

LRB-2024-03

23/01423/FLL - Change of use of flat to form short-term let accommodation unit (in retrospect), Upper South Flat, Annesley Cottage, Burnside, Aberfeldy, PH15 2AU

PLANNING DECISION NOTICE

REPORT OF HANDLING

REFERENCE DOCUMENTS



Ms Jan Birse
1 Norie Terrace
Cleeve
Perth
PH11HL

Pullar House
35 Kinnoull Street
PERTH
PH1 5GD

Date of Notice: **31st October 2023**

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT

Application Reference: **23/01423/FLL**

I am directed by the Planning Authority under the Town and Country Planning (Scotland) Acts currently in force, to refuse your application registered on 4th September 2023 for Planning Permission for **Change of use of flat to form short-term let accommodation unit (in retrospect) Upper South Flat Annesley Cottage Burnside Aberfeldy PH15 2AU**

David Littlejohn
Head of Planning and Development

Reasons for Refusal

1. The proposed retrospective change of use is contrary to Policy 30(e): Tourism of National Planning Framework 4 (2023) as the proposal results in:
 - i) An unacceptable impact on local amenity and character of the area, and
 - ii) The loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits.
2. The proposal is contrary to National Planning Framework 4 (2023) Policy 14(c): Design, Quality and Place and Perth and Kinross Local Development Plan 2 (2019), Policies 1A and 1B: Placemaking and Policy 17: (d) Residential Areas as the short-term let accommodation adversely impacts on the amenity of neighbouring residents and the short-term let use is not compatible with the amenity and character of the surrounding predominantly residential area.

Justification

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

Notes

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

Plan Reference

01

02

REPORT OF HANDLING

DELEGATED REPORT

Ref No	23/01423/FLL	
Ward No	P4- Highland	
Due Determination Date	3rd November 2023	
Draft Report Date	31st October 2023	
Report Issued by	JC	Date 31st October 2023

PROPOSAL: Change of use of flat to form short-term let accommodation unit (in retrospect)

LOCATION: Upper South Flat Annesley Cottage Burnside Aberfeldy PH15 2AU

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

This application seeks retrospective approval for the change of use of a first floor two-bedroom flat to short term let accommodation unit within a detached residential building on Burnside, in Aberfeldy Conservation Area. The flat is accessed via a dedicated staircase on the south of the building, and has been offered as short term let accommodation since July 2021. There are three neighbouring flats within the building across two floors. The wider site is subject to a high probability of river flooding from the Moness Burn opposite.

SITE HISTORY

N/A

PRE-APPLICATION CONSULTATION

Pre application Reference: None

DEVELOPMENT PLAN

The Development Plan for the area comprises National Planning Framework 4 (NPF4) and the Perth and Kinross Local Development Plan 2 (2019) (LDP2).

National Planning Framework 4

The National Planning Framework 4 (NPF4) is the Scottish Government's long-term spatial strategy with a comprehensive set of national planning policies. This strategy sets out how to improve people's lives by making sustainable, liveable and productive spaces.

NPF4 was adopted on 13 February 2023. NPF4 has an increased status over previous NPFs and comprises part of the statutory development plan.

The Council's assessment of this application has considered the following policies of NPF4:

Policy 7: Historic Assets and Places
Policy 13: Sustainable Transport
Policy 14: Design, Quality and Place
Policy 22: Flood Risk and Water Management
Policy 30: Tourism

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 17: Residential Areas
Policy 28A: Conservation Areas: New Development
Policy 52: New Development and Flooding
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 56: Noise Pollution
Policy 60B: Transport Standards and Accessibility Requirements: New Development Proposals

Statutory Supplementary Guidance

-[Supplementary Guidance - Placemaking](#) (adopted in 2020)

OTHER POLICIES

Non Statutory Guidance

-[Conservation areas](#)
-[Finalised Short-Term Let Non-Statutory Planning Guidance \(Consultation ended 18th August 2023\)](#)

NATIONAL GUIDANCE

The Scottish Government expresses its planning policies through The National Planning Framework, Planning Advice Notes, Creating Places, Designing Streets, National Roads Development Guide and a series of Circulars.

Planning Advice Notes

The following Scottish Government Planning Advice Notes (PANs) and Guidance Documents are of relevance to the proposal:

- PAN 40 Development Management
- PAN 51 Planning, Environmental Protection and Regulation
- PAN 61 Planning and Sustainable Urban Drainage Systems
- PAN 68 Design Statements
- PAN 69 Planning and Building standards Advice on Flooding
- PAN 75 Planning for Transport
- PAN 77 Designing Safer Places

Creating Places 2013

Creating Places is the Scottish Government's policy statement on architecture and place. It sets out the comprehensive value good design can deliver. It notes that successful places can unlock opportunities, build vibrant communities and contribute to a flourishing economy and set out actions that can achieve positive changes in our places.

Designing Streets 2010

Designing Streets is the policy statement in Scotland for street design and changes the emphasis of guidance on street design towards place-making and away from a system focused upon the dominance of motor vehicles. It was created to support the Scottish Government's place-making agenda, alongside Creating Places.

National Roads Development Guide 2014

This document supports Designing Streets and expands on its principles and is considered to be the technical advice that should be followed in designing and approving of all streets including parking provision.

CONSULTATION RESPONSES

Internal Consultees

Environmental Health (Noise Odour) - No objections subject to short term let licensing informative, and noise conditions would form part of any licence that was granted.

Communities Housing Strategy - The proposal is a change of use of a flatted dwelling into a short-term let a residential area of Aberfeldy.

NPF4 Policy 30: states that Development proposals for the reuse of existing buildings for short term holiday letting will not be supported where the proposal will result in:

- i. An unacceptable impact on local amenity or the character of a neighbourhood or area; or

- ii. The loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits

The Local Housing Strategy 2022-27 includes an action to develop planning policy through the Local Development Plan 3 where appropriate for STL Control Areas.

The postcode district level of saturation of potential short-term lets for PH15 is above the level at which it may be considered appropriate to introduce a control area in order to help manage high concentrations of STLs where it affects the availability of residential housing or the character of a neighbourhood.

REPRESENTATIONS

2 representations were received, one of which expressed support, and one which objected on the following grounds:

- Inappropriate in a residential area due to noise pollution

Additional Statements Received:

Screening Opinion	EIA Not Required
Environmental Impact Assessment (EIA): Environmental Report	Not applicable
Appropriate Assessment under Habitats Regulations	Habitats Regulations AA Not Required
Design Statement or Design and Access Statement	None Submitted
Report on Impact or Potential Impact eg Flood Risk Assessment	None 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 comprises NPF4 and the Perth and Kinross Local Development Plan 2019. The relevant policy considerations are outlined in the policy section above and are considered in more detail below. In terms of other material considerations, involving considerations of the Council's other approved policies and supplementary guidance, these are discussed below only where relevant.

Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 is relevant and requires planning authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of the designated conservation area.

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 proposal seeks to retrospectively change the use of an existing first floor flat in Aberfeldy settlement to a short term let. The primary policy in this instance is NPF4 Policy 30(e): Tourism, as there is no specific LDP2 policies relating to Short-Term Let accommodation, particularly where changes of use of existing properties are concerned. As such, LDP2 Placemaking Policies 1A and 1B, and 17: Residential Areas have relevance for a proposal of this nature, and seek to protect or improve residential amenity, and create safe, accessible, inclusive places for people.

Specifically, NPF4 Policy 30(e): Tourism states that Development proposals for the reuse of existing buildings for short term holiday letting will not be supported where the proposal will result in:

- i. An unacceptable impact on local amenity or the character of a neighbourhood or area; or
- ii. The loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits.

The postcode district level of saturation of potential short-term lets for PH15 is above the level at which it may be considered appropriate to introduce a control area in order to help manage high concentrations of STLs where it affects the availability of residential housing or the character of a neighbourhood.

In respect of criterion (i) of NPF4 Policy 30(e), the proposed use of the property as a short term let is not significantly different from a flat in terms of its physical appearance, the extent of guest footfall or noise emanating from the property, so long as good management practices are in place.

However, the high turnover of guests is likely to be higher than typical private rented or owner-occupied accommodation, and this could have an impact on noise and disturbance to neighbours. Whereas such impacts may be offset in town centre or mixed-use areas, the same cannot be said for this building which comprises four residential flats outwith the Town Centre.

In respect of criterion (ii) of NPF4 Policy 30(e), the proposal has resulted in the loss of a flat to short term let accommodation in the PH15 postcode area which is already subject to a proliferation of holiday accommodation, as evidenced in the Housing Strategy Team consultation response. This in turn adversely impacts the availability of residential accommodation locally.

The policy requires the local economic benefits associated with short term let proposals to be demonstrable. However, no supporting documentation has been submitted by the applicant in this regard. Furthermore, even if such documentation had been forthcoming, it is unlikely that economic benefits accruing from one short term let unit would outweigh the loss of this residential flat to holiday use.

The proposal therefore conflicts with NPF4 Policy 30(e) Tourism, and the intent of LDP2 Policies 1A: Placemaking and 17: Residential Areas. The principle in this instance is therefore unacceptable.

Residential Amenity

NPF4 Policy 14: Design, Quality and Place and LDP2 Policies 1A: Placemaking, and 17: Residential Areas supports proposals, including business and tourism, which are compatible with the amenity and character of the surrounding area, and consistent with the six qualities of successful places. It is acknowledged that short term lets can result in additional levels of disturbance and noise concerns, and that the primary avenue to regulate such matters is via the separate licensing regime.

In this instance, there is the potential for noise from the users of the property to affect neighbouring residential properties. The introduction of Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 requires these to licensed and noise conditions will form part of the licence.

Notwithstanding this, a recent appeal decision from the DPEA elsewhere in Perth and Kinross at Birnam (ref: PPA-340-2155), indicated that management guidelines cannot be relied upon to restrict or control the adverse impacts on neighbouring properties and harm to amenity. Furthermore, harm to amenity could arise even if there is effective control, due to the frequent turnover of guests. The proposed intensification of use and movements adversely impacts the amenity of neighbouring residents within the host building and alters the existing residential character of Burnside and the surrounding predominantly residential area.

As such, the proposal fails to accord with the intent of NPF4 Policy 14(c) and LDP2 Policies 1A and 17 in respect of residential amenity, by virtue of its location in a predominantly residential area.

Conservation Considerations and Visual Amenity

As no external works are proposed, the change of use has no direct impact on the physical appearance of this building. However, it could be argued that the cumulative impact of short term let accommodation, as evidenced in the Housing Strategy Team's consultation response, has an adverse impact on the established character of the Conservation Area.

Roads and Access

The proposals raise no access or parking concerns, as off-street and on-street parking appears to be available. The application site is also within convenient distance of public transport options in the form of bus stops in the Town Centre. In these respects, the proposal accords with NPF4 Policy 13 and LDP2 Policy 60B.

Drainage and Flooding

The application site is within an area subject to high river flooding risk, however the proposed change of use does not increase flooding vulnerability, nor does it raise drainage concerns over and beyond its lawful residential use. As such, the proposal accords with the intent of NPF4 Policy 22, and LDP2 Policies 52, 53B, 53C, and 53E.

Other Material Considerations

Draft planning guidance on short term lets (STLs) has recently been produced due to concerns expressed over the impact of STLs on services, local business staffing and expansion, as well as housing affordability. A consultation was undertaken between June and August 2023, and a Finalised Non-Statutory Planning Guidance is due to be presented to the Council's Environment, Infrastructure and Economic Development Committee on 1 November 2023.

The Finalised Non-Statutory Planning Guidance acknowledges that while short-term lets can bring economic benefits to the host and local areas, this must be balanced against the impact the loss of that residential property would have on the availability of housing for local people, affordable housing in particular, and the potential for adverse impacts on residential amenity where an increased proportion of the housing stock becomes short-term lets.

Six considerations have been outlined within the Finalised Guidance to assist in the application of the policy framework set out in NPF4. The considerations include location, larger residential properties, refurbishment of long-term empty properties, local amenity and character, business diversification, and the relationship between loss of residential accommodation and local economic benefits. The location consideration contains reference to three area types: city and town centres; mixed use areas within settlements; and predominantly residential areas.

The Finalised Guidance, whilst not yet adopted and therefore assigned limited weight in the planning balance, forms the most up-to-date indication of Council policy intent on the matter, and as such is a material consideration in addition to other policy factors and supplementary guidance in the assessment of the proposals.

In this instance, the application site is within a predominantly residential area, and local amenity and character of that area should be considered, in addition to the loss of residential accommodation and local economic benefits which may accrue from the proposal.

As set out elsewhere in this report, the proposal is not be compatible with the character of this predominantly residential area, and may have a detrimental impact on residential amenity. The loss of residential accommodation is considered to be detrimental to housing availability in an area subject to housing pressure, and the limited economic benefits associated with the proposal would not outweigh this loss.

As such, the proposal fails to accord with the policy intent of the Finalised Planning Guidance, with particular emphasis on residential amenity, local character and housing availability. This aligns with the officer assessment of the proposal against adopted Development Plan policies.

Developer Contributions

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

Economic Impact

The economic impact of the proposal is likely to be limited to guest expenditure in the local economy.

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 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 Development Plan.

Accordingly the proposal is refused on the grounds identified below.

Conditions and Reasons

- 1 The proposed retrospective change of use is contrary to Policy 30(e): Tourism of National Planning Framework 4 (2023) as the proposal results in:
 - i) An unacceptable impact on local amenity and character of the area, and
 - ii) The loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits.

- 2 The proposal is contrary to National Planning Framework 4 (2023) Policy 14(c): Design, Quality and Place and Perth and Kinross Local Development Plan 2 (2019), Policies 1A and 1B: Placemaking and Policy 17: (d) Residential Areas as the short-term let accommodation adversely impacts on the amenity of neighbouring residents and the short-term let use is not compatible with the amenity and character of the surrounding predominantly residential area.

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



Pullar House 35 Kinnoull Street Perth PH1 5GD Tel: 01738 475300 Fax: 01738 475310 Email: 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 100639932-001

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.

Description of Proposal

Please describe accurately the work proposed: * (Max 500 characters)

Change of use from a domestic dwelling to a short term holiday let. The property has been operating as a holiday let since July 2021. I require planning permission prior to being able to apply for a short term holiday let license.

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

No Yes - Started Yes – Completed

Please state date of completion, or if not completed, the start date (dd/mm/yyyy): *

26/07/2021

Please explain why work has taken place in advance of making this application: *
(Max 500 characters)

Picked this option as we have been operating as a holiday let since July 2021 and there isn't a 'not applicable' option. The laws have change since we started our holiday let and a short term holiday let licence is now required. As this property is a flat we have been told Change of Use planning permission is now required to be able to apply for the license.

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

Applicant Details

Please enter Applicant details

Title:	Ms	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	
First Name: *	Jan	Building Number:	1
Last Name: *	Birse	Address 1 (Street): *	Norie Terrace
Company/Organisation		Address 2:	Cleeve
Telephone Number: *		Town/City: *	Perth
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	PH11HL
Fax Number:			
Email Address: *			

Site Address Details

Planning Authority:	Perth and Kinross Council
Full postal address of the site (including postcode where available):	
Address 1:	UPPER SOUTH FLAT
Address 2:	ANNESLEY COTTAGE
Address 3:	BURNSIDE
Address 4:	
Address 5:	
Town/City/Settlement:	ABERFELDY
Post Code:	PH15 2AU

Please identify/describe the location of the site or sites

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Northing	749182	Easting	285562
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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)

Emailed PKC Planning Department to confirm Planning Permission was definitely required for my situation. Duty Planning Officer Diane Barbary confirmed YES that this is the case with our holiday let being a cottage flat. She later confirmed which option I had to choose on eplanning. Very helpful

Title:

Ms

Other title:

Duty Planning Officer

First Name:

Diane

Last Name:

Barbary

Correspondence Reference Number:

Date (dd/mm/yyyy):

26/05/2023

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.

Trees

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

Yes No

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.

Access and Parking

Are you proposing a new or 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 proposed to make. You should also show existing footpaths and note if there will be any impact on these.

Planning Service Employee/Elected Member Interest

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? *

Yes No

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:

Address:

1, Norie Terrace, Cleeve, Perth, Scotland , Ph1 1hl

Date of Service of Notice: *

26/05/2023

(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: Ms Jan Birse

On behalf of:

Date: 20/08/2023

Please tick here to certify this Certificate. *

Checklist – Application for Householder Application

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) Have you provided a written description of the development to which it relates? * Yes No
- b) Have you provided the postal address of the land to which the development relates, or if the land in question has no postal address, a description of the location of the land? * Yes No
- c) Have you provided the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent.? * Yes No
- d) Have you provided a location plan sufficient to identify the land to which it relates showing the situation of the land in relation to the locality and in particular in relation to neighbouring land? *. This should have a north point and be drawn to an identified scale. Yes No
- e) Have you provided a certificate of ownership? * Yes No
- f) Have you provided the fee payable under the Fees Regulations? * Yes No
- g) Have you provided any other plans as necessary? * Yes No

Continued on the next page

A copy of the other plans and drawings or information necessary to describe the proposals (two must be selected). *

You can attach these electronic documents later in the process.

- Existing and Proposed elevations.
- Existing and proposed floor plans.
- Cross sections.
- Site layout plan/Block plans (including access).
- Roof plan.
- Photographs and/or photomontages.

Additional Surveys – for example a tree survey or habitat survey may be needed. In some instances you may need to submit a survey about the structural condition of the existing house or outbuilding. Yes No

A Supporting Statement – you may wish to provide additional background information or justification for your Proposal. This can be helpful and you should provide this in a single statement. This can be combined with a Design Statement if required. * Yes No

You must submit a fee with your application. Your application will not be able to be validated until the appropriate fee has been Received by the planning authority.

Declare – For Householder Application

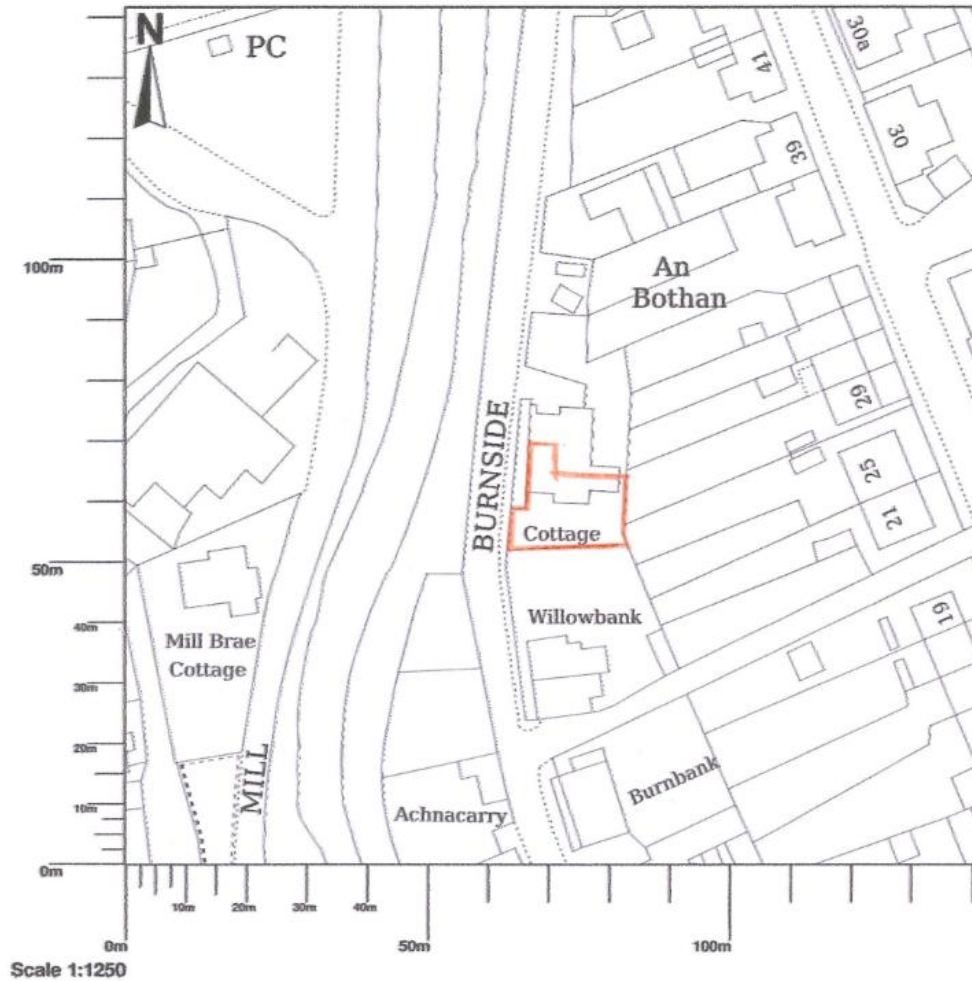
I, the applicant/agent certify that this is an application for planning permission as described in this form and the accompanying Plans/drawings and additional information.

Declaration Name: Ms Jan Birse

Declaration Date: 22/08/2023

Payment Details

Upper South Flat, Annesley Cottage, Burnside, Aberfeldy, PH15 2AU



COTTAGE FLAT

UPPER SOUTH FLAT (No 4)

ANNESLEY COTTAGE, BURNSIDE

ABERFELDY PH15 2AU

SCALE 1:50

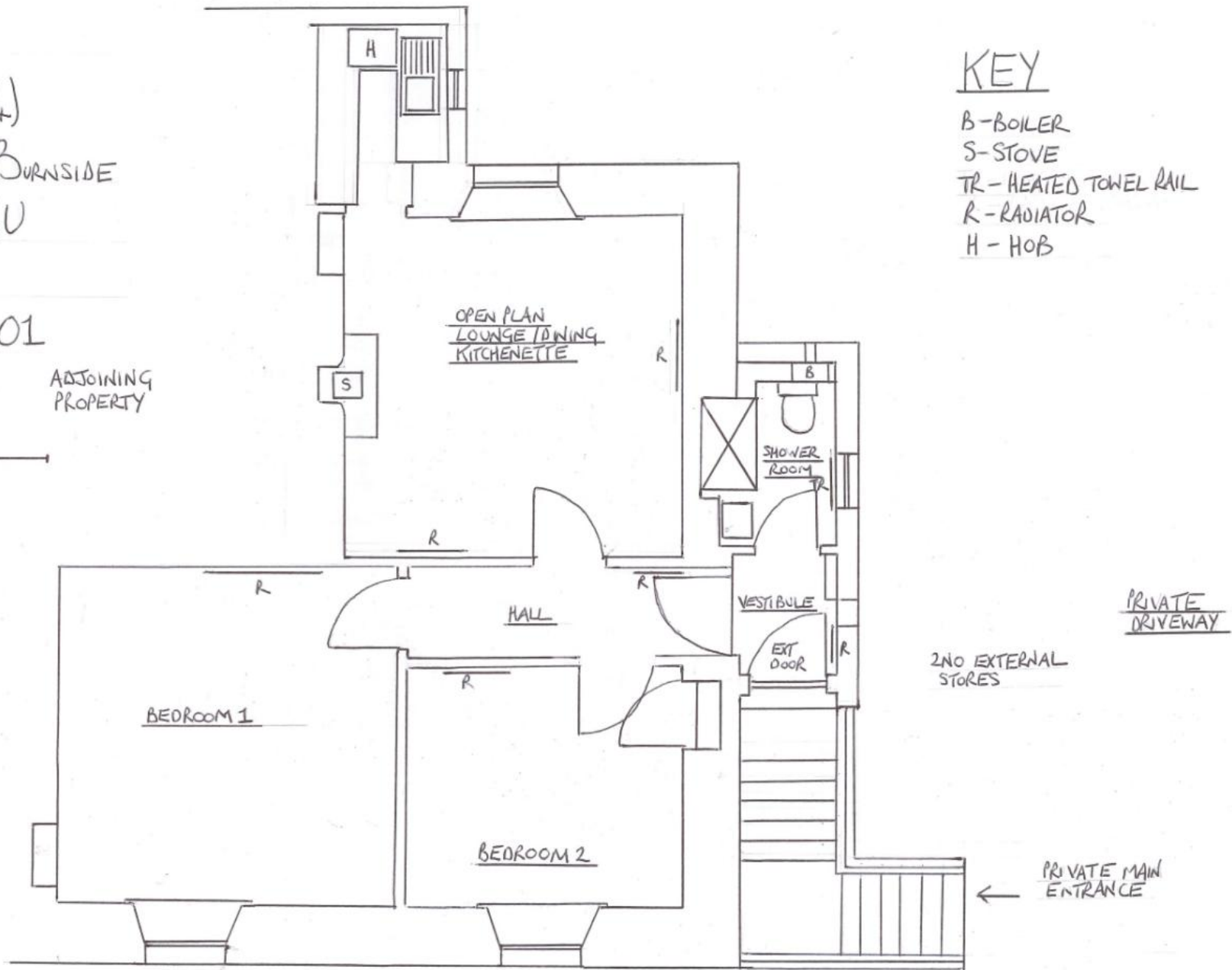
EXISTING PLAN - 001

PAPER - A3

ADJOINING
PROPERTY

4m

ADJOINING
PROPERTY



KEY

- B - BOILER
- S - STOVE
- TR - HEATED TOWEL RAIL
- R - RADIATOR
- H - HOB

