demonstrated modern ultra-sound decay detection techniques at a number of events and colleges. In 2014, he chaired a seminar on ‘trees and the law’ where the principal speakers were Dr David Lonsdale and Jeremy Barrell.

In 2011 he attended a visual tree assessment elite field training course held in Germany with Professor Claus Mattheck.

In 2012 Mr Riedi was asked to join an international research group researching trees, wood-decay fungi and ultrasound diagnostics with tree consultants and leading academics from the UK, Holland, Germany and Switzerland.

In 2015, Mr Riedi has advised the National Tree Collection of Scotland on tree management at several of their sites. He has also advised a number of Scottish Universities on integrating new buildings into the existing valuable and historic tree collections.

### **Aims of the arboricultural survey**

- To collect arboricultural measurements and calculations pertaining to and required by the British Standards Institute (BSI) publication BSI 5837: 2012, "*Trees in relation to design, demolition and construction-Recommendations*" which will aid in quantifying the opportunities and constraints to proposed development.
- To provide an assessment of the hazards posed by the tree population and quantify the associated risk to create a defensible strategy for individual tree management.
- To prioritise and specify remedial work and, where necessary, more detailed investigation, to deal with potential hazards observed during individual tree assessment.
- To attempt to preserve the amenity value of the landscape, while managing the conflicts that may arise with respect to the client's duty of care.
- To create a tree constraints map by plotting tree position, tree category, tag number and crown spread on a licensed mapping tile. This is exported as a DXF and PDF file.



## Summary and site introduction

The survey area consists of the grounds of Tethyknowe House.

The tree population is comprised of broad-leaved and coniferous trees that are both native and exotic in origin. The planting date of the trees are not known by the author but it is probable that the majority of the trees were planted in the early and mid-20<sup>th</sup> century.

The tree population consists largely of early mature and mature trees.

The grounds are defined by a mixture of post and wire livestock fencing, wooden slated fencing and low-level stone-built walls surrounding the garden area of Tethyknowe house. The majority of the tree population of the garden is concentrated around the perimeter with the exception of a limited number of trees growing within the internal areas of the garden.

The site is gently sloping downwards to the south with terraced step-downs in levels.

0% of the tree population surveyed is categorised as A category, 77% as B category, 14% as C category and 9% as U category.

Eleven trees are recommended for remedial work. **Five** trees are recommended for complete felling. **Two** trees are recommended for pruning. **Four** trees require further inspection.



## The importance of trees in the built environment

Urban trees confer many benefits to urban spaces and those who use them.

There are many well documented structural benefits; storm water management, reduction in UV light, shading, cooling of the air and removal of harmful pollutants and particulates from the air around trees.

An attractive and healthy tree population can also add significant financial value to a property which is obviously of key importance to developers, home owners and estate agents.

As the photographs below illustrate, trees also soften and compliment urban architectural and landscape designs and give scale, form and beauty to our streets and public spaces.



Images reproduced with permission of Martin Kelly, Capita Symonds, London

A resilient and well-maintained tree population is also a link with the natural world which might otherwise be lacking in city life. The diversity of forms, colour and seasonal variation has tangible benefits for the physical and mental wellbeing for those who use this “green infrastructure”.

## **Trees and development-an introduction**

The purpose of this process is to identify the nature and quality of existing tree cover and highlight the opportunities and constraints to development activity and the resultant permanent structures.

Good quality and sustainable tree cover is an essential component of green infrastructure and confers many benefits to society and can have considerable landscape, ecological and cultural values. Equally, the tree population should not pose unacceptable risk or nuisance to home owners and their homes. Design and implementation of new structures should be realistic about what is achievable, leave no significant impact on the condition of retained trees and create new structures and spaces with good “liveability”.



The tree survey and tree constraints plan should therefore be regarded as a design tool for the project architect and engineers.

A project arboriculturalist who can advise, as well as specify and supervise works, is an essential part of any successful development team on sites where trees exist. A high level of communication between architects, contractors and an arboriculturalist should ensure a realistic and sustainable outcome for both living trees and new structures.

The tree survey should be carried out and considered prior to any detailed design work and should be submitted to the Local Planning Authority as part of the initial planning application. Trees on development sites should not be conditioned in the planning process as this undermines the role of trees in the process and is in breach of the statutory duty of the Local Planning Authority to consider tree protection and re-planting.



This tree survey document should allow the design team, with the assistance of the project arboriculturalist, to reach a number of objectives.

- Present a tree retention/removal plan
- Present a strategic soft and hard landscaping design, including planting.
- Present an arboricultural impact assessment that quantifies direct and indirect effects of the proposed design on the tree population.

#### Reserved matters and meeting planning conditions

- Present plans and methods for the alignment of utilities.
- Present a tree protection plan that shows the position of root protection areas, protective barriers, ground protection and work exclusion zones.
- Present a detailed arboricultural method statement that details the precise method of tree protection to be used.
- Present a detailed hard and soft landscape design.



**Part Two**

**Tree survey  
and tree management recommendations**



## Visual tree assessment (VTA) - an introduction

A tree can be defined as a self-optimising bio-mechanical structure of lightweight design.

Its form is a consequence of available light, load adaptive growth and circumstances set within the context of its own genetic abilities and constraints.

A tree (when functioning normally) will respond to increased load, either caused by a specific structural defect or by a direct increase in wind and gravitational load, by preferentially depositing adaptive growth tissue in the affected areas. This model is described as the axiom of uniform stress (axiomatic, as it cannot be absolutely proven or disproven).

The VTA Level 1 (ground level, visual assessment only) system can, therefore, make reasonable inferences about the tree's internal condition on the basis of external appearance.

Assessment of vigour and vitality is an appraisal of biological function, which is the driver of all processes within the tree including adaptive growth and reaction to wounding and invasion by pathogens. Excessive biological function, such as long phototropic branches seeking light, may disrupt this aspiration towards mechanical self-optimisation.

Biology and mechanics should be seen as both separate and intimately co-dependent processes. Examples of trees that seem to represent the duality of the bio-mechanical nature of trees may often be observed.

A tree may bear a crown of normal size, density and foliar condition and yet the main stem may be 90% hollow and extremely prone to failure.

Equally, a tree may be intact and structurally sound, free of decay and other major structural defects, but may have poor vitality and its biological function may be declining fast.

The tendency of trees to form weak structures (such as compression forks and other mechanically non-optimised structures) or their ability to resist pathogens and external loads is coded within the genetic make-up of every individual tree species. Despite this fact, trees must be viewed as unique individuals growing in unique circumstances.

The form and position of the tree is also assessed for intrinsic stability. Stem and crown morphology, oscillation under wind and gravitational load, exposure and altered exposure, and tree group dynamics are all considered, along with the likely shear strength and structure of the soil.

The condition of the tree can then be put into the context of a tree risk paradigm. The three components of risk are: the probability of foreseeable mechanical failure (condition), the magnitude of mechanical failure (size of the defective part) and the consequences of mechanical failure (people and property and other things perceived to be valuable).

Finally, the value of the tree (ecological, botanical, landscape) is weighed against the risk of harm and the cost and practicality of any remedial work.



Work specified to reduce unacceptable risk from individual trees to be within an acceptable threshold is given a priority rating based on time from the issue of the report. Remedial work may take the form of complete tree removal, varying degrees of pruning, cable bracing or reduction of the target rating.

For trees that will be retained a re-inspection date is also stated. Trees are dynamic organisms living in a highly dynamic environment, so a regular re-inspection cycle is required. It is also worth remembering that tree condition may improve as well as deteriorate. Good adaptive growth, compartmentalisation of wood decay fungi and other defensive and adaptive strategies may overcome an episodic lapse of condition. Environmental factors and pathogens may become more or less severe and frequent.

Further inspection (VTA Level 2) is recommended in the initial Level 1 survey when it is not possible to evaluate the presence, extent or severity of a defect visually and from ground level. Examples of further inspection include such measures as the aerial inspection of a suspected defect, decay mapping using diagnostic tools or the sampling of affected foliage for laboratory analyses.

Further inspection would not be reasonably employed with low value and low risk trees, or as a substitute for a lack of competency with VTA 1.

The duty of care of the tree owner is not reasonably discharged unless further inspection is carried out within the stated time scales.

Good further inspection should quantify the extent and severity of any defect and help to avoid unnecessary tree removal or pruning, as well as negligent tree management through inaction.

## Methodology

The VTA (visual tree assessment) system was used to evaluate the physiological and structural condition of each tree.

The VTA system was used together with the QTRA (quantified tree risk assessment) system for recording target values. On occasion, the QTRA system was used to calculate a precise risk of harm for a particular tree. Elements of the tree STATICS system were also used.

A nylon *Thor* hammer and manual probe were employed for simple decay detection.

Tree heights were measured using the *trupulse* laser hypsometer system where possible. In areas that had insufficient lines of site, the tree height is estimated.

The tree constraints plan was made using a geo-referenced topographical mapping tile of the area and a mobile mapping GPS unit, which together with a *trupulse* laser collected the on-site data. The resulting plan shows the tree position, tag number, tree quality, crown spread, fall distance and root protection area. The plans are made available in DXF and PDF format.

Metal tree tags were applied to all individually surveyed trees at approximately 1.6 meters from ground level, The tag sequence runs from 347-392 and a secondary tag run starts at 946 and ends at 1000

The total number of individual trees/groupings surveyed is 74.

It is understood the report is in support of a planning application. Therefore, measurements and calculations pertaining to and required by the British Standards Institute (BSI) publication BSI 5837: 2012, "*Trees in relation to design, demolition and construction-Recommendations*" have been taken.

No direct comment is made within this report upon the suitability of any development proposals and the likely impact of proposed development on the tree population of this site. This is because the pre-development tree survey is essentially an aid to design that highlights the opportunities for and constraints upon development posed by the tree population.

The field work for the current survey was carried out on the 17<sup>th</sup> of November 2021 under reasonable working conditions.

## Tree selection method

These trees were selected on the basis of those trees that were plotted in the original topographical survey supplied by the client.

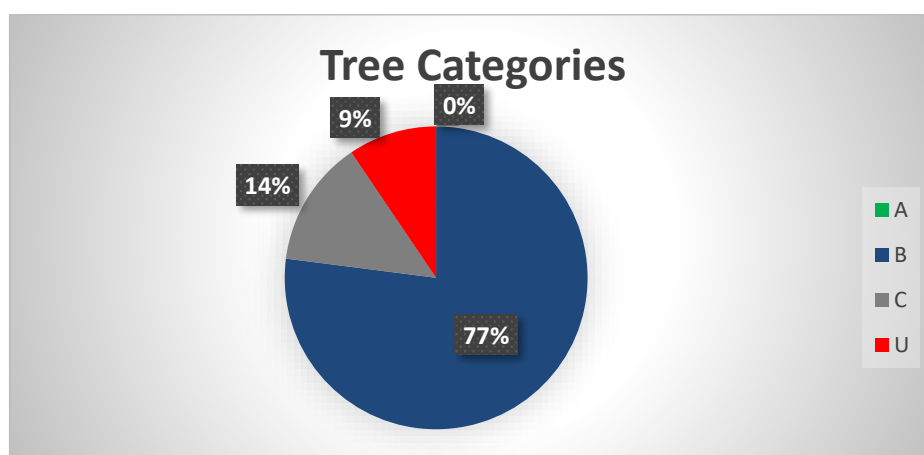


## **OBSERVATIONS**

## Introduction

No direct comment is made within this report upon the suitability of any development proposals and the likely impact of proposed development on the tree population of this site. This is because the pre-development tree survey is essentially an aid to design that highlights the opportunities for and constraints upon development posed by the tree population.

The tree quality category of these trees has been summarised in the table below. Please see [Appendix 4](#) for further explanation of the tree quality category assessment process. Please note that for those trees recommended for further inspection, the tree quality category must be regarded as provisional.



0% of the tree population surveyed is categorised as A category, 77% as B category, 14% as C category and 9% as U category.

The survey was carried out under reasonable working conditions with reasonable visibility.

The tree population is comprised of broad-leaved and coniferous trees that are both native and exotic in origin. The planting date of the trees are not known by the author but it is probable that the majority of the trees were planted in the early and mid-20th century.

The tree population consists largely of early mature and mature trees.

The grounds are defined by a mixture of post and wire livestock fencing, wooden slated fencing and low-level stone-built walls surrounding the garden area of Tethyknowe house. The majority of the tree population of the garden is concentrated around the perimeter with the exception of a limited number of trees growing within the internal areas of the garden.

The tree population is subject to high exposure from the prevailing south westerly wind.

The current tree population has been newly exposed to potential increased wind load and an alteration of the group dynamic.

## **Target**

Three target rating zones currently exist at the site.

Trees capable of striking buildings are zoned as QTRA 2.

Trees capable of striking public footpaths, open access public amenity grounds and residential gardens are zoned as QTRA 3.

Trees only capable of striking the internal garden areas of the site are zoned as QTRA 4

## **Felling**

**Five** trees are recommended for complete felling.

## **Pruning**

**Two** trees are recommended for pruning.

## **Further inspection**

**Four** trees require further inspection.

## **Re-inspection**

It is recommended that trees should have an initial re-inspection cycle of 12 months. Should the target rating increase the risk from the tree population should be immediately reviewed by a competent arboriculturalist.

## RECOMMENDATIONS



## **Recommendations in relation to proposed construction**

- The root protection area for every tree surveyed has been recorded and shown on the Tree Constraints Plan (TCP). The TCP is a layout design tool indicating the minimum around a tree deemed to contain sufficed roots and rooting volume to maintain the tree's viability, and where the protection of the roots and soil structure is treated as priority.

## **Restrictions within tree protection areas**

Inside the exclusion area of the fencing, the following should apply:

- No mechanical excavation whatsoever
- No excavation by any other means without arboricultural site supervision
- No hand digging without a written method statement having first been approved by the project arboriculturist
- No alteration of levels for any purpose (except the removal of grass sward using hand tools)
- No storage of plant or materials
- No vehicular access
- No storage or handling of any chemical including cement washings

Further precautionary measures are necessary adjacent to trees:

- No substances harmful to tree health, including fuels, oil, bitumen, cement (including cement washings), builders sand concrete mixing and other chemicals should be used or stored within the root protection area.
- No fire shall be lit that allows flames within 5 metres of tree foliage or within the root protection area.

## **General tree protection recommendations**

The following considerations should be planned for:

- Plant and material delivery
- Landscaping
- Construction works
- Utility installation
- Demolition
- Soil stripping

Once constructed in situ, no tree protection measures will be removed or changed in any way without prior recommendation by the project arboriculturist and approval of the local planning authority.

Type 1 Tree protection barriers: This is suitable for areas of high intensity development, and should consist of interlocking weld-mesh panels, well braced to resist impacts by attachment to a scaffold framework that is set firmly into the ground.

Should an alternative method of barrier construction be requested, consultation with the project arboriculturist will be obtained to confirm the suitability of the revised design prior to informing the local planning authority and obtaining their consent.

Once the exclusion zone has been protected by barriers and/or ground protection, construction work may begin. All weather notices may be displayed on the barriers.

## **Ground protection**

All ground protection installed must be capable of supporting the expected loads as well as protecting against compaction, rutting or damage to the soil.

### **Avoiding damage to stems and branches**

Care shall be taken when planning site operations near to retained trees to ensure that wide or tall loads, or plant with booms, jibs and counterweights, operate without coming into contact with retained trees. If any such contact were to take place, serious injury to trees is risked which might make their safe retention impossible.

Therefore, any transit or traverse of plant near to trees shall be conducted under the supervision of a banksman, in order to ensure that the correct clearance from trees is at all times maintained. In some circumstances, it may be possible to achieve this without pruning work known as 'access facilitation pruning'

Access facilitation pruning shall be kept to the absolute minimum necessary to allow development and shall be carried out in strict accordance with the guidance below (Tree Surgery). Under no circumstances shall construction personnel undertake any tree pruning operations.

### **Tree surgery**

Given that tree surgery is required, it will be carried out in accordance with BS 3998:2010 *Recommendations for Tree Work*, industry best practice and in line with any works already agreed with the Council.

Proof of experience and insurance provision will be required. All work shall be undertaken at the appropriate time and with the consent and approval of the Site Agent.

If bats or other protected flora or fauna, are discovered during tree work, advice should be obtained from Scottish Natural Heritage or other qualified persons and recommendations adhered to.

The contractor shall seek consent from the arboricultural consultant for the chosen Tree Surgeon to be used. All work shall be undertaken at the appropriate time and with the consent of the Site Agent who shall approve a programme of work.

The stumps of any trees removed from within the Construction Exclusion Zone or the RPAs of retained trees will be either; cut flush to ground level and treated with eco-plug translocated herbicide or ground using a stump grinder. They will not be winched out.

All operations shall be carefully carried out to ensure that damage to any trees being treated or neighbouring trees is avoided. Under no circumstance should retained trees be used for anchorage or winching purposes.

All arisings should be removed from site (unless other arrangements have been made) and the site left clean and tidy.

### **New planting and mitigation**

Replacement tree planting should be implemented to off-set the impact of any tree losses during development. The decision of what species to plant should be left until the impact of the development on the local hydrology and topography is apparent.

## Specifications for tree work

This section defines in more detail the specifications for the suggested courses of action advised within the tree schedule. All tree work should be carried out by qualified and insured arborists to the standards defined in the following document; British Standard Institution 3998: 2010, “Recommendations for tree work”.

### Pruning

**Dead wood management:** removal, or shortening, of all dead branches from the crown of the tree.

**Crown reduction:** reduction of the height and/or lateral width of the crown of the tree. This can be an effective method of reducing the lever arm forces (wind and gravitational load) on the tree or individual limbs, thus compensating for bio-mechanical defects by improving the ratio of strength to mass.

**Extreme crown reduction:** this involves removal of a large proportion, or all, of the primary branches, and possibly, also the reduction in height of the principle stem. This can be appropriate on trees where structural defects are so severe that conventional pruning systems cannot hope to re-instate the ratio of strength to mass within tolerable limits. The physiological response of any individual tree is uncertain, and the success of the operation should be assessed annually. Some species and individuals may produce adventitious growth and continue to function as compact bio-mechanical structures. Other trees may not respond well and become standing dead wood. Any tree parts, or whole trees, that move to senescence have high ecological and habitat values but may constitute a hazard depending on their proximity to targets, so ongoing monitoring is essential. Coronet cuts can also be used to encourage niche habitats and adventitious growth. For more information see; **Read, H.** (2000) *Veteran Trees: A guide to good management*, English Nature, **BS 3998: 2010**, *Recommendations for tree work*, **Fay, N.** (2003) *Coronet Cutting and Retrenchment Pruning-Natural fracture pruning techniques*([www.treeworks.co.uk/press\\_releases\\_publications.php](http://www.treeworks.co.uk/press_releases_publications.php)).

**Fell or section fell:** the removal of trees with significant structural defects or those trees that are in severe conflict with their context.

**Further Inspection:** this aims to clarify the presence, extent and severity of potential defects highlighted in the Level 1 survey. Inspection can vary from a simple aerial visual assessment by Arborists of potential defects that are hard to assess from ground level, through to decay mapping using Ultrasound Tomography.

**Target reduction method:** Valuable old trees with structural defects can sometimes be defensibly retained if the target rating is reduced. Target reduction measures may include fencing off trees, re-directing paths and use of barrier planting.

**Cable bracing:** The artificial restraint of branches and stems to prevent mechanical failure. Bracing can be specified as dynamic or static depending on the severity of the defect.



## General tree management proposal

1. It is strongly advised that arboricultural recommendations made within this report are carried out within the appointed time scales. It is advised that a formal budget and schedule of work are created by the client. That can be done after consultation between the client, the arboricultural consultant and contractors.
2. That the legal status of the trees, the laws and guidelines covering tree management be respected and adhered to. Of particular importance are:
  - Trees in conservation areas: these are protected by ‘Town and Country Planning (Scotland) Act 1997’. Applications to carry out tree work should be made to the local planning authority.
  - Trees and the public road: ‘Roads (Scotland) Act 1994’ and amendments.
  - Protected flora and fauna: ‘Nature Conservation Act 2004’ (Scotland).
  - Felling licenses. Forestry and Land Scotland.
3. All arboricultural remedial work should be carried out to the standards defined in British Standard 3998 ‘Recommendations for tree work’: 2010 and be carried out by professional arborists with the relevant qualifications (level 3 or above) and public liability and employers insurance for arboriculture.
4. If any non-arboricultural work (e.g., path creation, maintenance) is planned, all work should adhere to the guidelines defined in British Standard 5837: ‘Trees in relations to construction – recommendations 2012’ in order to protect the trees from unnecessary damage. Any activity likely to affect the trees, above or below ground, within or out-with the area should be monitored and recorded. Work carried out by statutory undertaker’s out-with the site but potentially within the rooting zone of the trees, should be recorded and the implications for tree health and stability assessed.
5. That a qualified Ecologist be consulted prior to any tree work commencing, in order to advise on the likely impact on any protected flora and fauna.
6. In the event of site usage altering, the risk from trees should be re-evaluated in altered areas.
7. During periods of extreme weather, especially high winds (i.e. over 35 mph), it would be advisable to warn site users, including residents and employees, of the potential risks given the natural failure rate of trees under such conditions and close access to areas in close proximity to the tree population. A mechanism for measuring wind speed and closing areas with physical barriers could be formalised.
8. Should paths be upgraded, or new features like benches be installed, thought should be given to not only on not impacting on tree condition during construction of structures, but also to not unnecessarily raise the target rating of trees through a lack of strategic planning. Careful consideration should be given to the positioning of benches etc.
9. All further inspection work recommended in the tree schedule should be carried out within the stated timescales.

## **Limitations**

- 1- The observations and recommendations contained within this document are valid for 6 months from the date of this report (18<sup>th</sup> November 2021). Given the dynamic and complex nature of living trees it is advised that regular tree inspections are maintained as stated in the tree schedule and after extreme weather.
- 2- This survey is based upon observations of the site as it currently exists.
- 3- Tree condition should be re-evaluated after extremes of weather that may affect the trees' health or stability. Alteration to the site and the context in which these trees grow will make it necessary to re-assess tree condition.
- 4- Only the trees with individual tree numbers fall within the scope of this survey.
- 5- The survey was carried out using the Visual Tree Assessment Level 1 (VTA) technique as defined by C. Mattheck (2003; 2007).
- 6- The survey was carried out from ground level and from within the site boundaries.
- 7- No soil, pathogen or tree samples were taken. No drilling or other decay detection devices were employed.
- 8- No detailed assessment of the rooting zone and below ground tree physiology was made.
- 10- No neighboring property was entered in order to survey the trees. All VTA observations were made from within areas of public access. Some measurements were estimated due to limitations imposed by the terrain.
- 11- Trees are dynamic and complex organisms and are subject to change. No long-term guarantee can be given as to the absolute safety of any tree.
- 12- Target ratings and zones were established on the basis of the site as it was observed. If the client, on the basis of frequent site visits, are able to observe that the target rating is higher than is stated then the hazard posed by the tree population should be upgraded and management recommendations reviewed.
- 13- Some tree positions were estimated where not present on original topographical map.

## **PART THREE**

### **Tree schedule**

## Key to tree schedule

Full term	Explanation
Tree Tag Number	Number on plastic tag attached to the tree at approximately 2 meters above ground level.
Tree Species	Botanical Name (Common English Name). Where contemporary botanical opinion about taxonomy and nomenclature is at variance then the species synonym is also stated as ( <i>syn.</i> )
Age Class	<p>Young (up to the first 1/3rd of expected height).</p> <p>Semi-mature (1/3rd to 2/3rds of expected height),</p> <p>Mature (close to expected ultimate height with rapid girth expansion),</p> <p>Late-mature (at ultimate height and with slow girth expansion),</p> <p>Veteran (a valued tree surviving beyond the typical age for the species).</p>
Vigour	Physiological condition: Normal, Fair, or Poor
Summary of tree condition	<p><b>Good:</b> Full healthy canopy; free from major cavities, wounds, pests or diseases. A tree of excellent shape and form.</p> <p><b>Moderate:</b> Slightly reduced leaf cover or isolated sparse leaf cover, minor deadwood or isolated major deadwood; early stages of decay or disease; stable structural defects. A tree of reasonable shape and form.</p> <p><b>Poor:</b> Overall sparse foliage; extensive deadwood; well-established decay organisms; cavities and or large wounds; structural defects prone to failure. A tree of distorted and imbalanced shape and form.</p> <p><b>Very Poor:</b> Large areas of dead crown; advanced decay; structurally unsafe. A tree of very poor shape and form.</p> <p><b>Dead:</b> Dead tree.</p>
Notes on the structural and physiological condition and its growing context.	Observations made using the level 1 Visual Tree Assessment system.

Full term	Explanation
Preliminary Management Recommendations	Specified works that are recommended for the reduction of the identified hazard(s), or for further investigation. NWR = No Work Required PRUNING EXTREME PRUNING FELLING FURTHER INSPECTION CABLE BRACING
Tree Quality Categorization as per BS 5838:2012	A,B,C OR U Category

Tag Number	Botanical name	Age Class	Vigour	Condition	Tree management recommendations	Tree Retention Category
374	<i>Pinus sylvestris</i> (Scots pine)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free asymmetric crown with isolated deadwood.	NWR	B
375	<i>Aesculus hippocastanum</i> (horse chestnut)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free crown.	NWR	B
376	<i>Pinus sylvestris</i> (Scots pine)	Early mature	Normal	MODERATE Reasonable intact lower trunk. Strip of wounding to north west at approximately 2.5 to 3 meters above ground level showing robust wound wood formation. Largely defect free asymmetric crown with isolated deadwood.	NWR	B
377	<i>Pinus sylvestris</i> (Scots pine)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free asymmetric crown with isolated deadwood.	NWR	B
378	<i>Quercus robur</i> (common oak)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free crown.	NWR	B
379	<i>Picea sitchensis</i> (Sitka spruce)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free asymmetric crown.	NWR	B
380	<i>Picea sitchensis</i> (Sitka spruce)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free asymmetric crown.	NWR	B
381	<i>Picea sitchensis</i> (Sitka spruce)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free crown.	NWR	B
382	<i>Acer pseudoplatanus</i> (sycamore)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free crown.	NWR	C
383	<i>Cupressus x leylandii</i> (Leyland cypress)	Young	Normal	MODERATE Reasonable intact trunk. Characteristic compression fork unions supporting upright stems. Largely defect free crown.	NWR	C

Tag Number	Botanical name	Age Class	Vigour	Condition	Tree management recommendations	Tree Retention Category
384	Poplar sp. (Poplar species)	Mature	Normal	UNKNOWN Basal shrub growth obscuring part of trunk. Very large tree with bias over house. Previous crown reduction pruning carried out.	FURTHER INSPECTION Remove shrub growth and visually re inspect within 3 months.	C
385 (Group)	Prunus domestica & Malus domestica (domestic plum and apple)	Early mature	Normal	MODERATE Group of approximately 10 fruit trees in moderate condition.	NWR	B
386	Prunus lusticanica (Portuguese laurel)	Mature	Normal	MODERATE Multiple stems arising from ground level. Largely defect free crown. some historic pruning wounds.	NWR	C
387	Prunus cerasifera 'nigra' (purple plum)	Mature	Normal	POOR Ganoderma species fruiting bodies at ground level.	FELL Fell to ground level within 3 months.	U
388	Taxus baccata (common yew)	Mature	Normal	MODERATE Two stems arising from ground level. Multiple upright stems arising at approximately 3 meters. Largely defect free crown.	NWR	B
389	Taxus baccata (common yew)	Early mature	Normal	MODERATE Group of two multi stemmed yew trees in moderate condition.	NWR	C
390	Fraxinus excelsior 'pendula' (weeping ash)	Mature	Normal	MODERATE Reasonable intact trunk. Characteristic distorted upper form. Signs of Chalara Fraxinus excelsior (common ash) die back. Frequent deadwood.	NWR	C
391	Ilex aquifolium (common holly)	Early mature	Normal	MODERATE Multiple intact stems supporting largely defect free crown.	NWR	B
392	Fagus sylvatica (common beech)	Young	Normal	MODERATE Reasonable intact trunk supporting largely defect free crown.	NWR	B
946	Acer pseudoplatanus (sycamore)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free crown. Deadwood in upper crown.	PRUNING Remove deadwood. within 6 months.	B

Tag Number	Botanical name	Age Class	Vigour	Condition	Tree management recommendations	Tree Retention Category
947	Poplar sp. (Poplar species)	Mature	Normal	MODERATE Reasonable trunk with approximately 10 degrees lean to east and with some minor Un occluded pruning wounds. Distorted upper form. Tear out wound in upper crown showing good wound wood formation.	NWR	B
948	Acer pseudoplatanus (sycamore)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free crown.	NWR	B
949	Poplar sp. (Poplar species)	Mature	Normal	UNKNOWN Basal area obscured by shrubs. Some large deadwood and storm damaged branches.	FURTHER INSPECTION Remove shrub growth and visually re inspect within 3 months.	B
950	Fraxinus excelsior (common ash)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free crown.	NWR	B
951	Fraxinus excelsior (common ash)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free crown.	NWR	B
952	Fagus sylvatica (common beech)	Young	Normal	MODERATE Reasonable intact trunk supporting largely defect free crown.	NWR	B
953	Fagus sylvatica (common beech)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free asymmetric crown.	NWR	B
954	Picea sitchensis (Sitka spruce)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free asymmetric crown.	NWR	B
955	Fraxinus excelsior (common ash)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free asymmetric crown.	NWR	B
956	Poplar sp. (Poplar species)	Mature	Normal	MODERATE POOR Reasonable lower trunk. Slit like cavity to south in tensile wood at approximately 5 meters from ground level. Trunk with pronounced lean to northeast. Largely defect free crown.	FURTHER INSPECTION Aerial inspection of cavity to south. within 3 months.	B



Tag Number	Botanical name	Age Class	Vigour	Condition	Tree management recommendations	Tree Retention Category
957	<i>Prunus avium</i> (gean)	Mature	Normal	MODERATE Trunk with minor surface wounds and medium diameter pruning wounds. Distorted upper form. Frequent deadwood.	NWR	C
958	<i>Pinus sylvestris</i> (Scots pine)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free asymmetric crown with isolated deadwood.	NWR	B
959	<i>Pinus sylvestris</i> (Scots pine)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free asymmetric crown with isolated deadwood.	NWR	B
960	<i>Fagus sylvatica</i> (common beech)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free asymmetric crown.	NWR	B
961	<i>Pinus sylvestris</i> (Scots pine)	Early mature	Normal	MODERATE Reasonable intact trunk. Very distorted upper form, asymmetric crown.	NWR	C
962	<i>Pinus sylvestris</i> (Scots pine)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free asymmetric crown with isolated deadwood.	NWR	B
963	<i>Fagus sylvatica</i> (common beech)	Early mature	Normal	MODERATE POOR Trunk wound to east from ground level to approximately 2.5 meters from ground level showing reasonable wound wood formation. Distorted upper form.	NWR	U
964	<i>Pinus sylvestris</i> (Scots pine)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free asymmetric crown with isolated deadwood.	NWR	B
965	<i>Picea sitchensis</i> (Sitka spruce)	Early mature	Normal	MODERATE POOR Partially occluded rib to west on lower trunk. Distorted upper form.	NWR	C
966	<i>Picea sitchensis</i> (Sitka spruce)	Early mature	Normal	POOR Fruiting body of <i>Phaeolus schweinitzii</i> present at base.	FELL Fell to ground level within 6 months.	U
967	Poplar sp. (Poplar species)	Mature	Normal	POOR Very decayed trunk with fruiting bodies of suspected <i>Rigidoporus ulmarius</i> .	FELL Fell to ground level within 3 months.	U

Tag Number	Botanical name	Age Class	Vigour	Condition	Tree management recommendations	Tree Retention Category
968	Fraxinus excelsior (common ash)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free crown. isolated deadwood	NWR	B
969	Poplar sp. (Poplar species)	Mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free asymmetric crown.	NWR	B
970	Pinus sylvestris (scots pine)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free asymmetric crown with isolated deadwood.	NWR	B
971	Pinus sylvestris (scots pine)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free asymmetric crown with isolated deadwood.	NWR	B
972	Acer pseudoplatanus (sycamore)	Mature	Normal	MODERATE Reasonable trunk but with multiple un occluded pruning wounds. Largely defect free crown supporting largely defect free crown. Isolated deadwood.	NWR	B
973	Fagus sylvatica (common beech)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free asymmetric crown.	NWR	B
974	Pinus sylvestris (Scots pine)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free asymmetric crown with isolated deadwood.	NWR	B
975	Larix decidua (European larch)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free asymmetric crown with isolated deadwood.	NWR	B
976	Larix decidua (European larch)	Early mature	Normal	MODERATE Sweeping intact trunk supporting largely defect free asymmetric crown.	NWR	B
977	Picea sitchensis (Sitka spruce)	Early mature	Normal	MODERATE Reasonable intact trunk Very distorted upper form.	NWR	C
978	Pinus sylvestris (scots pine)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free asymmetric crown with isolated deadwood.	NWR	B

Tag Number	Botanical name	Age Class	Vigour	Condition	Tree management recommendations	Tree Retention Category
979	Prunus avium (gean)	Mature	Normal	MODERATE Sweeping trunk with minor wounding supporting asymmetric crown with isolated deadwood.	NWR	B
980	Pinus sylvestris (Scots pine)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free asymmetric crown with isolated deadwood.	NWR	B
981	Pinus sylvestris (Scots pine)	Early mature	Normal	MODERATE Reasonable intact trunk. Very distorted upper gorm largely defect free crown.	NWR	B
982	Fagus sylvatica (common beech)	Early mature	Normal	POOR Fruiting bodies of Kretzschmaria deusta present on trunk.	FELL Fell to ground level within 3 months.	U
983	Fagus sylvatica (common beech)	Mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free crown.	NWR	B
984	Acer pseudoplatanus (sycamore)	Mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free crown. isolated deadwood.	NWR	B
985	Fagus sylvatica (common beech)	Mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free crown. isolated deadwood.	NWR	B
986	Pinus sylvestris (Scots pine)	Early mature	Normal	UNKNOWN Ivy growth obscuring condition.	FURTHER INSPECTION Remove ivy growth using hand tools and visually re inspect within 6 months.	B
987	Aesculus hippocastanum (horse chestnut)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free crown.	NWR	B
988	Picea sitchensis (Sitka spruce)	Early mature	Normal	POOR Advanced basal decay.	FELL Fell to ground level within 6 months.	U
989	Picea sitchensis (Sitka spruce)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free asymmetric crown.	NWR	B
990	Pinus sylvestris (Scots pine)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free asymmetric crown with isolated deadwood.	NWR	B

Tag Number	Botanical name	Age Class	Vigour	Condition	Tree management recommendations	Tree Retention Category
991	Pinus sylvestris (Scots pine)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free asymmetric crown with isolated deadwood.	NWR	B
992 (Group)	Pinus sylvestris (Scots pine)	Early mature	Normal	MODERATE Group of three early mature Pinus sylvestris (Scots pine) in moderate condition, some deadwood and hanging branches. Asymmetric crowns.	PRUNING Remove hanging branches within 6 months.	B
993	Pinus sylvestris (Scots pine)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free asymmetric crown with isolated deadwood.	NWR	B
994	Picea sitchensis (Sitka spruce)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free asymmetric crown. Frequent deadwood in lower crown.	NWR	B
995	Pinus sylvestris (Scots pine)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free asymmetric crown with isolated deadwood.	NWR	B
996	Pinus sylvestris (Scots pine)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free asymmetric crown with isolated deadwood.	NWR	B
997	Pinus sylvestris (Scots pine)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free asymmetric crown with isolated deadwood.	NWR	B
998	Aesculus hippocastanum (horse chestnut)	Early mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free crown.	NWR	B
999	Fraxinus excelsior (common ash)	Mature	Normal	MODERATE Reasonable intact trunk supporting largely defect free crown. Frequent small and medium diameter deadwood.	NWR	B
1000	Pinus sylvestris (Scots pine)	Early mature	Normal	POOR Extremely distorted form.	NWR	U

## **DIMENSIONS**

**BS 5837: 2005 – TABLE 1 ROOT PROTECTION AREAS (RPA) AND ROOT PROTECTION RADIUS (RPR)**

## Key to dimensions table

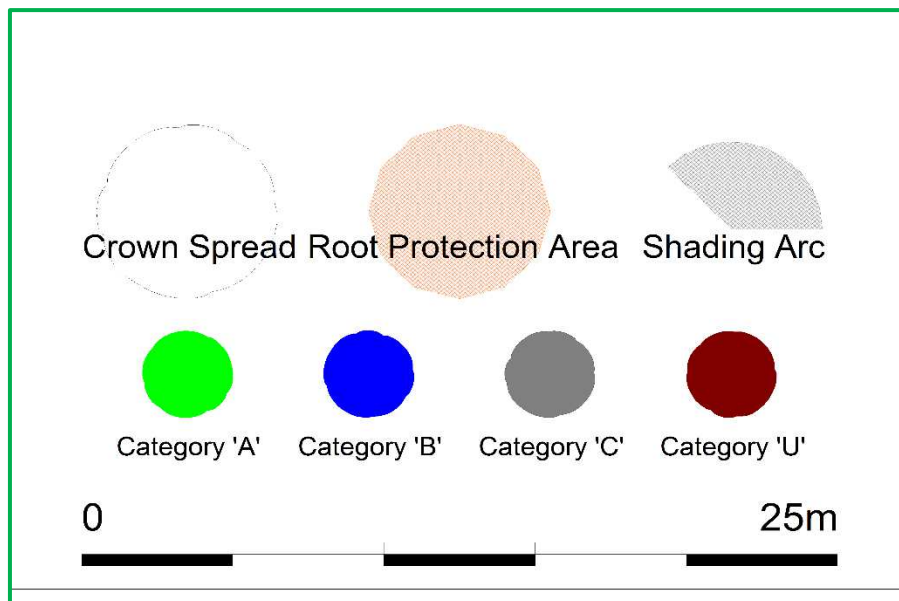
Full term	Explanation
Tree Tag Number	Number on plastic tag attached to the tree at approximately 2 meters above ground level.
Height	Measured height in metres from ground level to growing tips.
Crown clearance	The distance from ground level in metres to the first significant branch
Diameter of stem	Recorded in millimeter's at 1.5m height on the stem in accordance with Annex C of BS 5837:2012. In trees with multiple trunks the first 5 trunks are recorded. Trees with more trunks than 5 have the average diameter recorded.
Crown spread	The spread of the crown on all four cardinal points (north, east, south and west) measured in metres.
Root Protection Radius	A layout design tool indicating the minimum around a tree deemed to contain sufficed roots and rooting volume to maintain the tree's viability, and where the protection of the roots and soil structure is treated as priority. Expressed in metres.
Root Protection Area	As above but expressed as square metres (metres <sup>2</sup> ).

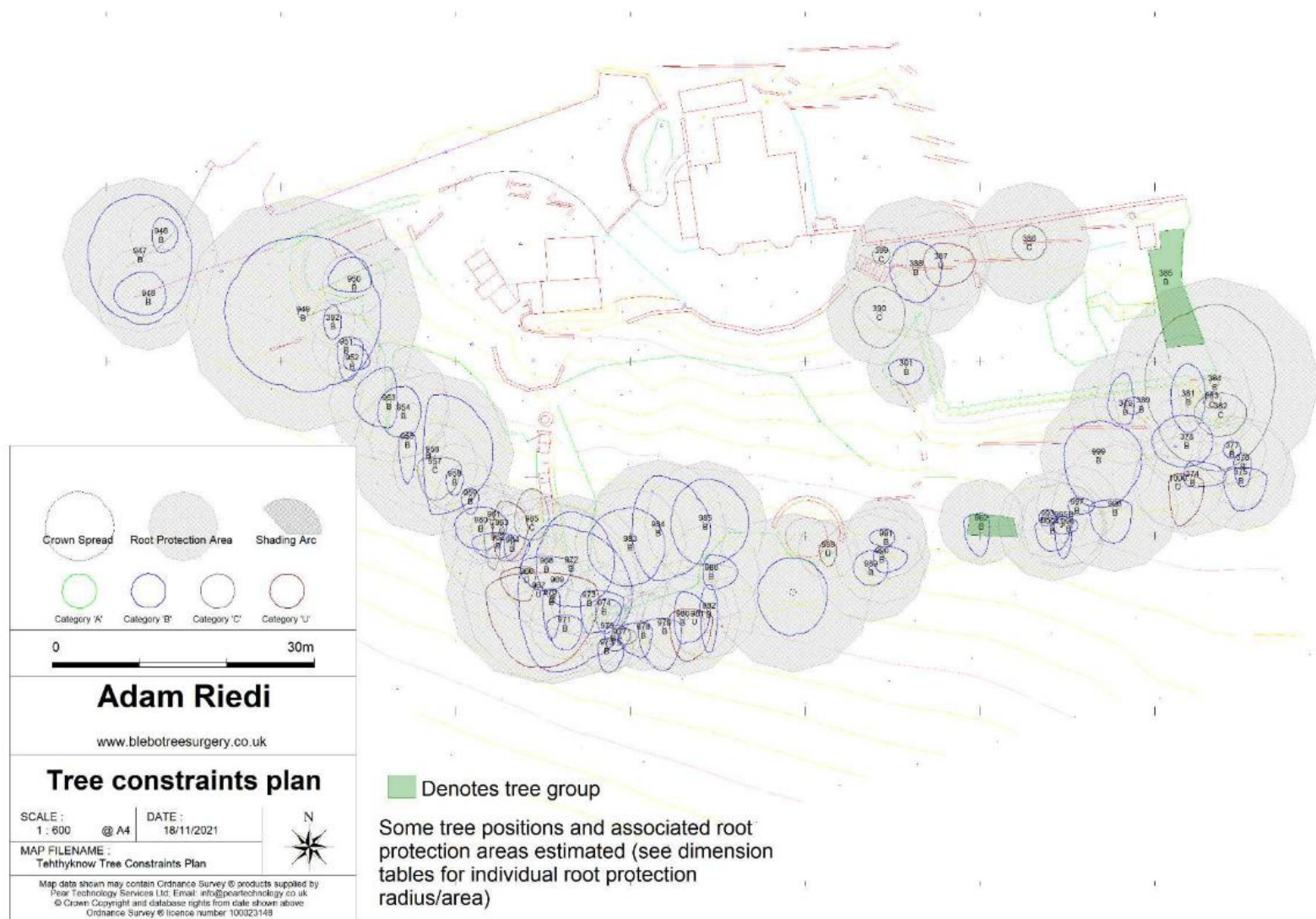
Tree ID	Height (m)	Crown clearance	Number of Stems	Stem 1 (mm)	Stem 2 (mm)	Stem 3 (mm)	Spread - N (m)	Spread - E (m)	Spread - S (m)	Spread - W (m)	RPR Metres	RPA Metres <sub>2</sub>
374	18	7	1	540			2	4	1	1	6.5	131.9
375	7	1	1	510			1	3	4	2	6.1	117.7
376	17	9	1	420			1	1	3	1	5.0	79.8
377	17	15	1	320			1	1	1	1	3.8	46.3
378	22	1	1	430			3	3	3	4	5.2	83.7
379	23	7	1	530			4	1	2	2	6.4	127.1
380	23	13	1	370			1	1	1	1	4.4	61.9
381	20	1	1	590			4	2	4	2	7.1	157.5
382	12	2	1	320			2	3	3	3	3.8	46.3
383	8	3	1	240			1	1	1	1	2.9	26.1
384	24	4	1	980			9	7	10	8	11.8	434.5
385	6	1	NA	NA			NA	NA	NA	NA	2.0 (Approximate)	NA
386	6	1	3	230	330	400	2	2	2	2	6.8	145.6
387	7	1	6	190			2	4	3	2	5.6	98.0
388	10	3	2	380	540		3	3	4	3	7.9	197.2
389	3	0	10	80			1	1	1	1	3.0	29.0
390	9	0	1	490			3	3	4	3	5.9	108.6
391	7	2	8	130			1	2	2	2	4.4	61.2
392	6	2	1	210			2	1	2	1	2.5	20.0
946	15	2	1	290			2	2	2	1	3.5	38.1
947	24	14	1	720			7	6	8	6	8.6	234.5
948	17	3	1	490			3	2	2	4	5.9	108.6
949	25	7	1	1100			9	9	9	9	13.2	547.5
950	17	6	1	300			3	2	1	3	3.6	40.7
951	9	5	1	320			1	2	4	1	3.8	46.3
952	6	2	1	240			2	2	1	1	2.9	26.1
953	13	2	1	560			4	1	3	4	6.7	141.9
954	14	3	1	430			3	2	3	3	5.2	83.7
955	7	5	1	360			1	1	5	1	4.3	58.6
956	26	11	1	760			7	7	7	1	9.1	261.3
957	8	4	1	400			1	3	4	2	4.8	72.4
958	15	9	1	320			1	1	2	1	3.8	46.3
959	16	5	1	320			1	1	2	1	3.8	46.3
960	12	2	1	370			2	3	3	3	4.4	61.9
961	6	4	1	340			1	1	5	1	4.1	52.3
962	19	7	1	540			1	2	2	3	6.5	131.9
963	7	3	1	290			3	3	4	1	3.5	38.1
964	16	6	1	280			1	2	2	1	3.4	35.5
965	12	6	1	310			4	2	2	2	3.7	43.5
966	14	2	1	430			1	1	3	3	5.2	83.7
967	24	9	1	860			2	7	9	6	10.3	334.6
968	15	3	1	270			1	3	3	3	3.2	33.0
969	22	8	1	840			8	9	9	4	10.1	319.2
970	8	3	1	350			1	1	5	1	4.2	55.4
971	9	3	1	330			1	2	3	2	4.0	49.3
972	19	5	1	650			6	5	5	4	7.8	191.2
973	11	3	1	370			1	4	4	1	4.4	61.9
974	18	11	1	380			1	2	3	1	4.6	65.3
975	6	2	1	250			1	2	3	1	3.0	28.3
976	11	8	1	270			1	2	2	1	3.2	33.0
977	6	2	1	290			1	2	1	1	3.5	38.1
978	15	9	1	370			1	1	3	3	4.4	61.9

978	14	1	1	740			4	4	5	4	8.9	247.8
979	6	1	1	380			1	2	5	3	4.6	65.3
980	23	12	1	540			3	3	3	1	6.5	131.9
981	10	4	1	410			1	3	5	2	4.9	76.1
982	7	2	1	450			3	1	5	1	5.4	91.6
983	24	4	1	520			4	4	5	5	6.2	122.3
984	24	4	1	640			6	6	6	3	7.7	185.3
985	19	3	1	570			5	5	5	4	6.8	147.0
986	17	8	1	450			2	3	2	1	5.4	91.6
988	5	1	1	280			1	1	2	1	3.4	35.5
989	25	2	1	500			2	2	2	2	6.0	113.1
990	18	3	1	450			1	3	2	1	5.4	91.6
991	20	2	1	380			1	1	1	2	4.6	65.3
992	13	2	1	400			1	1	4	2	4.8	72.4
993	21	16	1	370			1	1	1	1	4.4	61.9
994	22	1	1	510			1	2	3	2	6.1	117.7
995	19	12	1	400			1	2	1	1	4.8	72.4
996	8	1	1	390			1	1	4	1	4.7	68.8
997	10	10	1	380			1	2	1	1	4.6	65.3
998	10	1	1	590			1	2	4	3	7.1	157.5
999	20	6	1	550			4	5	6	4	6.6	136.9
1000	8	1	1	430			1	3	5	1	5.2	83.7



# TREE CONSTRAINTS PLANS





**APPENDIX 1**

**GLOSSARY OF ARBORICULTURAL TERMS**

**Abscission.** The shedding of a leaf or other short-lived part of a woody plant, involving the formation of a corky layer across its base; in some tree species twigs can be shed in this way

**Abiotic.** Pertaining to non-living agents; e.g. environmental factors

**Absorptive roots.** Non-woody, short-lived roots, generally having a diameter of less than one millimetre, the primary function of which is uptake of water and nutrients

**Adaptive growth.** In tree biomechanics, the process whereby the rate of wood formation in the cambial zone, as well as wood quality, responds to gravity and other forces acting on the cambium. This helps to maintain a uniform distribution of mechanical stress

**Adaptive roots.** The adaptive growth of existing roots; or the production of new roots in response to damage, decay or altered mechanical loading

**Adventitious shoots.** Shoots that develop other than from apical, axillary or dormant buds; see also 'epicormic'

**Age class.** A means of classifying the trees current position in its expected life cycle. This is often classified as; young, early mature, mature, over mature, veteran, dead.

**Anchorage.** The system whereby a tree is fixed within the soil, involving cohesion between roots and soil and the development of a branched system of roots which withstands wind and gravitational forces transmitted from the aerial parts of the tree

**Architecture.** In a tree, a term describing the pattern of branching of the crown or root system

**Arisings.** All branch, stem wood, foliage, etc. that has been produced as a result of tree pruning or felling operations

**Axil.** The place where a bud is borne between a leaf and its parent shoot

**Bacteria.** Microscopic single-celled organisms, many species of which break down dead organic matter, and some of which cause diseases in other organisms

**Bark.** A term usually applied to all the tissues of a woody plant lying outside the vascular cambium, thus including the phloem, cortex and periderm; occasionally applied only to the periderm or the phellem

**Basidiomycotina (Basidiomycetes).** One of the major taxonomic groups of fungi; their spores are borne on microscopic peg-like structures (basidia), which in many types are in turn borne on or within conspicuous fruit bodies, such as brackets or toadstools. Most of the principal decay fungi in standing trees are basidiomycetes

**Bolling.** A term sometimes used to describe pollard heads

**Bottle-butt.** A broadening of the stem base and buttresses of a tree, in excess of normal and sometimes denoting a growth response to weakening in that region, especially due to decay involving selective delignification

**Bracing.** The use of rods or cables to restrain the movement between parts of a tree

**Branch:**

- **Primary.** A first order branch arising from a stem
- **Lateral.** A second order branch, subordinate to a primary branch or stem and bearing sub-lateral branches
- **Sub-lateral.** A third order branch, subordinate to a lateral or primary branch, or stem and usually bearing only twigs

**Branch bark ridge.** The raised arc of bark tissues that forms within the acute angle between a branch and its parent stem

**Branch collar.** A visible swelling formed at the base of a branch whose diameter growth has been disproportionately slow compared to that of the parent stem; a term sometimes applied also to the pattern of growth of the cells of the parent stem around the branch base

**Brown-rot.** A type of wood decay in which cellulose is degraded, while lignin is only modified

**Buckling.** An irreversible deformation of a structure subjected to a bending load

**Buttress zone.** The region at the base of a tree where the major lateral roots join the stem, with buttress-like formations on the upper side of the junctions

**Cambium.** Layer of dividing cells producing xylem (woody) tissue internally and phloem (bark) tissue externally

**Canker.** A persistent lesion formed by the death of bark and cambium due to colonisation by fungi or bacteria

**Canopy species.** Tree species that mature to form a closed woodland canopy

**Cavity.** A void in the tree's structure. This is normally caused by the activity of wood decay fungi

**Cleaning out.** The removal of dead, crossing, weak, and damaged branches, where this will not damage or spoil the overall appearance of the tree

**Co-dominant (crown class).**

**Co-dominant (stems or branches).** Two branches or stems of equal size that have arisen from 2 apical buds at the tip of the same stem. This is often associated (depending on genetic and circumstantial factors) with an inclusion of bark which may cause a point of mechanical weakness

**Compartmentalisation.** The confinement of disease, decay or other dysfunction within an anatomically discrete region of plant tissue, due to passive and/or active defences operating at the boundaries of the affected region

**Compression strength.** The ability of a material or structure to resist failure when subjected to compressive loading; measurable in trees with special drilling devices

**Compressive loading.** Mechanical loading which exerts a positive pressure; the opposite to tensile loading

**Condition.** An indication of the physiological vitality of the tree. Where the term ‘condition’ is used in a report, it should not be taken as an indication of the stability of the tree

**Construction exclusion zone.** Area based on the Root Protection Area (in square metres) to be protected during development, by the use of barriers and/or ground protection

**Coppicing.** A process whereby, following the cutting of a tree stem close to ground level, adventitious buds develop over time into stems arising from the parent stump

**Crown/Canopy.** The main foliage bearing section of the tree

**Crown lifting.** The removal of limbs and small branches to a specified height above ground level

**Crown thinning.** The removal of a proportion of secondary branch growth throughout the crown to produce an even density of foliage around a well-balanced branch structure

**Crown reduction/shaping.** A specified reduction in crown size whilst preserving, as far as possible, the natural tree shape

**Crown reduction/thinning.** Reduction of the canopy volume by thinning to remove dominant branches whilst preserving, as far as possible the natural tree shape

**Deadwood.** Branch or stem wood bearing no live tissues. Retention of deadwood provides valuable habitat for a wide range of species and seldom represents a threat to the health of the tree. Removal of deadwood can result in the ingress of decay to otherwise sound tissues and climbing operations to access deadwood can cause significant damage to a tree. Removal of deadwood is generally recommended only where it represents an unacceptable level of hazard

**Decurrent.** In trees, a system of branching in which the crown is borne on a number of major widely-spreading limbs of similar size (cf. excurrent). In fungi with toadstools as fruit bodies, the description of gills which run some distance down the stem, rather than terminating abruptly

**Defect.** In relation to tree hazards, any feature of a tree which detracts from the uniform distribution of mechanical stress, or which makes the tree mechanically unsuited to its environment

**Delamination.** The separation of wood layers along their length, visible as longitudinal splitting

**Dieback.** The death of parts of a woody plant, starting at shoot-tips or root-tips

**Disease.** A malfunction in or destruction of tissues within a living organism, usually excluding mechanical damage; in trees, usually caused by pathogenic micro-organisms (especially wood decay fungi)

**Distal.** In the direction away from the main body of a tree or subject organism (cf. proximal)

**Dominance.** In trees, the tendency for a leading shoot to grow faster or more vigorously than the lateral shoots; also the tendency of a tree to maintain a taller crown than its neighbours

**Dormant bud.** An axial bud which does not develop into a shoot until after the formation of two or more annual wood increments; many such buds persist through the life of a tree and develop only if stimulated to do so (for example, by pruning and or increased light levels)

**Dysfunction.** In woody tissues, the loss of physiological function, especially water conduction, in sapwood

**DBH (Diameter at Breast Height).** Stem diameter measured at a height of 1.5 metres (UK) or the nearest measurable point. Where measurement at a height of 1.5 metres is not possible, another height may be specified

**Epicormic shoot.** A shoot having developed from a dormant or adventitious bud and not having developed from a first year shoot

**Excrecence.** Any abnormal outgrowth on the surface of tree or other organism

**Excurrent.** In trees, a system of branching in which there is a well defined central main stem, bearing branches which are limited in their length, diameter and secondary branching (cf. decurrent)

**Felling.** The process of cutting a tree down, to a point near ground level, in a controlled way. This is a course of remedial action with the intention of permanently removing a tree.

**Felling licence.** In the UK, a permit to fell trees in excess of a stipulated number of stems or volume of timber

**Flush-cut.** A pruning cut which removes part of the branch bark ridge and or branch-collar

**Girdling root.** A root which circles and constricts the stem or roots possibly causing death of phloem and/or cambial tissue

**Guying.** A form of artificial support with cables for trees with a temporarily inadequate anchorage

**Habit.** The overall growth characteristics, shape of the tree and branch structure

**Hazard beam.** An upwardly curved part of a tree in which strong internal stresses may occur without being reduced by adaptive growth; prone to longitudinal splitting

**Heartwood/false-heartwood/ripewood.** Sapwood that has become dysfunctional as part of the natural aging processes

**Incipient failure.** In wood tissues, a mechanical failure which results only in deformation or cracking, and not in the fall or detachment of the affected part

**Included bark (ingrown bark).** Bark of adjacent parts of a tree (usually forks, acutely joined branches or basal flutes) which is in face-to-face contact

**Increment borer.** A hollow auger, which can be used for the extraction of wood cores for counting or measuring wood increments or for inspecting the condition of the wood

**Infection.** The establishment of a parasitic micro-organism in the tissues of a tree or other organism



**Internode.** The part of a stem between two nodes; not to be confused with a length of stem which bear nodes but no branches

**Lever arm.** A mechanical term denoting the length of the lever represented by a structure that is free to move at one end, such as a tree or an individual branch

**Lignin.** The hard, cement-like constituent of wood cells; deposition of lignin within the matrix of cellulose microfibrils in the cell wall is termed Lignification

**Lions tailing.** A term applied to a branch of a tree that has few if any side-branches except at its end, and is thus liable to snap due to end-loading

**Loading.** A mechanical term describing the force acting on a structure from a particular source; e.g. the weight of the structure itself or wind pressure

**Longitudinal.** Along the length (of a stem, root or branch)

**Minor deadwood.** Deadwood of a diameter less than 25mm and unlikely to cause significant harm or damage upon impact with a target beneath the tree

**Mulch.** Material laid down over the rooting area of a tree or other plant primarily to help conserve moisture; a mulch may consist of organic matter or a sheet of plastic or other artificial material

**Occluding tissues.** A general term for the roll of wood, cambium and bark that forms around a wound on a woody plant (cf. woundwood)

**Occlusion.** The process whereby a wound is progressively closed by the formation of new wood and bark around it

**Pathogen.** A micro-organism which causes disease in another organism

**Picus sonic tomography.** A diagnostic technology which creates a two dimensional picture of a trees cross section by measuring the velocity of a series of ultra-sound pulses which are sent, and received, from a number of sensors (usually eight to twelve in number) which are placed around the trees circumference

**Pollarding.** The removal of the tree canopy, back to the stem or primary branches. Pollarding may involve the removal of the entire canopy in one operation, or may be phased over several years. The period of safe retention of trees having been pollarded varies with species and individuals. It is usually necessary to re-pollard on a regular basis, annually in the case of some species

**Primary branch.** A major branch, generally having a basal diameter greater than 0.25 x stem diameter

**Primary root zone.** The soil volume most likely to contain roots that are critical to the health and stability of the tree and normally defined by reference to BS5837 (2005) Trees in Relation to Construction Recommendations

**Priority.** Works may be prioritised, 1. = high, 5. = low

**Probability.** A statistical measure of the likelihood that a particular event might occur



**Proximal.** In the direction towards from the main body of a tree or other living organism (cf. distal)

**Pruning.** The removal or cutting back of twigs or branches, sometimes applied to twigs or small branches only, but often used to describe most activities involving the cutting of trees or shrubs

**Radial.** In the plane or direction of the radius of a circular object such as a tree stem

**Reactive Growth/Reaction Wood.** Production of woody tissue in response to altered mechanical loading; often in response to internal defect or decay and associated strength loss (cf. adaptive growth)

**Removal of dead wood.** Unless otherwise specified, this refers to the removal of all accessible dead, dying and diseased branchwood and broken snags

**Removal of major dead wood.** The removal of, dead, dying and diseased branchwood above a specified size

**Respacing.** Selective removal of trees from a group or woodland to provide space and resources for the development of retained trees.

**Residual wall.** The wall of non-decayed wood remaining following decay of internal stem, branch or root tissues

**Root-collar.** The transitional area between the stem/s and roots

**Root-collar examination.** Excavation of surfacing and soils around the root-collar to assess the structural integrity of roots and/or stem

**Root protection area.** An area of ground surrounding a tree that contains sufficient rooting volume to ensure the tree's long term retention, close to optimal physiological and structural condition. Calculated with reference to BS5837 (2005)

**Root zone.** Area of soils containing absorptive roots of the tree/s described. The **Primary** root zone is that which we consider of primary importance to the physiological well-being of the tree

**Sapwood.** Living xylem tissues

**Secondary branch.** A branch, generally having a basal diameter of less than 0.25 x stem diameter

**Selective delignification.** A kind of wood decay (white-rot) in which lignin is degraded faster than cellulose

**Shedding.** In woody plants, the normal abscission, rotting off or sloughing of leaves, floral parts, twigs, fine roots and bark scales

**Silvicultural thinning.** Removal of selected trees to favour the development of retained specimens to achieve a management objective

**Simultaneous white-rot.** A kind of wood decay in which lignin and cellulose are degraded at about the same rate

**Snag (stub).** In woody plants, a portion of a cut or broken stem, branch or root which extends beyond any growing-point or dormant bud; a snag usually tends to die back to the nearest growing point

**Soft-rot.** A kind of wood decay in which a fungus degrades cellulose within the cell walls, without any general degradation of the wall as a whole

**Sprouts.** Adventitious shoot growth erupting from beneath the bark

**Stem/s.** The main supporting structure/s, from ground level up to the first major division into branches

**Stress.** In plant physiology, a condition under which one or more physiological functions are not operating within their optimum range, for example due to lack of water, inadequate nutrition or extremes of temperature

**Stress.** In mechanics, the application of a force to an object

**Stringy white-rot.** The kind of wood decay produced by selective delignification

**Structural roots.** Roots, generally having a diameter greater than ten millimetres, and contributing significantly to the structural support and stability of the tree

**Subsidence.** In relation to soil or structures resting in or on soil, a sinking due to shrinkage when certain types of soil dry out, sometimes due to extraction of moisture by tree roots

**Subsidence.** In relation to branches of trees, a term that can be used to describe a progressive downward bending due to increasing weight

**Taper.** In stems and branches, the degree of change in girth along a given length

**Target canker.** A kind of perennial canker, containing concentric rings of dead occluding tissues

**Targets.** In tree risk assessment (with slight misuse of normal meaning) persons or property or other things of value which might be harmed by mechanical failure of the tree or by objects falling from it

**Topping.** In arboriculture, the removal of the crown of a tree, or of a major proportion of it

**Torsional stress.** Mechanical stress applied by a twisting force

**Tree preservation order (TPO).** A legal protection of the tree, and its rooting zone, enforced by the planning department of local government. Most remedial work proposed on a preserved tree requires written approval from this authority.

**Veteran tree.** A loosely defined term for an old specimen that is of interest biologically, culturally or aesthetically because of its age, size or condition and which has usually lived longer than the typical upper age range for the species concerned

**Vigour.** In tree assessment, an overall measurement of the rate of shoot production, shoot extensi. Often expressed as normal, fair, low or dead (for a given species) (*cf.* Vitality)

**Vitality.** In tree assessment, an overall measurement of physiological and bio-chemical processes, in which high vitality equates with healthy function (*cf.* Vigour)

**White-rot.** A range of kinds of wood decay in which lignin, usually together with cellulose and other wood constituents, is degraded

**Wind exposure.** The degree to which a tree or other object is exposed to wind, both in terms of duration and velocity

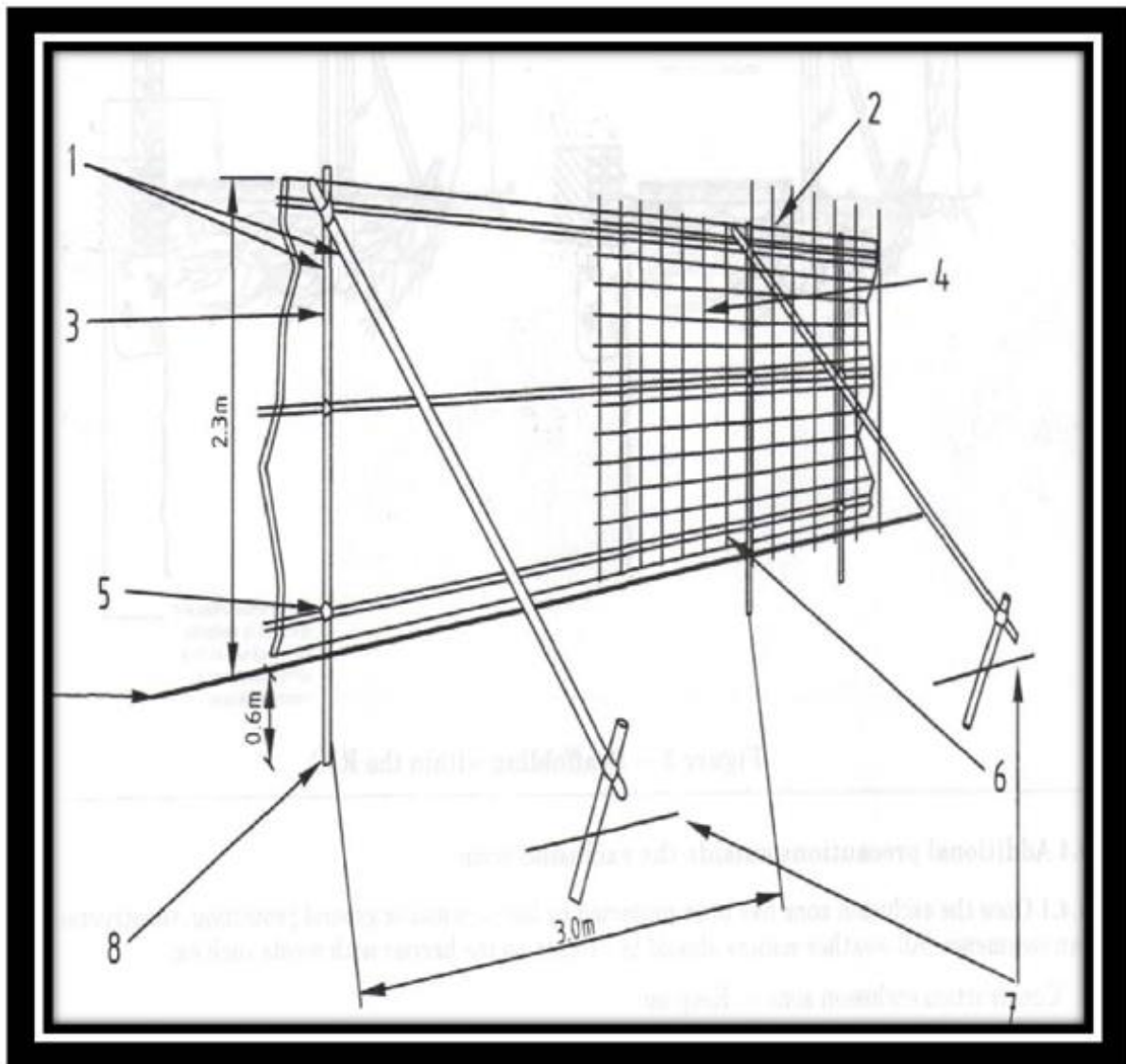
**Wind pressure.** The force exerted by a wind on a particular object

**Windthrow.** The blowing over of a tree at its roots

**Woundwood.** Wood with atypical anatomical features, formed in the vicinity of a wound

## **APPENDIX 2**

### **DEFAULT SPECIFICATION FOR PROTECTIVE BARRIERS, AS PER BS 5837: 2012 FIGURE 2.**



## **APPENDIX 3**

### **BIBLIOGRAPHY**

### **Key texts**

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- BSI 3998: 2010, *Recommendations for tree work*.
- BSI 5837: 2012, *Trees in relation to design, demolition and construction – Recommendations*.

## **APPENDIX 4**

### **TABLE 1 – BSI 5837 TREE QUALITY ASSESSMENT**



Table 1 Cascade chart for tree quality assessment

Category and definition	Criteria (including subcategories where appropriate)	Identification on plan			
<b>Trees unsuitable for retention</b> (see Note)					
<b>Category U</b> Those in such a condition that they cannot realistically be retained as living trees in the context of the current land use for longer than 10 years	<ul style="list-style-type: none"> <li>Trees that have a serious, irremediable, structural defect, such that their early loss is expected due to collapse, including those that will become unviable after removal of other category U trees (e.g. where, for whatever reason, the loss of companion shelter cannot be mitigated by pruning)</li> <li>Trees that are dead or are showing signs of significant, immediate, and irreversible overall decline</li> <li>Trees infected with pathogens of significance to the health and/or safety of other trees nearby, or very low quality trees suppressing adjacent trees of better quality</li> </ul> <p><b>NOTE</b> Category U trees can have existing or potential conservation value which it might be desirable to preserve; see 4.5.7.</p>	Trees identified by tree number and coloured circle referring to retention category.			
<table border="1"> <thead> <tr> <th>1 Mainly arboricultural qualities</th><th>2 Mainly landscape qualities</th><th>3 Mainly cultural values, including conservation</th></tr> </thead> </table>			1 Mainly arboricultural qualities	2 Mainly landscape qualities	3 Mainly cultural values, including conservation
1 Mainly arboricultural qualities	2 Mainly landscape qualities	3 Mainly cultural values, including conservation			
<b>Trees to be considered for retention</b>					
<b>Category A</b> <b>Trees of high quality</b> with an estimated remaining life expectancy of at least 40 years	Trees that are particularly good examples of their species, especially if rare or unusual; or those that are essential components of groups or formal or semi-formal arboricultural features (e.g. the dominant and/or principal trees within an avenue)	Trees, groups or woodlands of particular visual importance as arboricultural and/or landscape features			
<b>Category B</b> <b>Trees of moderate quality</b> with an estimated remaining life expectancy of at least 20 years	Trees that might be included in category A, but are downgraded because of impaired condition (e.g. presence of significant though remediable defects, including unsympathetic past management and storm damage), such that they are unlikely to be suitable for retention for beyond 40 years; or trees lacking the special quality necessary to merit the category A designation	Trees present in numbers, usually growing as groups or woodlands, such that they attract a higher collective rating than they might as individuals; or trees occurring as collectives but situated so as to make little visual contribution to the wider locality			
<b>Category C</b> <b>Trees of low quality</b> with an estimated remaining life expectancy of at least 10 years, or young trees with a stem diameter below 150 mm	Unremarkable trees of very limited merit or such impaired condition that they do not qualify in higher categories	Trees with material conservation or other cultural value			
	Trees present in groups or woodlands, but without this conferring on them significantly greater collective landscape value; and/or trees offering low or only temporary/transient landscape benefits	Trees with no material conservation or other cultural value			
		<b>Colour</b> Mid Blue RGB Code 000-000-255			



**LRB-2022-64**

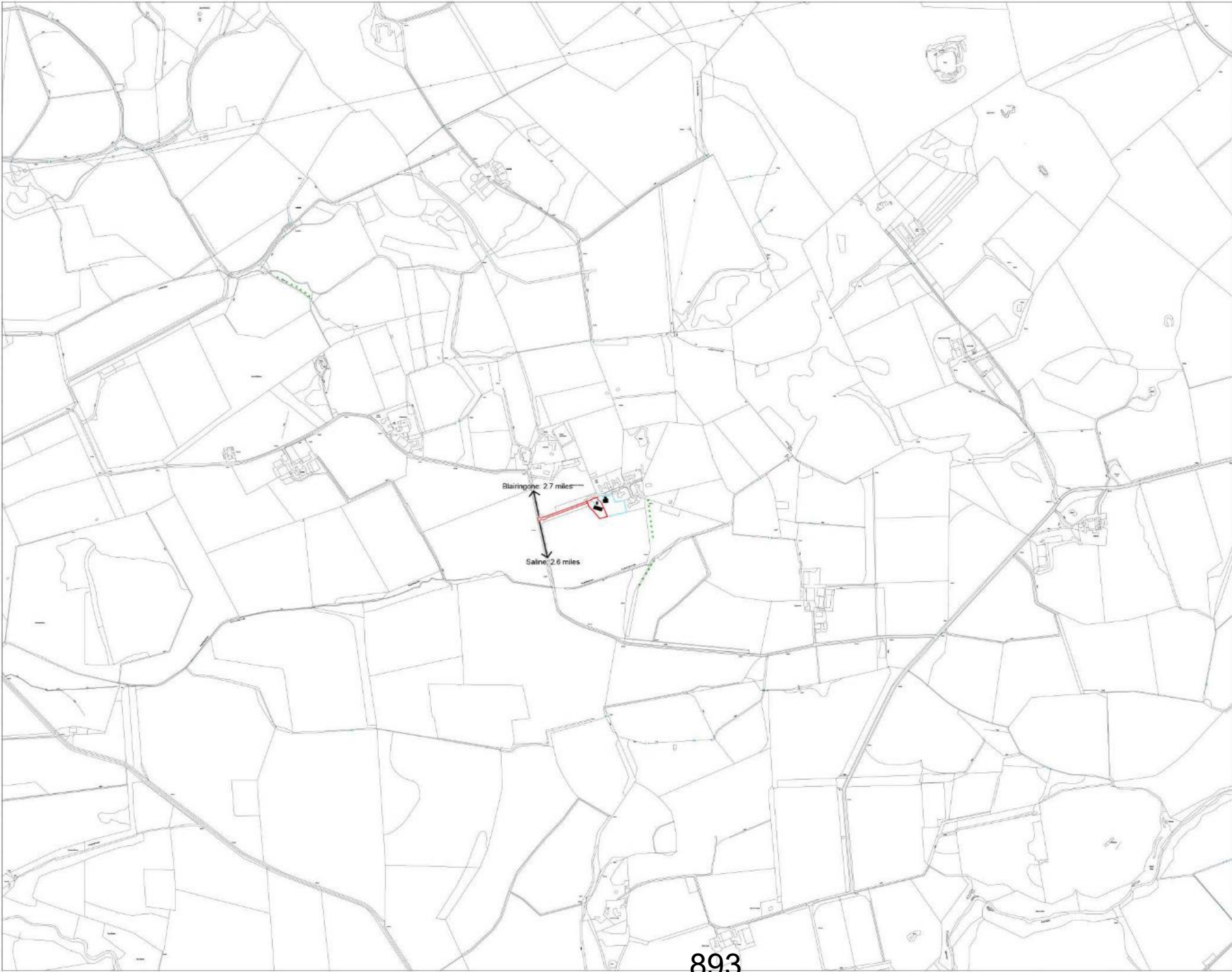
**22/01009/IPL - Erection of a dwellinghouse (in principle),  
land 35 metres south west of Tethyknowe House,  
Blairingone, FK14 7ND**

**PLANNING DECISION NOTICE** *(included in  
applicant's submission, pages 751-752)*

**REPORT OF HANDLING** *(included in applicant's  
submission, pages 753-762)*

**REFERENCE DOCUMENTS** *(part included in  
applicant's submission, page 893)*





The use of this data by the recipient acts as an agreement of the following statements. Do not use this data if you do not agree with any of the following statements:

Only scale for planning purposes. Use figured dimensions in all cases. Check all dimensions on site. Report any discrepancies in writing to the author of this drawing before proceeding.



Amendment

Status

**Planning**

Project

**Tethyknowe**

**Blairingone**

**Dollar**

Drawing

**Location Plan (West)**

Drawing No.

Project ID

045

Originator

Level Type Role

Number

PL\_103

Scale at A3

1:10 000

JD

Drawn By

Status

Revision



**LRB-2022-64****22/01009/IPL - Erection of a dwellinghouse (in principle),  
land 35 metres south west of Tethyknowe House,  
Blairingone, FK14 7ND**

## **REPRESENTATIONS**





Friday, 01 July 2022



Local Planner  
Planning and Development  
Perth and Kinross Council  
Perth  
PH1 5GD

Development Operations  
The Bridge  
Buchanan Gate Business Park  
Cumbernauld Road  
Steps  
Glasgow  
G33 6FB

Development Operations  
Freephone Number - 0800 3890379  
E-Mail - [DevelopmentOperations@scottishwater.co.uk](mailto:DevelopmentOperations@scottishwater.co.uk)  
[www.scottishwater.co.uk](http://www.scottishwater.co.uk)



Dear Customer,

**Land 35 Metres South West Of Tethyknowe House, Blairingone, FK14 7ND**  
**Planning Ref: 22/01009/IPL**  
**Our Ref: DSCAS-0067959-KVX**  
**Proposal: Erection of a dwellinghouse and garage (in principle)**

**Please quote our reference in all future correspondence**

## **Audit of Proposal**

Scottish Water has no objection to this planning application; however, the applicant should be aware that this does not confirm that the proposed development can currently be serviced. Please read the following carefully as there may be further action required. Scottish Water would advise the following:

## **Water Capacity Assessment**

Scottish Water has carried out a Capacity review and we can confirm the following:

- ▶ There is currently sufficient capacity in the Glendevon Water Treatment Works to service your development. However, please note that further investigations may be required to be carried out once a formal application has been submitted to us.

## **Waste Water Capacity Assessment**

- ▶ Unfortunately, according to our records there is no public Scottish Water, Waste Water infrastructure within the vicinity of this proposed development therefore we would advise applicant to investigate private treatment options.

## Please Note

- ▶ The applicant should be aware that we are unable to reserve capacity at our water and/or waste water treatment works for their proposed development. Once a formal connection application is submitted to Scottish Water after full planning permission has been granted, we will review the availability of capacity at that time and advise the applicant accordingly.

---

## Surface Water

For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into our combined sewer system.

There may be limited exceptional circumstances where we would allow such a connection for brownfield sites only, however this will require significant justification from the customer taking account of various factors including legal, physical, and technical challenges.

In order to avoid costs and delays where a surface water discharge to our combined sewer system is anticipated, the developer should contact Scottish Water at the earliest opportunity with strong evidence to support the intended drainage plan prior to making a connection request. We will assess this evidence in a robust manner and provide a decision that reflects the best option from environmental and customer perspectives.

## General notes:

- ▶ Scottish Water asset plans can be obtained from our appointed asset plan providers:
  - ▶ Site Investigation Services (UK) Ltd
  - ▶ Tel: 0333 123 1223
  - ▶ Email: [sw@sisplan.co.uk](mailto:sw@sisplan.co.uk)
  - ▶ [www.sisplan.co.uk](http://www.sisplan.co.uk)
- ▶ Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements to be installed, subject to compliance with Water Byelaws. If the developer wishes to enquire about Scottish Water's procedure for checking the water pressure in the area, then they should write to the Customer Connections department at the above address.
- ▶ If the connection to the public sewer and/or water main requires to be laid through land out-with public ownership, the developer must provide evidence of formal approval from the affected landowner(s) by way of a deed of servitude.
- ▶ Scottish Water may only vest new water or waste water infrastructure which is to be laid through land out with public ownership where a Deed of Servitude has been obtained in our favour by the developer.



- ▶ The developer should also be aware that Scottish Water requires land title to the area of land where a pumping station and/or SUDS proposed to vest in Scottish Water is constructed.
- ▶ Please find information on how to submit application to Scottish Water at [our Customer Portal](#).

## **Next Steps:**

### **▶ All Proposed Developments**

All proposed developments require to submit a Pre-Development Enquiry (PDE) Form to be submitted directly to Scottish Water via [our Customer Portal](#) prior to any formal Technical Application being submitted. This will allow us to fully appraise the proposals.

Where it is confirmed through the PDE process that mitigation works are necessary to support a development, the cost of these works is to be met by the developer, which Scottish Water can contribute towards through Reasonable Cost Contribution regulations.

### **▶ Non Domestic/Commercial Property:**

Since the introduction of the Water Services (Scotland) Act 2005 in April 2008 the water industry in Scotland has opened to market competition for non-domestic customers. All Non-domestic Household customers now require a Licensed Provider to act on their behalf for new water and waste water connections. Further details can be obtained at [www.scotlandontap.gov.uk](http://www.scotlandontap.gov.uk)

### **▶ Trade Effluent Discharge from Non-Domestic Property:**

- ▶ Certain discharges from non-domestic premises may constitute a trade effluent in terms of the Sewerage (Scotland) Act 1968. Trade effluent arises from activities including; manufacturing, production and engineering; vehicle, plant and equipment washing, waste and leachate management. It covers both large and small premises, including activities such as car washing and laundrettes. Activities not covered include hotels, caravan sites or restaurants.
- ▶ If you are in any doubt as to whether the discharge from your premises is likely to be trade effluent, please contact us on 0800 778 0778 or email [TEQ@scottishwater.co.uk](mailto:TEQ@scottishwater.co.uk) using the subject "Is this Trade Effluent?". Discharges that are deemed to be trade effluent need to apply separately for permission to discharge to the sewerage system. The forms and application guidance notes can be found [here](#).
- ▶ Trade effluent must never be discharged into surface water drainage systems as these are solely for draining rainfall run off.
- ▶ For food services establishments, Scottish Water recommends a suitably sized grease trap is fitted within the food preparation areas, so the

development complies with Standard 3.7 a) of the Building Standards Technical Handbook and for best management and housekeeping practices to be followed which prevent food waste, fat oil and grease from being disposed into sinks and drains.

- ▶ The Waste (Scotland) Regulations which require all non-rural food businesses, producing more than 50kg of food waste per week, to segregate that waste for separate collection. The regulations also ban the use of food waste disposal units that dispose of food waste to the public sewer. Further information can be found at [www.resourceefficientscotland.com](http://www.resourceefficientscotland.com)

I trust the above is acceptable however if you require any further information regarding this matter please contact me on **0800 389 0379** or via the e-mail address below or at [planningconsultations@scottishwater.co.uk](mailto:planningconsultations@scottishwater.co.uk).

Yours sincerely,

**Angela Allison**

Development Services Analyst

[PlanningConsultations@scottishwater.co.uk](mailto:PlanningConsultations@scottishwater.co.uk)

#### **Scottish Water Disclaimer:**

*"It is important to note that the information on any such plan provided on Scottish Water's infrastructure, is for indicative purposes only and its accuracy cannot be relied upon. When the exact location and the nature of the infrastructure on the plan is a material requirement then you should undertake an appropriate site investigation to confirm its actual position in the ground and to determine if it is suitable for its intended purpose. By using the plan you agree that Scottish Water will not be liable for any loss, damage or costs caused by relying upon it or from carrying out any such site investigation."*

For the Attention of: Case Officer

Perth and Kinross Council

[By Email: [developmentmanagement@pkc.gov.uk](mailto:developmentmanagement@pkc.gov.uk) ]

07 July 2022

Dear Case Officer

**PLANNING APPLICATION: 22/01009/IPL**

**Erection of a dwellinghouse and garage (in principle); TETHYKNOWE HOUSE, BLAIRINGONE, DOLLAR, FK14 7ND**

Thank you for your consultation notification of the 28 June 2022 seeking the views of The Coal Authority on the above planning application.

**The Coal Authority Response: Material Consideration**

I can confirm that the above planning application has been sent to us incorrectly for consultation.

The application site **does not** fall within the defined Development High Risk Area and is located instead within the defined Development Low Risk Area. This means that there is no requirement under the risk-based approach that has been agreed with the LPA for a Coal Mining Risk Assessment to be submitted or for The Coal Authority to be consulted.

**The Coal Authority Recommendation to the LPA**

In accordance with the agreed approach to assessing coal mining risks as part of the development management process, if this proposal is granted planning permission, it will be necessary to include The Coal Authority's Standing Advice within the Decision Notice as an informative note to the applicant in the interests of public health and safety.

Yours sincerely

**Christopher Telford BSc(Hons) DipTP MRTPI**  
**Principal Development Manager**





Planning & Development  
Perth & Kinross Council  
Pullar House  
35 Kinnoull Street  
Perth PH1 5GD

Email: [developmentmanagement@pkc.gov.uk](mailto:developmentmanagement@pkc.gov.uk)

20<sup>th</sup> July 2022

**Reference: Planning applications referenced 22/01009/IPL.**

Dear Sir / Madam,

I write to object to the Planning application referenced 22/01009/IPL due to numerous discrepancies and a lack of complete information, which you will require prior to assessing the impact and its criteria to meet the current regulations and policies.

We draw your attention to the below wording of Section 19 – Housing in the Countryside Supplementary Guidance, which these applications refer to and have been applied under.

*“Sites which have buildings remaining (including ruinous buildings) will be assessed under Category 4 or 5”.*

*“Brownfield sites are traditional rural buildings which have become redundant...Category 5 - Conversion or replacement of redundant traditional non-domestic buildings...For the purposes of this Supplementary Guidance, 'traditional buildings' are defined as buildings usually constructed before 1919 of materials which would have been available in the local area at that time, largely stone (with or without harling) and slate.”*

*“Allowing the replacement of non-traditional buildings creates a residential use where one previously did not exist without this benefit. The Housing in the Countryside policy therefore does not support the replacement of these non-traditional buildings with housing.”*

The site has remaining buildings and the remaining buildings in question are of non-traditional construction including timber, asbestos, metal cladding, mostly resembling garden sheds.

The proposal does not meet:

*“Proposals should not encourage unsustainable travel patterns. Proposals in less sustainable locations will only be permitted where the benefits outweigh the disbenefits, for example, the provision of essential farm worker housing or bringing an empty traditional building back into use”*

I also wish to clarify a few points from the applicants covering letter:

- We highlight that should these applications not be closely conditioned, granting consent could lead to a future infill sites and or additional development.
- The positioning of the new (west) house is not in line with the neighbouring properties. No 1 Tethyknowe and Tethyknowe House are the front line of the building group when facing the

public road. The west application would bring the front line of the building group forward onto the road side

- The site plans submitted do not align with each other and leave a 'gap / potential infill site' between them, at the southernmost point (when overlapped).
- The covering letter implies that the applicant has shared ownership of the private driveway from the public road. This is not the case and the private driveway is owned in common by 1-6 Tethyknowe Steading only. Neither Tethyknowe House, nor any of the site under this application, have any ownership claim whatsoever to this private access road. The existing Tethyknowe house has an access right over our driveway for that sole property only, nothing is in place for access to these application sites. Whilst we appreciate that access rights are not a concern of the Planning authority, we simply highlight that should consent be granted there would be a significant loss of amenity should this matter become protracted between the common owners and the applicant.
- There is currently no agreement in place for any utility connections supplies to these sites which would require disruptive works to private land.
- The satellite image on Page 5 of the covering letter is out of date and the trees have been significantly reduced throughout the site over the past 9 months.
- The ecological report does not comply with Policy 41 (Biodiversity) of the PKC Local Development Plan
- The ecological report is inconclusive on the matter of bats; "which may be evidence of bats" and we would expect more information will be required (dusk till dawn surveys) to meet with the legally obligated Conservation of Natural Habitats and Species Regulations 2017 Act.
- The ecological report claims no red squirrels – we see these regularly within metres of the sites.
- The ecological report makes no mention of hedgehogs which are a material consideration for Local Planning Authorities and again have been recorded in and around site, out with the hibernation period.
- Page 5 – the blue and red lines on the site plan do not indicate ownership or planning site boundaries, as would usually be indicated by this drawing. The applicant does not own any land outwith the Tethyknowe House site and the treeline to the south of the private driveway.
- The image on page 6 is out of date and there has been significant tree felling, opening up the site considerably from the road side. An up to date photograph should be provided, including during the winter months.
- Ground contamination reports should be provided to support any brownfield site claim.

## POLICY 19

Should these applications be consented:

*Permission will be granted for houses within building groups providing it can be demonstrated that:*

- *New housing will respect the character, scale and form of the existing group, and will be integrated into the existing layout and building pattern.*
- *New housing will not detract from the visual amenity of the group when viewed from the wider landscape.*
- *A high standard of residential amenity will be provided for both existing and new housing.*
- *The plot or plots created are comparable in size to the neighbouring plots and have a similar size of road frontage.*
- *The proportion of each plot occupied by the infill house or houses is no greater than that of the neighbouring plots.*
- *There are no uses in the vicinity which would prevent the achievement of an adequate standard of amenity for the houses, and the amenity of any existing neighbouring house is maintained.*

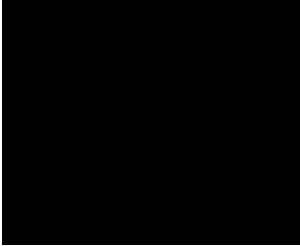


- *The size and design of the infill house or houses is sympathetic to the neighbouring buildings.*

We ask that all current planning policies are complied with when considering this application.

Kind regards,

William Lindsay



## Development Management

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**From:** John Anderson [REDACTED]  
**Sent:** 21 July 2022 22:17  
**To:** Development Management  
**Subject:** Planning comments

CAUTION: This email originated from an external organisation. Do not follow guidance, click links, or open attachments unless you have verified the sender and know the content is safe.

Dear Sir,

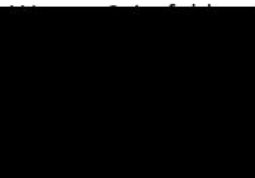
22/01009/ IPL 22/01010/IPL

We would like to comment on the above IPL applications.

We feel that 2 more houses on this single track road necessitates further passing places. No mention is made of the impact it will have on this minor road serving the site.

Yours faithfully,

John and Sheila Anderson





## Development Management

---

**From:** Kevin Borthwick  
**Sent:** 21 July 2022 16:40  
**To:** Development Management  
**Subject:** Neutral Comment 22/01009/IPL Erection of a dwellinghouse and garage (in principle) | Land 35 Metres South West Of Tethyknowe House Blairingone

**CAUTION:** This email originated from an external organisation. Do not follow guidance, click links, or open attachments unless you have verified the sender and know the content is safe.

The Fossoway and District Community Council would like to record a neutral comment regarding this in principle application. As any buildings would be in a rural location we would like to ensure that we safeguard our natural habitat and promote biodiversity. We would therefore recommend that the following conditions apply to ensure dwellings blend into the existing community:-

- Houses should be 1.5 storey and use materials that are consistent with other properties in the settlement group
- Sustainable Development principles as defined in PKC policies should be adhered to
- A positive contribution to the biodiversity of the site should be included in design of houses ie bird boxes; planting of native trees and shrubs
- As the plots are reached via a 1.5-2mile single track road that is heavily used by the local farmers, adequate passing places should be incorporated.

Kind regards  
Nicola Marchant



--  
Fossoway and District Community Council  
working for Blairingone, Drum, Carnbo, Rumbling Bridge, Crook of Devon and Powmill, meeting every first Tuesday in the month apart from July.

For news: find us on Facebook [here](#).





# Comments for Planning Application 22/01009/IPL

## Application Summary

Application Number: 22/01009/IPL

Address: Land 35 Metres South West Of Tethyknowe House Blairingone

Proposal: Erection of a dwellinghouse and garage (in principle)

Case Officer: Persephone Beer

## Customer Details

Name: Mrs Judith Murray

Address: [REDACTED]

## Comment Details

Commenter Type: Neighbour

Stance: Customer made comments neither objecting to or supporting the Planning Application

Comment Reasons:

Comment: Although we have no objection to limited development on the site of Tethyknowe House, we are concerned about the potential increase in traffic on the road. The road is single track and other recent planning applications have had the provision of passing places included as conditions to the granting of planning permission. In reviewing this application, alongside a similar application on the adjacent site, we think the need for provision of further passing places should be considered.

John and Judith Murray



Development Quality Manager  
The Environment Service  
Perth and Kinross Council  
Pullar House  
35 Kinnoull Street  
PERTH  
PH 1 5GD



20th July 2022

Dear Sir/Madam

**Planning Application: 22/01009/IPL**

We are writing to comment on the above planning application. This is one of two applications for additional houses on a site which includes the existing Tethyknowe House. Whilst these are separate applications, and it is expected that a later application will be submitted in relation to Tethyknowe House, many of the comments apply to the whole Site (comprising the West Plot which is the subject of this application, the East Plot (which is the subject of application 22/01009/IPL) and the existing Tethyknowe House) and it is relevant that they are considered in respect of the Site as a whole.

Firstly we wish to correct some information in the covering letter:

- It describes a building group comprising Tethyknowe House and the six houses of Tethyknowe Steading which access the public road via a private road. It then states that the private road is owned by all the properties forming the building group. This is incorrect. The private road is owned solely by the six residents of Tethyknowe Steading. The residents of Tethyknowe House have a right of access by title to use the drive. The owners of the private road do not believe that, irrespective of the previous light engineering business previously at the site, there is an automatic right to extend the access to the private road to any additional houses on this Site. Consequently this Site is a landlocked site with no direct access to the public road.
- The location of this Site is described as connecting via the private drive to the B913. This is incorrect. The B913 is a two lane road some two miles to the west of the Site. The private drive connects to the U213 which is a very narrow single track lane, designated as a walking and cycling friendly route.
- It states that:

*The majority of the tree population of the garden is concentrated around the perimeter with the exception of a limited number of trees growing within the internal areas of the garden.*

Whilst this may be correct now and as described in the tree survey, this was not the case until recently. This site had a significant number of trees within the site until just prior to the purchase of the property by the applicant, when many were taken down. The applicant will state that this work was carried out by the previous owner, which is correct, but as the applicant's project manager was on site during the felling it is reasonable to assume that this was done with the applicant's agreement. We have been told that some of the trees were damaged and it is very likely that this is the case but it is unlikely that this was true of all the trees. We cannot know that as the felling was all carried out before the tree survey was undertaken. This is particularly relevant for the West Plot where siting of a house would have been very difficult if the trees had



not already been removed.

- The site plans for the two applications do not match. There is a gap at the south edge of the Site covered by neither application. The NE corner of the site plan for the West Plot includes the area which is the drive access to the East plot.
- It is stated that the existing Tethyknowe House will be refurbished and sold but it is our understanding that this building is structurally unsound and should be rebuilt. The engineer's report stating this has been shared by the applicant/his agent with PKC's Planning Department.

We have a number of concerns about the viability of this site and the appropriateness of additional houses on this road and at this Site:

- Whilst water pressure in this area is good, the existing water supply to Tethyknowe House is via a pipe with a width only suitable for one house. Upgrading this is not practical and making another connection to the water main requires access across privately owned land.
- The existing septic tank serving Tethyknowe House is on land not owned by the applicant. The letter states that *'Foul drainage for the dwelling will be to a bio-disc treatment plant'*. Whether this will be individual to each property or a shared system the siting of such on this site, taking account of trees and ground levels and of the need to provide access for a tanker for routine desludging, will not be straightforward. In addition the drainage of these systems to a soakaway may not be practical given the impermeable ground conditions as was the case for our houses.

Our sewage treatment plant discharges (under licence from SEPA) to the Roughcleugh Burn to the south. To do the same for this Site would require crossing private land. The existing piped discharge referred to for storm water outfall is very old and may require significant work to ensure that the water reaches the water course to the south, again over private land.

- Additional residential development in this area, which is likely to include children, has an above average additional cost to Perth and Kinross Council for schooling. This has been exacerbated in recent years by the closure of Blairingone Primary School. The nearest primary school, within the county, is now nearly seven miles away and the children travel by taxi funded by the council. The secondary school in Kinross is 12 miles away and the children travel there by taxi and bus.
- As corrected above, this Site links, via the private road, to the U213. This two mile stretch of road is very small and narrow and has seen significant traffic increase. There are a number of farms and equestrian businesses along it which result in substantial movements of large vehicles such as tractors, milk tankers, horse boxes/trailers, feed lorries and many others. The increase in home deliveries over the last two years, which shows little sign of abating, also results in larger delivery vehicles using this road.

There are a few small passing places, which in the words of Perth and Kinross Council's Transport Department are only adequate for two cars to pass. That applies to both the width and length of the passing places. This is evidenced by the destruction of the verges both by and near existing passing places (because they are too small) and elsewhere because the existing ones are insufficient in number. Deep grooves are created by heavy vehicles behind and to either side of the passing places in winter or after heavy rain when the ground is soft. This makes them too risky to use for cars, especially in the dark, because they can fall into the deep grooves and become stuck.

- Policy 19, Housing in the Countryside, states that '*The plot or plots created are comparable in size to the neighbouring plots and have a similar size of road frontage*'. The difficulties of this site in terms of terrain and access, particularly for the east plot, mean that the plot size/remaining garden area for Tethyknowe House would be small and not in proportion with the other houses on the overall site.
- The site will require significant decontamination following its use for light industrial activities for a number of years.

As shown above, for these two applications to be viable, the access right to the private road has to be established. However, if the Council is minded to pass this application, regardless of this issue, then we wish to request that the following conditions are included:

- That the houses are single or 1.5 storey and sited appropriately to minimise impact and overlooking for the neighbouring houses and of appropriate design to integrate with the existing houses. This site slopes down to the south so appropriate siting can potentially achieve this. As indicated in the statement from the applicant, these should be passive houses with high environmental credentials.
- Several additional passing places to be installed on the U213 which at least cater, in length and width, for cars to pass large vehicles.
- This area is a red squirrel habitat as they are regularly seen and all appropriate measures (e.g. nesting boxes, etc.) should be put in place to protect them and all other wildlife currently observed, for example hedgehogs and nesting birds.

Yours faithfully

Jan and Graham Pye



# Comments for Planning Application 22/01009/IPL

## Application Summary

Application Number: 22/01009/IPL

Address: Land 35 Metres South West Of Tethyknowe House Blairingone

Proposal: Erection of a dwellinghouse and garage (in principle)

Case Officer: Persephone Beer

## Customer Details

Name: J McBrien

Address: [REDACTED]

## Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

- Inappropriate Land Use
- Loss Of Trees
- Road Safety Concerns
- Traffic Congestion

Comment: With reference to the above planning application, we wish to make the following comments:

The applicants documents incorrectly state that the site leads out onto the B913 road. This is incorrect. The site leads to a narrow, single track road. This does not connect to the B913 for over 2 miles. The traffic on this road has been increasing significantly over the past few years with an increase in home deliveries caused by the pandemic and events being held at both DM Equestrian and The Market at Solsgirth Home Farm. If any application was approved we would expect conditions requiring the developer to increase the size and number of passing places and also passing place signage to be installed.

The application states that the site is accessed via a private road that is owned by all the properties in the "Building Group" which is also incorrect. The private road is owned by the owners of 1-6 Tethyknowe Steading and not by the owners of Tethyknowe House.

The ecological report stated that there is no evidence of red squirrels. There are several red squirrels in close proximity to Tethyknowe House. One was observed by a number of residents, the new owner of Tethyknowe House and their site manager during a meeting on site last year. There are also several hedgehogs in the area, which have been sighted on the drive that accesses Tethyknowe House.

We would like assurances that the remaining trees on site will be protected. A large number of trees were felled last year on site. This has led to Tethyknowe House becoming very visible from the roadside. Previously the tree line provided screening for Tethyknowe House and also some houses within Tethyknowe Steading. The photo provided by the agent is only from one angle, the house and Steading is clearly visible from other sections of road as a result of the tree felling.

We would like assurances that there will be a full survey of the site, which should cover any potential contamination from the business that was previously run on site. There are a number of ramshackle buildings on site, including one which has the appearance of asbestos and has been damaged recently.

**From:** PKC Biodiversity <Biodiversity@pkc.gov.uk>  
**Sent:** 12 August 2022 10:15  
**To:** Persephone Beer <PRBeer@pkc.gov.uk>  
**Subject:** 22/01009/IPL Consultation Response

Hello Seph,

Submission of a Preliminary Ecological Appraisal Report and Tree Survey at this in principle stage is welcomed. Requirements to inform a full planning application:

- Bat surveys of Tethyknowe House as described in the submitted Preliminary Ecological Appraisal Report.
- All trees to be retained. A tree protection plan is to be submitted outlining how all trees will be protected during construction.
- Any trees that are to be felled or trimmed, impact assessments to protected species namely bats and red squirrels. Compensatory planting for any felled trees. Note - as many trees must be retained as possible.
- Biodiversity enhancement - enhancement of biodiversity should be demonstrated in all projects and needs to be site specific based on surveys, location, development size, surrounding habitats and landscape character, and follow ecologist recommendations. [Planning Guidance - Planning & Biodiversity - Perth & Kinross Council \(pkc.gov.uk\)](https://www.pkc.gov.uk/planning-guidance)
- An ecologist will advise on this, and measures may include:
  - - Planting native trees, orchards, hedgerows and wildflowers.
  - -Providing nesting boxes, bricks or tubes for swallow, house martin and sparrows.
  - -Providing nesting boxes for kestrel and owls in woodland.
  - -Creating wildlife corridors for hedgehogs, frogs and newts.
  - -Creating ponds, swales or rainwater gardens.
  - -Installing a green living roof.
  - -Enhancing connectivity between existing habitats

Best wishes,  
Joanna

Joanna Dick  
Tree and Biodiversity Officer  
Perth and Kinross Council



# Memorandum

To Development Management & Building  
Standards Service Manager

From Regulatory Services Manager

Your ref 22/01009/IPL

Our ref KIM

Date 26 October 2022

Tel No [REDACTED]

Communities

Pullar House, 35 Kinnoull Street, Perth PH1 5GD

## **Consultation on an Application for Planning Permission**

**PK22/01009/IPL RE: Erection of a dwellinghouse and garage (in principle) at Land 35 Metres South West Of Tethyknowe House, Blairingone for Kaas Ventures Ltd**

I refer to your email dated 5 October 2022 in connection with the above application and have the following comments to make.

### **Contaminated Land**

I note three objections to date relating to contaminated land concerns. Supporting information provided by the applicant includes the submission of a Geo-Environmental Design Report prepared by Corebrook Engineering dated December 2021. This partially satisfies the requirements below however further investigations and works will be required on this site once discussed with and agreed by this Service.

Therefore if planning permission is granted in respect of this development I would recommend that the following condition is applied within the consent.

### Condition

#### **EH41**

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. Validation that the scheme has been fully implemented must also be submitted to the Council as Planning Authority.

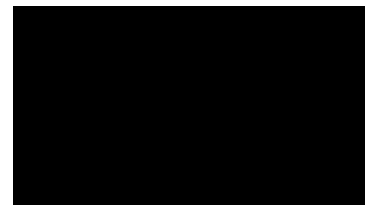






Local Review Body

Perth and Kinross Council  
Pullar House  
35 Kinnoull Street  
PERTH  
PH 1 5GD



12 December 2022

Dear Sir/Madam

**Planning Applications:**

**22/01009/IPL – Erection of a dwellinghouse and garage (in principle), land 35 metres south west of Tethyknowe House, Blairingone, FK14 7ND – Kaas Ventures Ltd**

**22/01010/IPL – Erection of a dwellinghouse (in principle), land 40 metres south east of Tethyknowe House, Blairingone, FK14 7ND – Kaas Ventures Ltd**

With reference to the above planning applications for which the refusals are to be reviewed by the Local Review Body (LRB) we have the following comments, in addition to the comments made in our original comment letters (attached).

Our comments apply equally to both applications and are related to statements in Mr Houghton's submission to the LRB which are incorrect or contradictory.

Mr Houghton has restated that the private road/drive which provides access onto the U213 is owned by all the properties in what he calls 'the building group'. This is incorrect; it is owned jointly by numbers 1-6 Tethyknowe Steading. He states that any additional houses on that site also have the right to use the drive. Tethyknowe House has a right of access via title to use the drive but we do not agree that there is a right for this to be extended to any additional houses on the site.

In reference to the felling of trees by the previous owner – it is not our understanding that Forestry Scotland were consulted prior to the felling but only became involved later. The felling was also carried out prior to the tree survey being undertaken. As previously stated in our letter, although the felling was undertaken by the previous owners, the applicant's project manager was on site during the felling so it is likely that this work was being done with his agreement.

Mr Houghton also states that the siting of the houses is 'designed to take full advantage of the southern aspect'. Both plots still have mature trees on the southern boundary, although not as many as previously. For these houses to enjoy their southerly view they would need to take down further trees but these are also the trees that Mr Houghton states provide screening of the houses. Mr Houghton also states that the houses will be of a passive type. An open southerly aspect is necessary for a passive house and again would require many of the remaining trees to be removed. In its reasons for refusal the planning authority stated that it is contrary to Policy 40A Forest and Woodland Strategy which seeks to protect existing trees and woodland. Many trees have already been removed from this site and to lose any more trees would further impact both the local amenity and the wildlife. Whilst we welcome the suggestion of more trees to be planted this should not be a reason to remove mature trees already there.

Mr Houghton has mentioned that adding an additional passing place on the private drive is not possible. We did not ask for this. Should these applications be passed we asked for additional and

appropriate passing places to be installed on the U213 as those few already in place do not cope with traffic trying to pass as evidenced by the severe damage done to the roadside verges and they are too small for the type of traffic on this road because of the farms and equestrian businesses which generate large vehicular traffic. This is consistent with other planning applications approved on this road.

Yours faithfully

Jan and Graham Pye

Development Quality Manager  
The Environment Service  
Perth and Kinross Council  
Pullar House  
35 Kinnoull Street  
PERTH  
PH 1 5GD



20th July 2022

Dear Sir/Madam

**Planning Application: 22/01009/IPL**

We are writing to comment on the above planning application. This is one of two applications for additional houses on a site which includes the existing Tethyknowe House. Whilst these are separate applications, and it is expected that a later application will be submitted in relation to Tethyknowe House, many of the comments apply to the whole Site (comprising the West Plot which is the subject of this application, the East Plot (which is the subject of application 22/01009/IPL) and the existing Tethyknowe House) and it is relevant that they are considered in respect of the Site as a whole.

Firstly we wish to correct some information in the covering letter:

- It describes a building group comprising Tethyknowe House and the six houses of Tethyknowe Steading which access the public road via a private road. It then states that the private road is owned by all the properties forming the building group. This is incorrect. The private road is owned solely by the six residents of Tethyknowe Steading. The residents of Tethyknowe House have a right of access by title to use the drive. The owners of the private road do not believe that, irrespective of the previous light engineering business previously at the site, there is an automatic right to extend the access to the private road to any additional houses on this Site. Consequently this Site is a landlocked site with no direct access to the public road.
- The location of this Site is described as connecting via the private drive to the B913. This is incorrect. The B913 is a two lane road some two miles to the west of the Site. The private drive connects to the U213 which is a very narrow single track lane, designated as a walking and cycling friendly route.
- It states that:

*The majority of the tree population of the garden is concentrated around the perimeter with the exception of a limited number of trees growing within the internal areas of the garden.*

Whilst this may be correct now and as described in the tree survey, this was not the case until recently. This site had a significant number of trees within the site until just prior to the purchase of the property by the applicant, when many were taken down. The applicant will state that this work was carried out by the previous owner, which is correct, but as the applicant's project manager was on site during the felling it is reasonable to assume that this was done with the applicant's agreement. We have been told that some of the trees were damaged and it is very likely that this is the case but it is unlikely that this was true of all the trees. We cannot know that as the felling was all carried out before the tree survey was undertaken. This is particularly relevant for the West Plot where siting of a house would have been very difficult if the trees had

not already been removed.

- The site plans for the two applications do not match. There is a gap at the south edge of the Site covered by neither application. The NE corner of the site plan for the West Plot includes the area which is the drive access to the East plot.
- It is stated that the existing Tethyknowe House will be refurbished and sold but it is our understanding that this building is structurally unsound and should be rebuilt. The engineer's report stating this has been shared by the applicant/his agent with PKC's Planning Department.

We have a number of concerns about the viability of this site and the appropriateness of additional houses on this road and at this Site:

- Whilst water pressure in this area is good, the existing water supply to Tethyknowe House is via a pipe with a width only suitable for one house. Upgrading this is not practical and making another connection to the water main requires access across privately owned land.
- The existing septic tank serving Tethyknowe House is on land not owned by the applicant. The letter states that *'Foul drainage for the dwelling will be to a bio-disc treatment plant'*. Whether this will be individual to each property or a shared system the siting of such on this site, taking account of trees and ground levels and of the need to provide access for a tanker for routine desludging, will not be straightforward. In addition the drainage of these systems to a soakaway may not be practical given the impermeable ground conditions as was the case for our houses.

Our sewage treatment plant discharges (under licence from SEPA) to the Roughcleugh Burn to the south. To do the same for this Site would require crossing private land. The existing piped discharge referred to for storm water outfall is very old and may require significant work to ensure that the water reaches the water course to the south, again over private land.

- Additional residential development in this area, which is likely to include children, has an above average additional cost to Perth and Kinross Council for schooling. This has been exacerbated in recent years by the closure of Blairingone Primary School. The nearest primary school, within the county, is now nearly seven miles away and the children travel by taxi funded by the council. The secondary school in Kinross is 12 miles away and the children travel there by taxi and bus.
- As corrected above, this Site links, via the private road, to the U213. This two mile stretch of road is very small and narrow and has seen significant traffic increase. There are a number of farms and equestrian businesses along it which result in substantial movements of large vehicles such as tractors, milk tankers, horse boxes/trailers, feed lorries and many others. The increase in home deliveries over the last two years, which shows little sign of abating, also results in larger delivery vehicles using this road.

There are a few small passing places, which in the words of Perth and Kinross Council's Transport Department are only adequate for two cars to pass. That applies to both the width and length of the passing places. This is evidenced by the destruction of the verges both by and near existing passing places (because they are too small) and elsewhere because the existing ones are insufficient in number. Deep grooves are created by heavy vehicles behind and to either side of the passing places in winter or after heavy rain when the ground is soft. This makes them too risky to use for cars, especially in the dark, because they can fall into the deep grooves and become stuck.

- Policy 19, Housing in the Countryside, states that '*The plot or plots created are comparable in size to the neighbouring plots and have a similar size of road frontage*'. The difficulties of this site in terms of terrain and access, particularly for the east plot, mean that the plot size/remaining garden area for Tethyknowe House would be small and not in proportion with the other houses on the overall site.
- The site will require significant decontamination following its use for light industrial activities for a number of years.

As shown above, for these two applications to be viable, the access right to the private road has to be established. However, if the Council is minded to pass this application, regardless of this issue, then we wish to request that the following conditions are included:

- That the houses are single or 1.5 storey and sited appropriately to minimise impact and overlooking for the neighbouring houses and of appropriate design to integrate with the existing houses. This site slopes down to the south so appropriate siting can potentially achieve this. As indicated in the statement from the applicant, these should be passive houses with high environmental credentials.
- Several additional passing places to be installed on the U213 which at least cater, in length and width, for cars to pass large vehicles.
- This area is a red squirrel habitat as they are regularly seen and all appropriate measures (e.g. nesting boxes, etc.) should be put in place to protect them and all other wildlife currently observed, for example hedgehogs and nesting birds.

Yours faithfully

Jan and Graham Pye



Planning & Development  
Perth & Kinross Council  
Pullar House  
35 Kinnoull Street  
Perth PH1 5GD



By email only: [planninglrb@pkc.gov.uk](mailto:planninglrb@pkc.gov.uk)

14<sup>th</sup> December 2022

Dear Sir / Madam,

**Ref: Planning Applications 22/01009/IPL and 22/01010/IPL**

It was re-assuring to see the original Planning applications were reviewed in detail to ensure compliance with the local planning policies and guidance. Our original comments were to simply to allow you to understand the full history to the site/s and the full implications of the currently proposed developments. We are currently unaware of any material consideration to overturn your original refusal as detailed within your Delegated Report.

In line with that and upon reviewing the applicants' recent additional submissions, we have set out our own supplementary comments on these documents and the current policies below to support your original decision.

**POLICY 19, HOUSING IN THE COUNTRYSIDE, OF THE PERTH AND KINROSS LOCAL DEVELOPMENT PLAN 2 (2019) AND THE ASSOCIATED HOUSING IN THE COUNTRYSIDE SUPPLEMENTARY GUIDANCE (MARCH 2020):**

The decision notice wording is very clear:

*The formation of a house plot to the southeast of Tethyknowe House does not respect the character and form of the existing group sitting awkwardly in relation to existing housing to the north and east. Development here, along with the proposed site to the west (application no. 22/01009/IPL) would engulf and surround Tethyknowe House and would not integrate into the existing layout and building pattern. Development would detract from the visual amenity of the group when viewed from the wider landscape. In addition with the plot being forward of the principal elevation of Tethyknowe House, along with the road layout, a high standard of residential amenity may not be provided for both the existing and new housing.*

Having reviewed all documentation thoroughly, we have not been presented with anything that constitutes a material consideration to overturn the original decision.

Below is photograph from the public road taken on 12<sup>th</sup> December 2022.





The above photo is also provided to aid consideration and support the original decision on the basis that development at these sites would be contrary to Policy 19, Housing in the Countryside, of the Perth and Kinross Local Development Plan 2 (2019) and the associated Housing in the Countryside Supplementary Guidance (March 2020), principally:

- *New housing will respect the character, scale and form of the existing group, and will be integrated into the existing layout and building pattern.*
- *New housing will not detract from the visual amenity of the group when viewed from the wider landscape*
- *The scale, layout and design of the proposal must be appropriate to, and have a good fit with, the landscape character of the area in which it is located. It must demonstrate a specific design approach that not only integrates the development within its setting but also enhances the surrounding environment. Buildings should be sympathetic in terms of scale and proportion to other buildings in the locality. Open space and garden ground associated with the proposal should be considered as an integral part of the development.*

No1 Tethyknowe Steading and Tethyknowe House are the front line of the building group when facing the public road. The west application would bring the front line of the building group forward onto the road side. Therefore these applications will not integrate into the existing layout and building pattern and be contrary to the above policy.

The local authority's original decision is clearly supported by the above policy wording and points raised in our original submission letter/s dated 20<sup>th</sup> July 2022 and this letter.

## BROWNFIELD CLASSIFICATION (AS PER PKC's HOUSING IN THE COUNTRYSIDE SUPPLEMENTARY GUIDANCE 2020)

Neither of these sites falls within the 'brownfield' guidance of PKC's Housing in the Countryside Supplementary Guidance 2020.

*Proposals for brownfield sites which still contain buildings will be considered under category 4 or 5. Proposals for brownfield sites where buildings have been removed will be considered under category 6.*

It has been agreed that applications do not meet category 4 or 5 principally due to existing buildings being on site and 'allowing the replacement of non-traditional buildings creates a residential use where one previously did not exist'.

Further, these applications do not meet category 6 as buildings remain on site and are being allowed to fall into disrepair; 'Definition of Rural Brownfield Land For the purposes of this Guidance 'Rural Brownfield Land' is defined as: Derelict land which was at one time occupied by buildings or structures, but these have now been removed'.

Even if either or both sites were considered under Category 6 (which they cannot be), the guidance is clear, and a review of the ground contamination would have to highlight significant hazards:

*Even sites where some contamination is present may **not require to be remediated if there is no significant risk** to human health or the wider environment. This category of the policy is not intended to allow the redevelopment of sites like these, nor is it intended to permit the redevelopment of sites for housing where buildings have simply been allowed to fall into disrepair.*

Upon review of the engineering report, the findings cannot be interpreted as being 'significant risks' for the following reasons:

- Recording of three domestic **above ground** oil tanks with no signs of leakage (no ground contamination) and two are banded.
- A forklift being on site (the relevance of this is unclear, it could be removed quite easily and should not be a material consideration for Planning)
- An 'assumed' separator (Planning cannot be determined nor overturned on assumptions)
- Lack of evidence of inspection of construction or condition of 'assumed separator' \*1
- Said 'assumed' separator being "a risk of a source" \*2
- Report prepared "with hearsay from the previous owner".


\*1 – There is no evidence of the 'assumed' separator's construction or condition. The report "understands the construction to be" further "It is unknown of the maintenance history or construction of the separator" (page 11) and there are no photographs to suggest it has been inspected nor to confirm its condition is either good or bad and/or it has leaked or simply been poorly maintained by the owner, which would be their responsibility under SEPA regulations.

\*2 - The report states an oil separator as being high risk although in the same paragraph it states, "Access was limited at the time of the survey, but it is assumed that the separator has an increased risk of being a source". Designation of Brownfield and/or Contaminated land cannot be determined due to "a risk of a source" which is effectively a 'potential for a source', not a source nor a significant hazard. Brownfield / contaminated land nor Planning consent can be determined upon an 'assumption of a risk' or any assumption for that matter.

Should further support be required, Category 6 Guidance states that ‘**significant risk** to human health or the wider environment’ must exist. Below is the table of soil test results (taken directly from the submitted report).

3010 - WAC Laboratory Site - B27725 01.xls  
Version 004 - 04/09/2008

Lab Project No B27725, 18/11/2021 16:32:19  
Moort Lane, Wotton, Birmingham, B61 7HG

<b>TERRA TEK</b> <small>Soil Investigation &amp; Laboratory Services</small>					Site: HOUSING DEVELOPMENT TETHYKNOWE, NEAR BLAIRINGONE																	Contract No <b>B27725</b>	
					Client: Corebrook Engineering Ltd																	All results expressed at L/S ratio 10:1	
					Engineer:																		
Sample Identification					Arsenic mg/kg	Barium mg/kg	Cadmium mg/kg	Chromium mg/kg	Copper mg/kg	Mercury mg/kg	Molybdenum mg/kg	Nickel mg/kg	Lead mg/kg	Antimony mg/kg	Selenium mg/kg	Zinc mg/kg	Chloride mg/kg	Fluoride mg/kg	Sulphate mg/kg	Dissolved Solids mg/kg	Phenol mg/kg	Dissolved Organic Carbon mg/kg	ASSESSMENT
Exploratory Hole	Depth m	Sample Ref	Sample Type	Lab Sample ID																			
TP02	0.00-0.00		B	797969																			
TP03	0.00-0.00		B	797970																			
TP03	0.00-0.00		B	797971																			
TP04	0.00-0.00		B	797972																			
WASTE ACCEPTANCE CRITERIA																							
Inert landfill					0.5	20	0.04	0.5	2	0.01	0.5	0.4	0.5	0.06	0.1	4	800	10	1000	4000	1	500	
Stable, non-reactive hazardous waste in non-hazardous landfill					2	100	1	10	50	0.2	10	10	10	0.7	0.5	50	15000	150	20000	60000	-	800	
Hazardous landfill					25	300	5	70	100	2	30	40	50	5	7	200	25000	500	50000	100000	-	1000	
Limits of Detection					0.05	0.01	0.04	0.1	0.1	0.005	0.01	0.1	0.2	0.05	0.05	0.2	40	1	100	50	0.1	10	
Terra Tek Analysis Method					TP156	TP156	TP156	TP156	TP156	TP156	TP156	TP156	TP156	TP156	TP156	TP156	TP068	TP069	TP065	TP035	TP060	TP162	
Accreditation M+Mcerts UKAS NV-10 accreditation					N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
Originator	Checked & Approved				NOTE A WAC test will not identify whether a waste is hazardous or not. Waste must be classified using characterisation assessment and analysis in accordance with WM3 first. Then if a waste hierarchy assessment determines that landfill is the appropriate disposal option then chemical WAC testing must be undertaken for wastes destined for inert, stable non-reactive hazardous, or hazardous classes of landfill.																		
DAB	18/11/2021																						
					 <b>Figure 5</b> Sheet 1 of 1																		

The far right hand side column states that the 4nr test results are ‘Inert’ i.e. non-hazardous and not significant risk to human health or the wider environment.

The report also states that the clay soil found throughout both plots would be expected to contain any existing escaped contamination within it (not create a significant wider environmental hazard) IF the assumed separator was to leak / overspill through lack of maintenance. In essence, there is currently no available evidence of significant existing ground contamination and even if there was to be in future it would be contained by the natural soils and/or as a result of it being allowed to run-off from the surface to the ground. The surface risks can also currently be removed from site.

In summary, our understanding is that the engineering report does not conclusively determine there is below ground contamination on either site. There is therefore no significant risk to human health or the wider environment and so there is no evidence to support a claim for Category 4, 5 or 6 development on site.

Overturning the current decision based on the evidence provided would be unjustifiable and set an unhelpful precedent. The local authority’s position should be maintained on merit and is fully justifiable under the current Planning policies.

## OWNERSHIP / ACCESS RIGHT

The matter of ownership and access is not a concern of the local authority however we feel it is important for the local authority to be given a clear, transparent, and factual position given it has formed part of the applicants' review.



The applicants submitted plan (above) showing the blue (ownership) and red (site) boundaries is still incorrect and misleading. The applicant's ownership is Tethyknowe House, gardens and a strip of woodland only from the south verge of the existing private drive to the south fence line. The blue line site should clearly show this for Planning application compliance and for clarity to assess applications.

The applicants Planning Review Statement: Page 2, paragraph 5 & 6 – Paragraph 5 states Tethyknowe House is part of the Building Group and Paragraph 6 states the '*private road is owned by all the properties forming the Building Group*'. This is factually incorrect.

Should it be required and/or should this point continue to be documented incorrectly, we can provide copies of Title Deeds to show sole owners of the private drive from the public road are the No's 1-6 Tethyknowe Steadings in common only. In the meantime, this is supported and agreed within the applicant's own solicitor letter. The applicant does not have any ownership whatsoever over the private access road. Nor do we (No1, as a co-owner) have any intention of agreeing additional access (as required for increased dwellings) which could make us silently complicit to breach of the local planning policies (by us granting access it has potential for breach of the policies contained within this letter).

With regard access rights, we maintain and hold supporting legal opinion/s that confirm our original position. As above, we appreciate this is of no material consideration for the Planners so to save you from lengthy legal jargon, we have summarised our solicitor's legal opinion below:

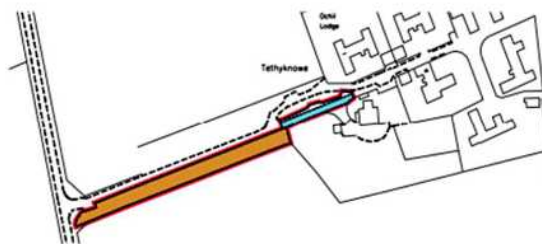
Whilst there is an existing access right for Tethyknowe House (which is uncontested), residential development at the Tethyknowe House site to erect two additional dwelling houses and possibly the use of construction traffic is not lawful. There is also no legal obligation for this right to be passed to subsequent additional Titles and a formal servitude right of access over the access roadway from the proprietors of the various sections of the roadway would have to be formally granted.



There are obviously two opposing views of the current legal position which will naturally, and disappointingly, lead to dispute, delays, costs, loss of amenity to the current co-owners should your original decision be overturned. We appreciate this is not a concern for the Planning Authority however we believe it is important for the local authority to have a clear understanding of the position so they can assess the full impact of these developments against the current Planning policies.

The matter has potential to become even more contentious and lead to further loss of woodland should the Access report item 1.24 (below) come to fruition: 'potential...to widen the existing route of access'. This would require the felling of a mature strip of trees and be against Woodland Policies 40A & 40B.

1.23. A relevant section of the Plan attached to Title **KNR2961** is as follows. This shows the location of the subjects.



1.24. The area within this title appears to have the potential to be used to widen the existing route of access.

1.25. Your client would wish to put several new houses on the dominant tenement.

It also, alarming to note the applicant would 'wish to put **several new houses** on the dormant tenement'.

Although slightly irrelevant, there is an anomaly in the applicants 'access rights' report. The land registry of Scotland records the title referenced 'KNR2961' (in item 1.23 from the screengrab above) as being 2 CAMERON AVENUE, KINROSS, KY138BG, not Tethyknowe House, nor No3 Tethyknowe Steading. A screengrab from the Scottish Land Registry is below.

scotlis.scot.nhs.uk/property-summary/KNR2961

**ScotLIS** Scotland's Land Information Service  
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### 2 CAMERON AVENUE, KINROSS KY138BG

Property details

Title number	KNR2961
Address	2 CAMERON AVENUE, KINROSS KY138BG
Last purchase price	£240,000
Last purchase date	29 November 2018
Land register	Registered
Interest	Ownership <a href="#">What's This?</a>
Property type	Residential <a href="#">What's This?</a>

**Policy 40A, Forest and Woodland Strategy, of the Perth and Kinross Local Development Plan 2 (2019) and Policy 40B, Trees, Woodland and Development, of the Perth and Kinross Local Development Plan 2 (2019)**

These policies seek to protect existing trees and woodland and state that there will be a presumption in favour of protecting woodland resources. We would agree that it has not been demonstrated that development of the site can be achieved without significant impact on the existing woodland resource which would be contrary to existing policies.

The submitted tree survey report highlights that the existing trees on site (excluding 5nr circled red) should all be maintained/protected together with highlighting areas of root protection radius' (RPR's) during any potential construction works (extract from the tree survey, as submitted):

*"RPR's - indicating the minimum around a tree deemed to contain sufficed roots and rooting volume to maintain the tree's viability, and where the protection of the roots and soil structure is treated as priority."*

*Within these areas:*

- *No mechanical excavation whatsoever*
- *No excavation by any other means without arboricultural site supervision*
- *No alteration of levels for any purpose (except the removal of grass sward using hand tools)*

The indicative site plans submitted do not show the root protection radius (RPR's), they show only the tree crowns (a smaller radius). To allow the local authority to accurately assess the impact of development on the site in line with Policies 40A and 40B the RPR's (ranging from 2.5m to 13.2m out from the trees) and/or the Root Protection Areas (ranging from 20m<sup>2</sup> to 547.5m<sup>2</sup>) should be shown on the indicative site plans so permission is not granted that would unintentionally be contrary to these woodland policies. All figures taken from pages 36-37 of the submitted tree survey. Overleaf are the images submitted as part of these planning applications.

Image 1 (Tree protection areas, including root protection (no excavation) areas)

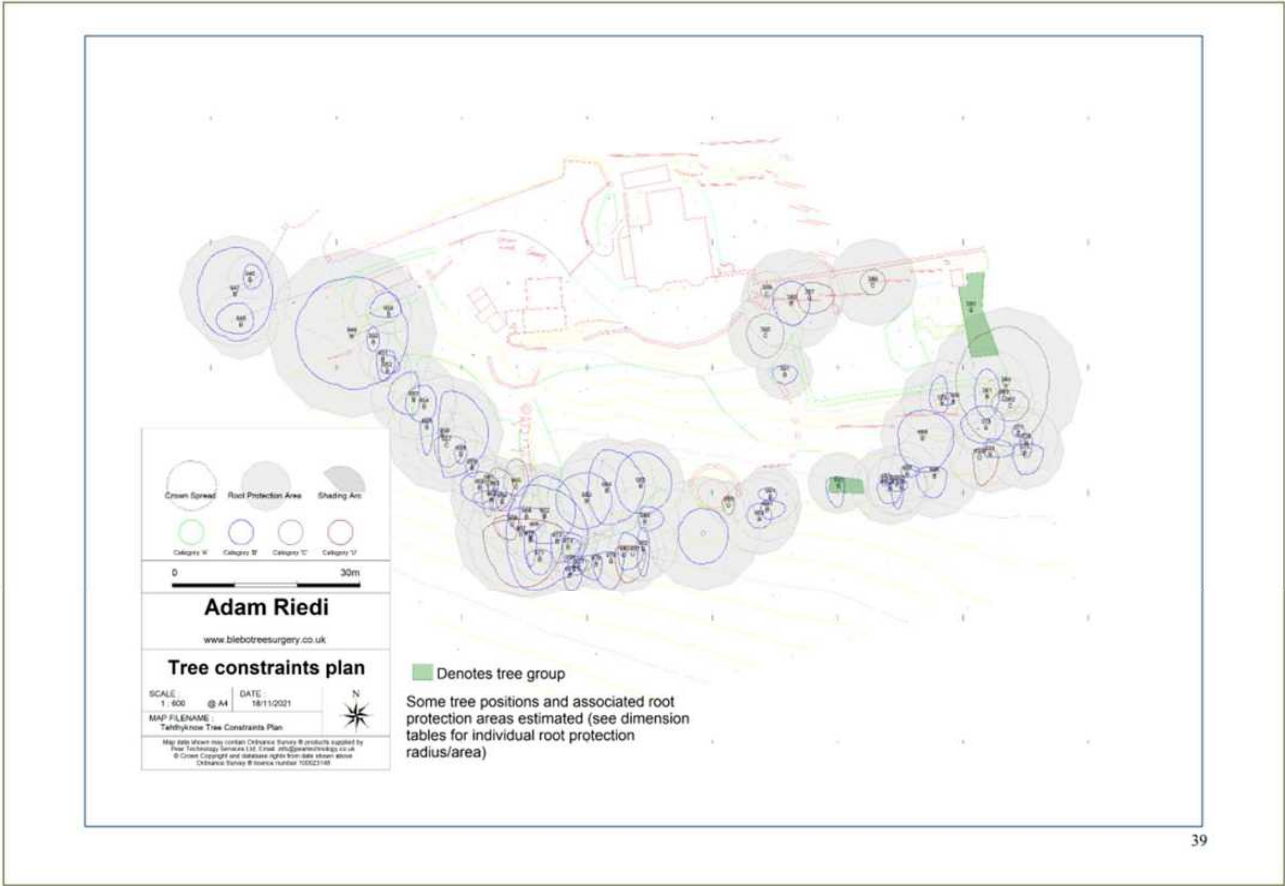


Image 2 (Indicative Site Plan, as applied, showing tree crown only not the RPR's)



Image 3 (Indicative Site Plan, as applied showing tree crown only not the RPR's)



Image 1 is of critical consideration to ensure the recommendations in the tree survey report are followed as well as complying with Policy 40A and 40B.

When considering Image 1 (critically the areas hatched in grey) against image 2 and 3, the resultant area remaining to accommodate the proposed dwellings is reduced significantly. The only remaining area to excavate and locate dwellings would be much closer to Tethyknowe House (in fact within its own existing garden space). That would result in even further engulfing and surrounding of Tethyknowe House (and/or the significant loss of trees / wildlife and loss of amenity) than first indicated in the original Planning application. Considering that point, of which the applications were prior determined, it would be our view that the recent supplementary information submitted has verified the local authorities position that the applications should be refused.

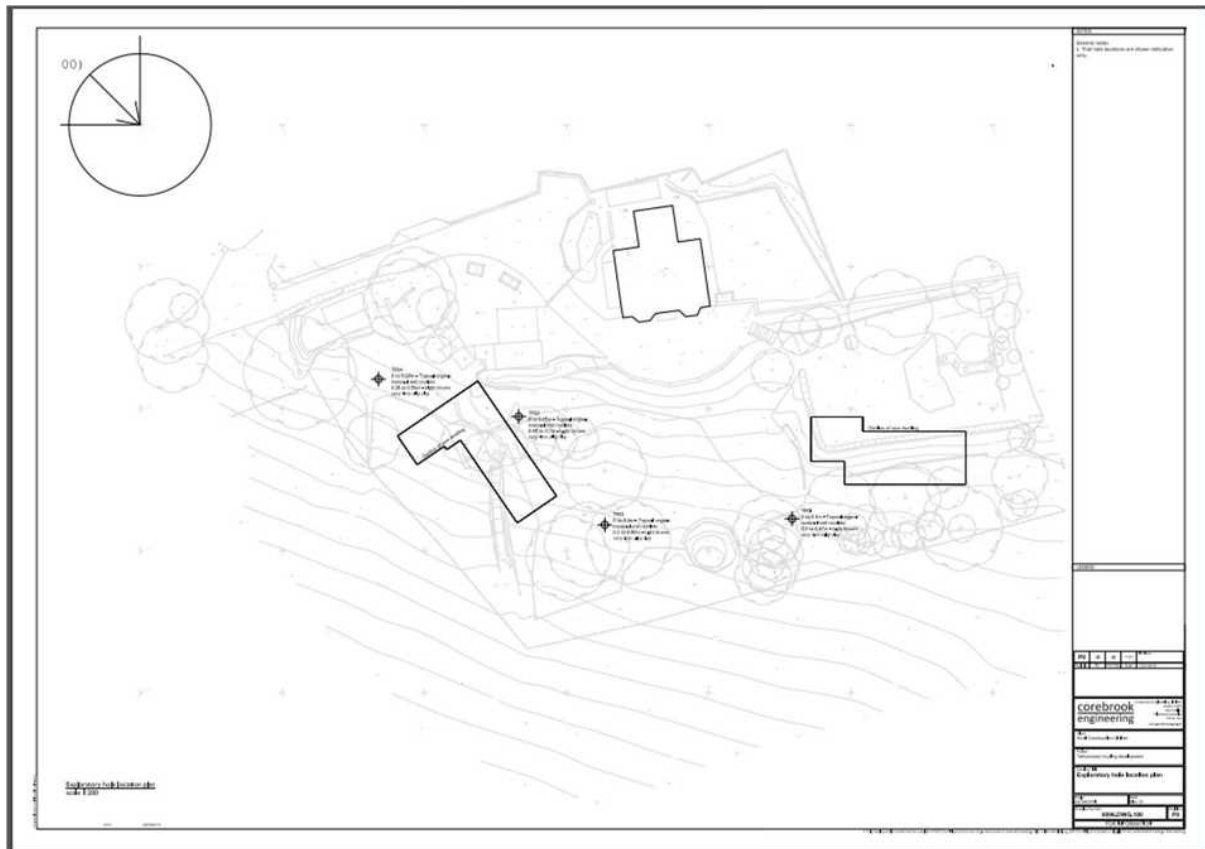
To supplement that view, siting of dwellings and the resultant design to fit within the remaining area would also be contrary to Policy 19, Housing in the Countryside, of the Perth and Kinross Local Development Plan 2 (2019) and the associated Housing in the Countryside Supplementary Guidance (March 2020):

*Permission will be granted for houses within building groups providing it can be demonstrated that:*

- New housing will respect the character, scale and form of the existing group, and will be integrated into the existing layout and building pattern.*
- iii) The scale, layout and design of the proposal must be appropriate to, and have a good fit with, the landscape character of the area in which it is located. It must demonstrate a specific design approach that not only integrates the development within its setting but also enhances the surrounding environment. Buildings should be sympathetic in terms of scale and proportion to other buildings in the locality. Open space and garden ground associated with the proposal should be considered as an integral part of the development.*



The deviation from the professional recommendation and non-compliance with Policies 40A and 40B would be even worse if compared with the building outlines shown on the Corebook Engineering location plan (below), however we presume these locations are now out of date.



Page 4 of the applicants Local Review Statement:

*Trees – Trees have been removed by the previous owner from within the garden of Tethyknowe House. This did not require any consent from the local authority, and is exempt from the need for a felling license, although the tree consultant, and contractor, did the work followed advice from Scottish Forestry. Only trees that were recommended for removal by the tree consultant were felled.*

The claim that the tree felling was undertaken “by the previous owner” is dubious given the developers Project Manager was on site each day during the felling (see appendix A) and that he was contacted directly by Scottish Forestry to halt the felling.

We would respectfully encourage the local authority to seek evidence from the applicant and their agent to support their claim that the recent significant tree felling on the site/s (carried out prior to the submitted tree survey) “followed advice from Scottish Forestry”. We have attached emails / evidence (see Appendix A) to support that it was actually a fellow resident of Tethyknowe Steadings that reported it to Scottish Forestry who in turn halted the felling ‘with immediate effect’.

Independent of who carried out the felling we also query the applicant’s agent statement that it was “exempt from a felling licence”. It has been established (Appendix A) that Scottish Forestry became aware, contacted the current applicant and immediately halted the felling. If no licence was required, why did the felling stop immediately after his visit? And how did the current applicant halt the felling (when notified by Scottish Forestry) if it was all done by the previous owner?

Appendix A evidence's the points raised above; that a current resident of Tethyknowe Steadings initially contacted Scottish Forestry who then contacted the current owner (current applicant) and halted the works with immediate effect:

1. Hugh McNish (Scottish Forestry, Regulation and Development Manager) was contacted on the 7<sup>th</sup> September 2021
2. Mike Strachan (Operations and Development Officer for Scottish Forestry) contacted the current developer and halted the felling with immediate effect on the 14<sup>th</sup> September 2021
3. No further tree felling took place after 14<sup>th</sup> September 2021.

A further key consideration for complying with Policy 40A and 40B is the siting of treatment plants and/or septic tanks. Both or either houses would require a new treatment plant (shared or otherwise) out with the RPR's (areas hatched in grey on image 1). The current regulations for treatment plants and/or septic tanks are that they must be a minimum of 5m from dwellings and 5m from boundaries under the Water Environment (Controlled Activities) (Scotland) Regulations 2011. It has not been established how a high standard of residential amenity will be provided for both the existing and new houses given the excavation restrictions (as per the tree survey) without a further risk of significant loss of trees / wildlife, amenity, overcrowding the site and being contrary to the Policies noted throughout this letter.

Given the above (to protect woodland resource / restricted areas for construction / required scale of the dwellings and gardens to meet policy / potential harm to biodiversity) we would strongly agree with the local authorities view that these applications are contrary to the following policies:

- Placemaking Policies 1A and 1B of the Perth and Kinross Local Development Plan 2 (2019),
- Policy 19, Housing in the Countryside, of the Perth and Kinross Local Development Plan 2 (2019) and the associated Housing in the Countryside Supplementary Guidance (March 2020)
- Policy 39, Landscape, of the Perth and Kinross Local Development Plan 2 (2019)
- *Policy 40B, Trees, Woodland and Development, of the Perth and Kinross Local Development Plan 2 (2019)*
- *Policy 40A, Forest and Woodland Strategy, of the Perth and Kinross Local Development Plan 2 (2019)*

## Policy 41 (Biodiversity) and Ecology

We would raise the below points for consideration in reference to the ecology reports submitted by the applicant.

### Bats (Ecology Report Section 3.2.2.1)

*The outbuildings are low in nature, of timber and corrugated iron construction and lack enclosed loft voids favoured by bats. They were considered to have negligible suitability for roosting bats.*

Negligible does not conclude 'no bats' and has potential to contravene Bat Conservation Trust guidance without conclusive evidence.

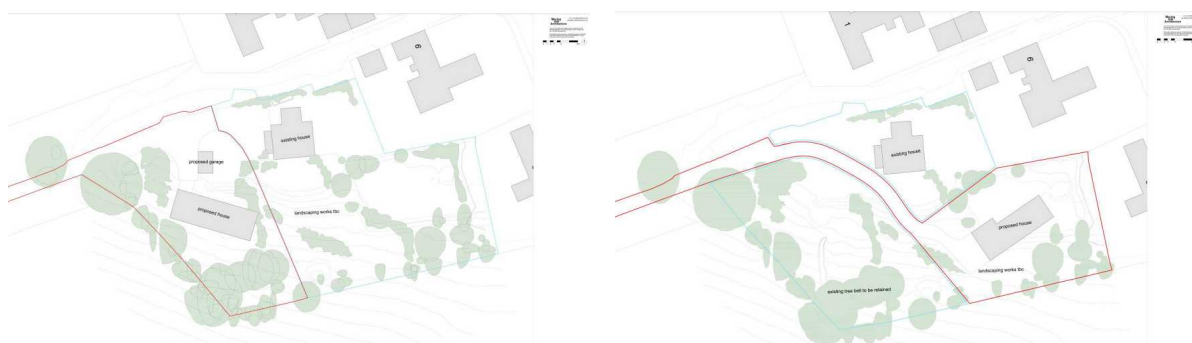
*The mature trees within the mature shelterbelt of mixed wood at western and southern extents of the garden are to also be considered of an age to have developed features favoured by roosting bats.*

Further supporting evidence for compliance with the local authority's 40A and 40B Woodland policies and Policy 41 (Biodiversity) of the PKC Local Development Plan.

### Bats (Nov' 22 Ecology Report Section 4.1, Page 8)

*It is understood all existing trees will be retained under the proposals. It is advised that as a minimum 10m distance is maintained from the footprint of the works to the existing trees and that this boundary is demarcated prior to the commencement of any works by Heras fencing or similar.*

The above requirement alongside the requirement to maintain all existing trees (excluding 5nr) will affect the siting of the proposed dwellings. Any dwelling would need to be sited "a minimum of **10m from any tree**" as per the ecology report submitted. Consideration should be given as to whether dwellings are possible within the proposed sites without contravening the woodland policies 40A and 40B (the root protection zones) and Policy 41 (Biodiversity) of the PKC Local Development Plan. The locations of the proposed dwellings are provided below for reference.



*Tethyknowe House is considered to be of High Suitability for supporting roosting bats. This would trigger the need for three emergence/return survey visits under Bat Conservation Trust. The survey window for undertaking this work is May – September inclusive, but at least two of the survey visits would need to take place between May and August. There should also be a minimum of two weeks between each survey. (MARCH ECOLOGY REPORT)*

We also suggest it is established whether **three surveys** have been carried out as per the above and requirements or just the one survey on the 16<sup>th</sup> of August 2022 (as reported in the latest ecology report, Page 2) and other in December 2021 (during the bat hibernation period). Without the three required surveys, the Bat Conservation Trust guidelines would be in breach.

#### Red Squirrels (Ecology Report Section 4.2)

*The mature trees on site provide a food source and continued opportunities for drey making. It is advised that as a **minimum 10m distance** is maintained from the footprint of the works to the existing trees and that this boundary is demarcated prior to the commencement of any works by Heras fencing or similar.*

Given the minimum 10m distance from a tree, consideration should be given as to whether dwellings are possible within the proposed sites without contravening the woodland policies 40A and 40 B and Policy 41 (Biodiversity) of the PKC Local Development Plan.

#### Birds (Ecology Report Section 3.2.5)

*'Given the time of year (December) a breeding bird survey was not undertaken. The trees in Tethyknowe House garden are likely to support nesting birds during the breeding season (April – August)*

Policy 41 (Biodiversity) of the PKC Local Development Plan should be considered in line with this.

#### Invasive Species (Ecology Report 4.4)

Two stands of the invasive species Himalayan balsam were recorded on site during the August 2022 visit, which were not observed in December 2021 due to the die back of this species within winter months. Himalayan balsam is listed as an invasive species on schedule 9 of the Wildlife and Countryside Act and under the Wildlife and Natural Environment (Scotland) Act 2011 (WANE Act), it is illegal to cause the spread of this species in the wild.

Nature Scotland lists this species as being:

*"one of the four invasive plants that cause the most damage" (alongside Japanese Knotweed). "Invasive non-native plants invade habitats, spread quickly and outcompete native vegetation. Some can be destructive, causing riverbanks, built structures and surfaces to destabilise. A few can adversely human and animal health."*

We would contest that only two strands of Himalayan Balsam were witnessed. We have record photographs of it growing throughout the mutual boundary to the north and west.

Himalayan Balsam grows in dense clumps smothering native plants and reducing biodiversity which would be contrary to Policy 41 should Planning consent be granted where there is a risk of further spread of this invasive and destructive species.

#### Other

Storm water discharge is proposed to be connected "to a watercourse using an existing pipe". The capacity of the existing pipe should be established to confirm whether it is sufficient without the need to apply for a new, increased, 'licence to discharge to an existing watercourse' from SEPA. It would be surprising if a discharge pipe leading 160m (to the roughceugh burn) was originally installed (c. 100 years ago) with capacity for additional houses of the scale required by planning policies. SEPA are currently actively trying to reduce discharges to watercourses and whether they would permit this is

unknown. SEPA guidance states: It is a requirement for new developments with surface water drainage discharging to the water environment that such discharges will pass through. <https://www.sepa.org.uk/regulations/water/pollution-control/>

In summary, whilst additional information has been presented, all technical matters have yet to be conclusively determined and, therefore, all policies in the Local Development Plan are yet to be satisfactorily complied with. The most significant factor is the minimum 10m distance from a tree to any 'works area' (not just the building footprint) and whether this is practical and achievable without loss of woodland resource.

## Other Considerations

*Other points we wish to raise to your attention:*

1. Kass Ventures Ltd (applicant) and Amal Construction (forestry emails) are owned by the same person as per Companies House.
2. Houghton Planning Local Review Statement (Page 2, paragraph 3) requests that the applications must be considered on their individual merits however these applications cannot be considered separately due to the combined affect to woodland, wildlife, design, unsustainable / combined effect to travel patterns, access, potential creation of infill sites, proposed shared treatment / drainage (SEPA), sympathetic in scale and to the wider landscape etc.
3. Although these applications are 'planning in principle' we draw your attention to the note on the Local Review Statement (Page 4): *Design – The dwellings do not need to be one and a half storey, and could be two storeys, and still fit in with the character of the local area.* All the recent houses at Tethyknowe are 1.5 storeys only, **not two**. Two storey houses would be in breach of PKC's Housing in the Countryside Guidance:  
*Buildings should be sympathetic in terms of scale and proportion to other buildings in the locality. Open space and garden ground associated with the proposal should be considered as an integral part of the development.*
4. The sizes of the gardens would also need to be similar in size and character to those currently at Tethyknowe Steadings to comply with PKC's LDP and Housing in the Countryside Guidance.
5. A Passive house type will require loss of trees for southern aspect, breaching Policies 40A, 40B and 41
6. The private road is used daily as a walkway and by children who are collected from the public road by council provided taxis. This walkway must be protected.
7. Additional houses will put additional strain on the local authority's obligation to provide taxis for children and road maintenance.
8. Proposals would undoubtedly encourage unsustainable travel patterns and be in contravention of the local development plan, housing in the countryside guidance 2020: *'Proposals in less sustainable locations will only be permitted where the benefits outweigh the disbenefits, for example, the provision of essential farm worker housing...'*
9. The proposals will create more traffic on an already busy road with two individual busy equine centres, a working farm and no existing purpose-built passing places on the current single-track road.
10. Page 3 of the submitted Local Review Statement by Houghton Planning - 'shared driveway' implies Tethyknowe House co-owns the private driveway. This is factually incorrect as previously detailed.
11. A polite 'housekeeping' note; Page 4 of the application form states the site cannot be clearly seen from the road – the site can clearly be seen from the public road as per page 1 of this letter.
12. The blue and red lines identifying the 'ownership' and 'sites' are still incorrect and the red lines still do not align with each other, giving potential for an infill site in the future.
13. In our opinion, no material evidence has been provided to overturn the original decision. The proposed residential development of this site (either or both) would clearly be seen from the road (recent photograph on page 1), would not contribute positively to the local landscape (appear as overdevelopment) and significantly detract from what is currently a carefully, sensitive and well considered settlement. The maximum number of dwellings (suitable for the

site) would have been considered under the original developers' proposals, the LDP has not significantly changed, and we see no material justification for these applications which could lead to significant adverse effects to the local community and council.

## **SUMMARY**

The sites do not and cannot accommodate dwellings of a similar scale, layout and design without materially breaching PKC's LDP and Housing in the Countryside Supplementary Guidance 2020, Policy 40A (Forest and Woodland Strategy of the Perth and Kinross Local Development Plan 2 (2019) that seeks to protect existing trees and woodland), Policy 40B (Trees, Woodland and Development, of the Perth and Kinross Local Development Plan 2 (2019)) and Policy 41 (Biodiversity).

The sites do not and cannot sit within a Building Group and they do not meet the criteria to be categorised as Brownfield under PKC's Housing in the Countryside Supplementary Guidance 2020.

Compliance with Policy 41 (Biodiversity) of the PKC Local Development Plan has not been conclusively established. The legally obligated Conservation of Natural Habitats and Species Regulations 2017 Act must also be complied with.

The requirements to maintain woodland, the tree root protection zones together with the minimum 5m distances for septic tanks and minimum 10m distances for bats/squirrels significantly restricts development of these site/s when trying to achieve the necessary scale and design of any dwelling required under the LDP and Housing in the Countryside Guidance.

We do not contest that supplementary information has been provided in line with the original decision notice, it is just the detail of that information does not support the proposed development.

In summary, the local authority's original decision should be upheld as it is wholly reasonable, fully, and evidentially supported with no material consideration established to overturn the original decision. In our considered opinion, these applications are and/or could significantly breach PKC's Local Development Plan including the Housing in the Countryside Supplementary Guidance 2020, the Woodland Policies 40A and 40B and Policy 41 (Biodiversity).

Yours faithfully

William Lindsay MRICS



## APPENDIX A

### SCOTTISH FORESTRY EMAILS

(Electronic copies are available should they be required)

## EMAIL CHAIN 1

**From:** [REDACTED]  
**Sent:** 13 September 2021 17:00  
**To:** Hugh.Mcnish@forestry.gov.scot  
**Subject:** RE: mature trees being removed

Hi Hugh

Can you please confirm if the felling is still actively taking place on the site? **Yes**  
Are the felled trees still on site or have they been removed? **Removed immediately**  
Do you know who the contractor removing the trees is? **asked, no reply, unmarked vehicles**  
Do you know who owns the land? **Scrivener family – there is no one living there any more. Father is Brian, local, son George.**

**They told us they are clearing before developing and applying for planning permission.**

**On site project manager is Alister [REDACTED]@amalconstruction.co.uk**



**From:** [Hugh.Mcnish@forestry.gov.scot](mailto:Hugh.Mcnish@forestry.gov.scot) <[Hugh.Mcnish@forestry.gov.scot](mailto:Hugh.Mcnish@forestry.gov.scot)>  
**Sent:** 13 September 2021 14:17  
**To:** [REDACTED]  
**Subject:** RE: mature trees being removed

Mark

I have been passed your enquiry below as it falls within the central conservancy.

Can you please confirm if the felling is still actively taking place on the site?  
Are the felled trees still on site or have they been removed?  
Do you know who the contractor removing the trees is?  
Do you know who owns the land?

Any assistance with these questions would be greatly appreciated.

Thanks

Hugh

Hugh McNish  
Regulations and Development Manager

Scottish Forestry  
Central Scotland Conservancy | Bothwell House | Hamilton Business Park | Caird Park  
Hamilton ML3 0QA  
Direct: 0131 370 5304  
Mobile: 07768 005502  
Email: [hugh.mcnish@forestry.gov.scot](mailto:hugh.mcnish@forestry.gov.scot)

Website: [forestry.gov.scot](http://forestry.gov.scot)  
Twitter: [@scotforestry](https://twitter.com/scotforestry)



Scottish Forestry is the Scottish Government agency responsible for forestry policy, support and regulation.

In light of the ongoing public health advice to reduce unnecessary social contact during the outbreak of Covid-19, we have activated our Business Continuity Plan. More information can be found on [our website](#).

**From:** Mark O'Bryen MW <[REDACTED]>  
**Sent:** 07 September 2021 15:38  
**To:** Scottish Forestry Enquiries <[scottish.forestry@forestry.gov.scot](mailto:scottish.forestry@forestry.gov.scot)>  
**Subject:** mature trees being removed

Good afternoon

Can you give us some guidance please

A local developer is removing mature trees from a plot close to us at Tethyknowe House Blairingone near Dollar FK14 7ND.  
We estimate about 40 healthy mature trees so far.

Please see attached images.

There will be a significant impact on the environment and wildlife, including red squirrels.

What is the most effective way to prevent this continuing. TPOs can take months?

Best regards

Mark

6 Tethyknowe Steading Blairingone FK14 7ND



## **EMAIL CHAIN 2**

**From:** Mark O'Bryen MW  
**Sent:** 20 September 2021 15:27  
**To:** Mike.Strachan@forestry.gov.scot  
**Subject:** RE: Tree felling

Good afternoon Mike

Just to update you, the tree felling appears to have stopped on Thursday afternoon and no further activity on Friday or at the weekend.

Did you visit the site last week?

There is a residents associating made up of the 6 houses connecting with the Tethyknowe House property. We are meeting on Wednesday this week. We can keep an eye on the property, and I can feed back any detail to the group from Forestry Scotland.

I was reminded by one of the neighbours today that during the site tour on 12<sup>th</sup> July with the developers that a red squirrel spotted the group including "Ash" and pointed out to him. There are bird boxes attached to some of the remaining trees.

We are told today that they the developers have taken possession of the property.

Best regards

Mark



**From:** [Mike.Strachan@forestry.gov.scot](mailto:Mike.Strachan@forestry.gov.scot) <[Mike.Strachan@forestry.gov.scot](mailto:Mike.Strachan@forestry.gov.scot)>  
**Sent:** 14 September 2021 13:14  
**To:** Mark O'Bryen MW <[REDACTED]>  
**Subject:** Tree felling

Mark

Thanks for getting in touch re this tree felling. It is not something that we have approved so we will be starting an investigation. I have made contact with the developer requesting that they stop the tree felling with immediate effect and do not move any of the trees from site. I would be grateful if you could possibly keep a discrete eye on this for us until we get down which will hopefully be this week

Thanks

mike

**Mike Strachan MICFor**

Scottish Forestry  
Operations and Development Officer

📍 Perth & Argyll Conservancy | Upper Battleby | Redgorton | PH1 3EN

💻 : [mike.strachan@forestry.gov.scot](mailto:mike.strachan@forestry.gov.scot)

Direct: 0131 370 5321

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Website: [forestry.gov.scot](http://forestry.gov.scot)

Twitter: [@scotforestry](https://twitter.com/scotforestry)



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**B**e professional, **R**espect others, **A**ct with honesty and integrity, **V**alue teamwork and collaboration and **E**ncourage innovation and creativity.

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### **EMAIL CHAIN 3**

**From:** Mark O'Bryen MW  
**Sent:** 07 September 2021 10:26  
**To:** Alister@Amal <alister@amalconstruction.co.uk>  
**Subject:** Tethyknowe House

Good morning Alister

It is very misleading of you to say that you are not in any way in control of the property – when it is quite clear that you are managing the clearance for a malconstruction.

I can't see any record of any certified tree survey on the relevant websites. Arboricultural impact studies should be accessible. Could you please send me a link. I have requested a response from Perth and Kinross Council.

Could I please have the reference for the qualified tree surgeon – his vehicles have no contact details. I estimate up to 40 trees already taken down and removed. How long will the relentless disturbance of the tree removal last for?

It is very unusual to purchase a property without the planning permission which will significantly affect the value of the property.

Regards

Mark O'Bryen

**From:** <@amalconstruction.co.uk>  
**Sent:** 06 September 2021 14:08  
**To:** Mark O'Bryen MW <  
**Subject:** Re: 6 Tethyknowe Steading

Good afternoon Mark, 1st and foremost it was not our intention to causes any upset to your wife, we had been told that you wanted to have a chat with us and since we were visiting the site on the 20th of Aug we took the opportunity to pop in and see if you were available.



As a mater of an update we have still not concluded our purchase of Thethyknowe and are not in anyway in control of the property.

We have however undertaken a tree survey with a qualified tree surgeon and he has made recommendations to George to dealing with a number of trees that are unsafe due to lack of maintenance, wind damage or tree rot.

Until we have concluded the purchase of the property we would not make a planning application, we have however appointed a local architect who is looking at the development and your concerns have been made clear to him on positioning of any additional property that we may apply to build.

Once we have something more solid on a design and layout It would be our preference to catch up and discuss any issues. Until this is done anything we would have to say would be hypothetical.

I am unsure as to the post@ email address that you were given, so have not received any emails from you till now.

@[amalconstruction.co.uk](mailto:amalconstruction.co.uk)  
Ash's number is 

Regards Alister



## **Tethyknowe House, Blairingone, Dollar, FK14 7ND**

### **Statement in response to third party letters received**

The following comments respond to the third party letters received.

**Decision-making** – It is perfectly right and proper that councillors should consider each Application separately, and on their own merits. Indeed, each Application has slightly different issues to be considered, and marginally differing levels of impact on the local area to be discussed. Cumulative impact only comes into this should both Applications be deemed acceptable, which, of course, the Applicant hopes is the case, and which the case presented here, in the Local Review Statement, and the application, has, we say, proven.

**Proposed Development** – The Applicant has proposed two additional dwellings at Tethyknowe House. They have no intention of applying for any more.

There is no ‘smoking gun’ of a possible infill plot between the two proposed plots. The land owned by the Applicant will all be used as garden ground by Tethyknowe House and the new dwellings, whether one or two, and landscaped, with new tree planting.

Those gardens will be more generous than the gardens of some of the existing dwellings at Tethyknowe Steading, which are substantial dwellings, and where garden ground, and any structural landscaping, trees, and planting, have been sacrificed to built form.

In comparison to what exists at Tethyknowe Steading, the proposed Tethyknowe House development will be far more in keeping with the rural character of the local area, with an appropriate balance between built form and landscape.

Furthermore, if councillors consider that the dwellings should be 1.5 storey, then a condition to that effect would be acceptable to the Applicant.

**Private Road** – The Applicant is not claiming to share ownership of the road to the Tethyknowe group. Instead, the claim being made, as evidenced in the legal opinion submitted with the local review, is that the Applicant has a right of access that can be shared. Councillors will, therefore, be perfectly entitled to grant planning permission in line with the case of *Grampian Regional Council v Secretary of State for Scotland and City of Aberdeen District Council* (1984). The owners of 1-6 Tethyknowe Steading may not agree with this, but that is a private law matter, which does not impinge upon councillors’ determination of this local review. One of the neighbours, at least, seems to accept that.

The Applicant may, indeed, have the ability to widen the private road within land in their control. However, the Council’s Transport Planning team have not suggested a requirement for this. The only condition being to protect the recreational walking route, which can be applied to both Applications.

**Tree Felling** – It has been conceded that felling took place on site. However, this took place prior to the Applicant becoming the lawful owner of the site on the 17<sup>th</sup> of September 2021. The purchase of the site remained on a knife edge right until this date, with the Applicant one of several parties hoping to purchase it, and, whilst it is true that a representative of the Applicant was on site when some of felling was taking place, that person did not commission the felling, and nor was he involved in directing the contractors on site. That was all done by the previous owner whose sole decision it was

to fell trees; under advice he had received. The Applicant has done nothing wrong, and the inference, as such, in the neighbour's letter should be discounted in its entirety by councillors.

It is also understood, by the Applicant, that when the individual from Scottish Forestry attended the site, the previous owner made him aware that the felling was being undertaken within his garden ground, as he (the previous owner) viewed it. In hindsight, this is not correct, as part of the site was, at that time, clearly in industrial use. However, whatever the rights and wrongs of this, it is understood that no further action was taken by Scottish Forestry.

It is also telling that no issue is raised about this matter in the Reports of Handling whilst no question has been raised by neighbours, or the case officer, that any of the remaining trees are worthy of statutory protection, which is the correct decision based upon what now exists on site.

As it stands, and given the exemption from a Felling Licence that applies to felling trees in a garden, more trees could be felled than have been, again without any consent being required, but the Applicant has no intention of doing so, despite some Category U trees remaining that the tree survey recommends for felling. This may change, if consent for one or two new dwellings is forthcoming, and once micro-siting of those dwellings takes place for the purposes of an Application for Matters Specified in Conditions. However, indications are, from the Applicant's own tree consultant, that only a minimal number of further removals should be required. If that occurs, the Applicant will try to only remove trees of Category C and below, and Category B trees that are of least amenity importance to the site. The Applicant will then plant three new heavy standards of an indigenous species within the site for every single tree removed of whatever category.

It is also hoped that micro siting can occur, and keep houses ten metres from remaining mature Category B trees. What the neighbour who raises this point has failed to realise is that the houses shown are indicative. They are indicative in position and in footprint. The actual position and footprint are both likely to be Matters Specified in Conditions.

No details on where septic tanks, or pipework, will be installed is currently available. This is quite normal where an application is in principle only. The Applicant will do everything in their power to avoid this work having any impact on remaining trees, and the Council will anyway have full control over these details, as they will undoubtedly be a Matter Specified in Conditions.

**Southerly Aspect** – One of the neighbours has usefully provided a photograph showing the southerly view during the winter months, and which shows that, during the winter months, Tethyknowe House is partially visible. This underlines that the site will receive sun and warmth during the winter months, when the sun is lower in the sky, and sun and warmth in the summer months when the sun will be higher, and above the trees. Thus, there is no requirement to remove any Category B or C trees from this southern boundary, as alleged by neighbours, and the Applicant has no intention of doing so, unless directed to do so by their tree consultant following consultation with the Council for tree management reasons. The southerly screening will, therefore, remain intact, and further tree, and understorey planting, along this boundary is anyway being considered, and can be a condition of planning permission.

**Passing Places on the U213** – The Council's Transport Planning team have not objected to either Application, and have certainly not suggested a need for any additional passing places on the U213.

**Brownfield Classification** – The Applicant, Houghton Planning Ltd, and Corebrook Engineering, can all attest to the level of surface contamination that existed on the land just prior to the point that the Applicant took ownership.

The business operating on site was what can be described as a ‘bad neighbour use,’ and would likely have fallen within Class 5 (General Industry) of the Use Classes Order. Although the previous owner removed some of the worst surface contamination, in moving away from the site, and left the site in a reasonably tidy visual state, which is what the neighbour may have seen, what he will not know about, as indeed neither does the Applicant at present, is the full extent of below ground contamination. That will only become known once a full Site Investigation has been conducted, and a Remediation Strategy prepare, although we do know there is an underground oil separation tank on the site installed by the previous owner for his business, which will need to be carefully removed. The indications are that remediation may well be extensive, and potentially expensive to deal with, but it is too early to say that with any certainty.

It is also worth noting that one of the neighbours has queried the extent of Himalayan Balsam on site, suggesting that there is more than indicated in the ecology report. That may well be the case, as the ecologist is merely commenting on that issue, and was not asked to do a full invasive species survey. Whatever the situation, however, this adds further weight to the land being brownfield.

The Applicant’s position remains that part of the site, particularly that part forming the west plot, is brownfield, and complies with the most recent definition to be found in National Planning Framework 4 – Revised Draft (NPF4), which states that ‘Brownfield Land’ is land *“which has previously been developed. The term may cover vacant or derelict land, land occupied by redundant or unused buildings and developed land within the settlement boundary where further intensification of use is considered acceptable.”*

Furthermore, NPF4 supports this proposal under Policy 9a, which states that *“Development proposals that will result in the sustainable reuse of brownfield land including vacant and derelict land and buildings, whether permanent or temporary, will be supported”* and Policy 17a, which states that *“Development proposals for new homes in rural areas will be supported where the development is suitably scaled, sited and designed to be in keeping with the character of the area and the development”* is *“ii. reuses brownfield land where a return to a natural state has not or will not happen without intervention,”* which will not happen here without remediation paid for by the proposed development.

