

**LRB-2023-50**

**23/01235/IPL - Renewal of permission 20/00985/IPL  
(Erection of farm shop and formation of ancillary parking  
(in principle)), land 60 metres east of Tay Cottage, Killin**

**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 100653898-001

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.

## 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:

Ref. Number:  You must enter a Building Name or Number, or both: \*

First Name: \*  Building Name:

Last Name: \*  Building Number:

Telephone Number: \*  Address 1 (Street): \*

Extension Number:  Address 2:

Mobile Number:  Town/City: \*

Fax Number:  Country: \*

Postcode: \*

Email Address: \*

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

Individual  Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="Broxden House"/>
First Name: *	<input type="text" value="Tony"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text" value="Allen &amp; Belinda Snoxhall"/>	Address 1 (Street): *	<input type="text" value="Lamberkine Drive"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Perth"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="United Kingdom"/>
Mobile Number:	<input type="text" value=""/>	Postcode: *	<input type="text" value="PH1 1RA"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="mark.myles@bidwells.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"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text"/>
Post Code:	<input type="text"/>

Please identify/describe the location of the site or sites

<input type="text" value="Morenish, Land 60 Metres East of Tay Cottage, Killin"/>
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Northing	<input type="text" value="73551"/>	Easting	<input type="text" value="260722"/>
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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)

Renewal of permission 20/00985/IPL (erection of farm shop and formation of ancillary parking (in principle)) on Land 60 metres East of Tay Cottage, Killin

## 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.

Please refer to grounds of appeal statement attached

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)

Grounds of appeal statement, decision notice, Report of Handling, refused plans and land ownership certificate

## Application Details

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

23/01235/IPL

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

18/07/2022

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

08/09/2023

## 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

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

## 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 Mark Myles

Declaration Date: 04/12/2023

**ERECTION OF FARM  
SHOP AND ANCILLARY  
PARKING IN PRINCIPLE  
(RENEWAL OF  
PERMISSION  
20/00985/IPL)  
NOTICE OF REVIEW  
STATEMENT**

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## 1.0 Introduction

- 1.1 This statement should be read in conjunction with the Notice of Review appeal submitted to Perth & Kinross Council on behalf of Tony Allen & Belinda Snoxhall.
- 1.2 The appeal relates to the refusal of planning permission (ref 23/01235/IPL) to renew permission 20/00985/IPL for the erection of a farm shop and formation of ancillary parking in principle on land 60 metres East of Tay Cottage, Killin.

## 2.0 Background to Proposal

- 2.1 There have been a series of previous planning permission in principle approvals to erect a farm shop on this site, as noted below;
- 08/01586/OUT Erection of farm shop and associated parking (in outline) 17 October 2008 Application Approved
  - 11/01770/IPL Renewal of existing consent (08/01586/OUT) Erection of farm shop and formation of ancillary parking (in principle) 2 December 2011 Application Approved
  - 14/01548/IPL Renewal of permission (11/01770/IPL) Erection of farm shop and formation of ancillary parking (in principle) 31 October 2014 Application Approved
  - 17/01366/IPL Renewal of permission 14/01548/IPL (erection of farm shop and formation of ancillary parking (in principle)) 5 September 2017 Application Approved
  - 20/00985/IPL Renewal of permission 17/01366/IPL (Erection of farm shop and formation of ancillary parking (in principle)) 31 August 2020 Application Approved
- 2.2 The Report of Handling (RoH) incorrectly states that planning consent is sought for the renewal of existing permission (17/01366/IPL). The proposal seeks to renew the previous permission 20/00985/IPL which only expired on 31 August 2023.
- 2.3 At the time of the original 2008 application, Morenish Home Farm was a 375 acre farm which is situated on both sides of the A827 public road. Since that time circa 25 acres of outlying pieces of recreational land have been sold off but the appellants still have title to circa 350 acres of farmland which has been grazed with cattle and sheep on both sides of the A827. At no time did the council seek any further information on this point in response to the inaccurate concerns raised within the letters of representation. This additional information should therefore hopefully assist the LRB in their assessment of whether there remains a substantial farm business in existence which can support the business and viability case for the proposed diversification.
- 2.4 The appellants original house was Morenish Cottage, which they sold about 15 years ago when they purchased Tay Cottage which sits immediately adjacent to the farm shop site. Tay Cottage was operated as the farm shop on a temporary consent basis for a couple of years under application reference (09/00292/FUL) pending the construction of a new building.
- 2.5 In 2008 simultaneous prior notification applications were submitted in respect of 2 agricultural buildings at the site (08/00209/PN & 08/00210/PN). These had been submitted 6 months prior to

the first application for the farm shop and whilst the land was cleared, levelled and fenced off in order to form a stock proofed farmyard, there would have been a potential conflict with the siting of these buildings and the farm shop, hence these were put on hold pending the outcome of that application.

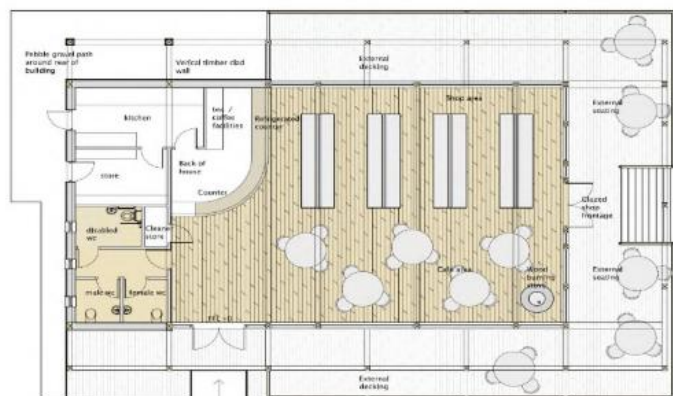
- 2.6 Once outline approval for the farm shop was granted, it was decided to submit a prior notification in respect of a smaller agricultural building on the opposite side of the public road (A827) (09/02147/PN). The existing access onto the main road was widened with new gates, the access track was remediated, and earthworks and excavations were undertaken to both create a platform for the new building together with an earth bank providing a modicum of screening. The actual building itself could not be constructed pending the availability of additional funds from the sale of a site at Drumcharry.
- 2.7 Pending the granting of any renewal of the planning permission in principle the appellants are now in a position to progress with the detailed plans for the proposed farm shop.

## 3.0 Response to Reasons for Refusal

- 3.1 When assessing this type of proposal, the key planning policy considerations are Policy 8 from Perth & Kinross Local Development Plan 2 and Policies 13, 29 and 30 from NPF4.
- 3.2 All 3 of the stated reasons for refusal point to the proposal being considered as remote and as a result likely to only be accessible by private car. In our view this unfair discrimination fails to give any regard to the fact that most economic development proposals in more remote and rural locations do not have sustainable transport options available other than access by car. In our view that shouldn't mean that these types of proposal should be automatically refused.
- 3.3 Although NPF4 policies take precedent over LDP policies where there is a conflict, the policies set out within LDP2 (adopted November 2019) are clearly still important and relevant. It's worth noting that the key policy consideration in this case (Policy 8) was in place at the time when the previous planning application was approved in 2020. The council's reasons for refusal only relate to certain policies contained within NPF4 and therefore the council agrees that the proposal still accords with the criteria set out under Policy 8 in LDP2.
- 3.4 The RoH acknowledges this and highlights that Policy 8 is supported by Policy 29 Rural Development of NPF4. The policy 29 intent is to encourage rural economic activity, innovation and diversification whilst ensuring that the distinctive character of the rural area and the service function of small towns, natural assets and cultural heritage are safeguarded and enhanced with the following desired policy outcomes;
- ensuring that rural places are vibrant and sustainable and rural communities and businesses are supported.
  - a balanced and sustainable rural population.
- 3.5 LDP Policy 8 also states that the council will give favourable consideration to the expansion of existing businesses and the creation of new ones in rural areas.

3.6 Proposals for new tourism related development are also to be supported where it can be demonstrated that they improve the quality of new or existing visitor facilities, allow a new market to be exploited, or extend the tourism season. This is provided that permanent employment is created, or additional tourism or recreational facilities are provided, or existing buildings are re-used. All proposals are required to meet all the criteria set out in the policy.

- *The proposal will contribute to the local economy through the provision of permanent employment or additional tourism or recreational facilities.* The proposal complies.
- *The proposal will not result in suburbanisation of the rural area or encourage unsustainable travel patterns.* The small scale nature of the proposed farm shop would not result in suburbanisation of the rural area and access can be achieved directly from an existing recognised tourist route (A827) so in that respect is sustainable. The A827 forms part of the designated 'Heart 200 Touring Route' which takes in 200 miles of stunning scenery around Perth, Highland Perthshire, Stirling and The Trossachs.
- *The proposed use is compatible with the surrounding land uses and will not detrimentally impact on the amenity of residential properties.* There would be no impact on the amenity of adjacent land uses.
- *The proposal can be satisfactorily accommodated within the landscape and environmental capacity of the site.* As noted above the site is located adjacent to the A827 public road which is a recognised tourist route through Highland Perthshire. If PPIp is granted then it would be the appellants intention to come forward with detailed proposals as shown on the attached drawings. Subject to any final layout and design the proposal is expected to have limited visual or landscape impact.



1 GROUND FLOOR PLAN  
SCALE 1:100@A3

- *The proposal meets a specific need by virtue of its quality or location in relation to existing business or tourist facilities.* The proposal provides small scale low key farm shop proposal (which by its very nature requires to be sited on a rural/farm location), and is located in the vicinity of many existing businesses and tourist facilities already in the area.
- *Where any new building or extensions are proposed they should achieve a high quality of design to reflect the rural nature of the site and be in keeping with the scale of the existing buildings.* The proposal seeks permission in principle where the council could apply conditions covering the future design and external appearance of the building. The conditions that were attached to the previous permission 20/00985/IPL could be applied or updated if considered necessary by the LRB. A copy of the previous PPIp is attached within the appeal submission documents for ease of reference.

- 3.7 The RoH fails to recognise that the site is located on a recognised tourist route i.e. The Heart 200 Touring Route. A strict interpretation of Policy 30 would result in no economic development ever being granted in most rural areas given the limited opportunities for sustainable travel that are available. Surely the intent of the Policy is to maximise the opportunities where they exist not to simply penalise proposals where they aren't available. The RoH also fails to recognise that most tourists and locals accessing this area and accessing a farm shop proposal will travel to and from the site from across the wider area. The point here is that this proposal would be on a route where linked trips to other tourist facilities are already available and taking place, and also being actively being encouraged as part of the Heart 200 Route designation.
- 3.8 The previous temporary farm shop was very popular with continental tourists in particular on the A827 designated tourist route. However, whilst there was plenty of parking and outdoor space for children to engage in various activities: having proved the concept, it was very restricted in its ability to expand the business by virtue of the limited ground floor space inside Tay Cottage. Around that time, there had been huge storms across the UK resulting in the loss of hundreds of thousands of mature Oak trees and this offered a possibly once in a lifetime opportunity to construct a very sympathetic but substantial oak framed/turf roofed building, for little more than the cost of the labour - as opposed to turning it into firewood. However, the appellants needed to release funds from Drumcharry in order to proceed with the uniquely designed building.
- 3.9 The overall site includes a fenced off area where there are 2 shipping containers, various vehicles and equipment, but not including several vehicles, boats and other items of farm equipment etc that have been stolen over the years by the many people that frequent the area. The point here is that this is a brownfield site and a long time since it was simply a field. It is impossible for anyone, from the neighbours to the community council, nor the planning officers recently visiting the farm shop site, not to see this. Given the amount of tourist traffic on the A827, the large number of short term holiday rentals on the two immediately adjacent sites both to the west and to the east, not to mention the thousands of walkers and hikers visiting the much enlarged parking areas up on nearby Ben Lawers, it seems somewhat ridiculous to invoke the 'car dependant journey' rule as a reason to refuse such an application in this type of rural location.
- 3.10 The area was previously known as 'West Highland Perthshire' under the previous local plan and designated as 'Disadvantaged'. Whilst this designation may have been dropped, given the perilous state of hill farming, if anything, the area is even more disadvantaged. NPF4 formally lists the area as 'Remote' and as such there is very little likelihood that PKC or anyone else will ever provide regular, if any, public transport.

- 3.11 The vast majority of rural tourism developments and visitor accommodation is often poorly served with little or no transport choices other than by the car. It is often the only realistic option.
- 3.12 Once again, we consider that the Report of Handling has overstated these concerns and failed to properly consider the history and specific locational factors of the site.

## 4.0 Conclusions

- 4.1 The proposal involves the development of a small scale farm shop on a site which has previously been considered as an acceptable location for such a use by the council on a number of occasions.
- 4.2 The appellants have previously operated a temporary farm shop from their existing property at the site which provided to be successful but due to funding issues it was not possible to bring forward the permanent proposal.
- 4.3 The proposed farm shop will have a direct relationship to the site and farm business and will provide an additional good-quality visitor facility as well as contributing to the local economy through the provision of some additional employment. The proposal will also have a positive local economic impact as the proposal will attract further tourism into the local area and increase spending on other local goods, attractions and services within the surrounding area.
- 4.4 The use of this site will not result in suburbanisation of the rural area or encourage unsustainable travel patterns. In fact, the location benefits from direct access to the A827 which is a designated tourist route that forms part of the Heart 200 Touring Route.
- 4.5 Due to the nature and scale of the proposed use it would be compatible with the surrounding land uses.
- 4.6 The proposals will not result in any notable impact on the local road network during peak hours and will not have an adverse impact on surrounding roads and junctions. The transportation consultation response does not object to the proposals and requires a standard condition to be attached to any approval.
- 4.7 For the reasons set out above, the proposal can be supported in accordance with Policy 8 of LDP2 and on the basis of the previous history and the locational factors outlined above can also be justified as a minor departure from Policies 13, 29 & 30 of NPF4.
- 4.8 Accordingly, for the reasons set out in this statement and all of the information provided in support of the Notice of Review, the LRB are requested to approve this appeal subject any conditions that may be considered necessary and appropriate.



BIDWELLS



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Date of Notice :8th September 2023

## TOWN AND COUNTRY PLANNING (SCOTLAND) ACT

Application Reference: **23/01235/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 18th July 2023 for permission for **Renewal of permission 20/00985/IPL (erection of farm shop and formation of ancillary parking (in principle)) Land 60 Metres East Of Tay Cottage Killin** for the reasons undernoted.

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

### Reasons for Refusal

1. The proposal is contrary to Policy 13: Sustainable Transport of the National Planning Framework 4 (NPF4) as the proposal is likely to only be accessible by private car and fails to provide for (i) direct, easy, segregated and safe links to local facilities and communities via walking, wheeling and cycle networks and (ii) accessible public transport ideally supporting the use of existing services.
2. The proposal is contrary to Policy 29: Rural Development of the National Planning Framework 4 (NPF4) as no detailed current information has been provided to demonstrate how the proposed development relates to the current operation of Morenish Farm and to demonstrate how the proposal contributes towards the viability, sustainability and diversity of the rural community and local rural economy. Furthermore, the site is remote and likely to be only accessible by private car and therefore fails to contribute towards local living and there is no provision for sustainable transport access.
3. The proposal is contrary to Policy 30: Tourism of the National Planning Framework 4 (NPF4) in particular criteria (i) as there is no up to date supporting information on the contribution which the proposal would make to the local economy and criteria



(iv) as no information has been presented on opportunities for sustainable travel or any consideration of traffic generation or scope for sustaining rural public transport services.

### **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**

**08/01586/01**

**08/01586/02**

# REPORT OF HANDLING

## DELEGATED REPORT

Ref No	23/01235/IPL	
Ward No	P4- Highland	
Due Determination Date	17th September 2023	
Draft Report Date	30th August 2023	
Report Issued by	JW	Date 30 August 2023

**PROPOSAL:** Renewal of permission 20/00985/IPL (erection of farm shop and formation of ancillary parking (in principle))

**LOCATION:** Land 60 Metres East Of Tay Cottage Killin

### 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 consent is sought for the renewal of an existing permission (17/01366/IPL) for the erection of a farm shop and ancillary parking (in principle) at land 60 metres east of Tay Cottage near Killin on the north side of Loch Tay. There have been a series of permissions on this site all of which were renewals (14/01548/IPL) (11/01770/IPL) with the original consent granted in 2008 (08/01586/OUT). The application site sits to the east of Tay Cottage within an area currently used as an agricultural field. There is an existing access off the A827 which is surrounded by trees. The site plan indicatively shows a small building with gable end facing towards the public road and an area of car parking wrapping around the west and south sides of the building.

The 2008 and 2011 applications were assessed against Policy 47 of the Highland Area Local Plan (HALP) which relates to agricultural diversification. The 2014 application was assessed under policy ED3 of the Local Development Plan 2014 and 2020 renewal assessed against Policy 8 of the Perth and Kinross Council Local Development Plan 2019 (LDP2). Since approval of the previous application National Planning Framework 4 (NPF4) has been adopted and this is now considered to have primacy over the LDP2 when assessing planning applications. There has therefore a substantial

change in the planning policy framework since the previous application was determined.

Morenish Home Farm at the time of the 2008 submission was a 375 acre farm situated on both sides of the A827 public road. The proposal is to diversify to sell local produce.

The site is located within the Loch Tay Local Landscape Area.

## **SITE HISTORY**

08/01586/OUT Erection of farm shop and associated parking (in outline) 17 October 2008 Application Approved

09/01933/FLL Erection of a farm shop (Approval of Matters Specified in Conditions) 27 November 2009 Application Withdrawn

11/01770/IPL Renewal of existing consent (08/01586/OUT) Erection of farm shop and formation of ancilliary parking (in principle) 2 December 2011 Application Approved

14/01548/IPL Renewal of permission (11/01770/IPL) Erection of farm shop and formation of ancillary parking (in principle) 31 October 2014 Application Approved

17/01366/IPL Renewal of permission 14/01548/IPL (erection of farm shop and formation of ancillary parking (in principle)) 5 September 2017 Application Approved

20/00985/IPL Renewal of permission 17/01366/IPL (Erection of farm shop and formation of ancillary parking (in principle)) 31 August 2020 Application Approved

## **PRE-APPLICATION CONSULTATION**

Pre application Reference:

## **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 4: Natural Places

Policy 6: Forestry, Woodland and Trees

Policy 13: Sustainable Transport

Policy 14: Design, Quality and Place

Policy 15: Local Living and 20 Minute Neighbourhoods

Policy 22: Flood Risk and Water Management

Policy 23: Health and Safety

Policy 29: Rural Development

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 2: Design Statements

Policy 6: Settlement Boundaries

Policy 8: Rural Business and Diversification

Policy 38B: Environment and Conservation: National Designations

Policy 39: Landscape

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

Policy 53B: Water Environment and Drainage: Foul Drainage

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

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

### **Statutory Supplementary Guidance**

- [Supplementary Guidance - Flood Risk and Flood Risk Assessments](#) (adopted in 2021)
- [Supplementary Guidance - Forest & Woodland Strategy](#) (adopted in 2020)
- [Supplementary Guidance - Landscape](#) (adopted in 2020)
- [Supplementary Guidance - Placemaking](#) (adopted in 2020)

### **OTHER POLICIES**

#### **Non Statutory Guidance**

- [Planning Guidance - Loch Leven SPA, the Dunkeld-Blairgowrie Lochs SAC and the River Tay SAC](#)
- [Planning Guidance - Planning & Biodiversity](#)

### **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 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.

## **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**

### EXTERNAL

Glen Lyon And Loch Tay Community Council – consider proposal to be Contrary to the Development Plan and consider proposal that proposal is no longer farm diversification as much of the farm has been sold off since earlier approvals. The proposal is not considered to meet a specific need due to presence of similar facilities in local area. Concerns also expressed regarding lack of sustainable transport provision.

NatureScot – no comments

Scottish Water – no objection

### INTERNAL

Transportation And Development – no objection subject to detailed conditions

Environmental Health (Private Water) – conditions and informatives recommended to protect existing private water supplies.

## **REPRESENTATIONS**

A total of six letters of representation have been received including a letter from the Glen Lyon and Loch Tay Community Council all of which object to the application. The issue raised may be summarised as follows:

- Contrary to Development Plan including NPF4
- Lack of sustainable transport provision
- No business viability case given sale of farm and change in circumstances since earlier approvals
- Competition with other local facilities
- Impact on visual amenity
- Inappropriate land use
- Out of character with area
- Road safety
- Traffic congestion

The issues above are addressed within the appraisal section below.

**Additional Statements Received:**

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

**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.

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**

As outlined above there has been a substantial change in policy since the previous application was determined with the introduction of National Planning Framework 4. Policy 29 Rural Development specifically restricts rural

development to certain development types and includes criteria which were not apparent in previous versions of the Council's Local Development Plan.

The original application indicated that the applicant's require to diversify from livestock operations to allow the business to grow and remain in the family. It indicated that changes to the Common Agricultural Policy had encouraged the farm to review their farming operations particularly in light of the single farm payment. The business plan also indicated that consumers look to know more about how their food is produced and that was the intention with the proposal to allow farmers and growers selling direct access to vital first hand information about the farming process. The proposal was deal with a number of local suppliers and was likely to create 2-3 FTE jobs as well as job retention for the farm owners.

NPF4 generally seeks to ensure that development is focussed within towns and cities but acknowledges the need to sustain rural economies while protecting the countryside where it genuinely contributes to the outcomes of the policy however suburbanisation of the countryside and unsustainable travel and development patterns should be avoided.

The principle of this is also evident in Perth and Kinross Local Development Plan 2019 (LDP2) with Policy 6 - Settlement Boundaries stipulating that for settlements which are defined by a settlement boundary in the Plan, development will not be permitted, except within the defined settlement boundary.

Although the proposal is not located within the settlement boundary and therefore fails to comply with Policy 6 of the LDP2 there are exceptions that can be made to this presumption against development outwith a settlement boundary through Policy 8: Rural Business Diversification of the LDP2 and Policy 29 of NPF4.

Policy 8 of the LDP2 also allows for rural businesses to be created but a development will require to either involve diversification of an existing business or be related to an existing site specific resource or opportunity. There is not considered to be any site specific resource or opportunity on this specific site and therefore the proposal requires to involve diversification. Policy 8 is supported by Policy 29: Rural Development of NPF4 which seeks to encourage rural economic activity of certain types. These include farm crofts, diversification of existing businesses, product and processing facilities for local produce and materials, essential community services, essential infrastructure, reuse of a redundant or unused building, appropriate use of a historic environment assets or appropriate enabling development, reuse of brownfield land, small scale developments that support remote/home working, improvement or restoration of the natural environment. NPF4 goes on to state that rural development should be appropriately scaled, sited and designed to be in keeping with the character of the area. A development also requires to contribute towards local living and take account of sustainable transport needs. It should be noted that the Scottish Government have indicated that



NPF4 should now be given primacy over the Local Development Plan in decision making.

In this instance the proposal seeks to introduce a farm shop associated with Morenish Farm and therefore in general terms the principle of this diversification based proposal complies with the above policies. However, there are now more strict criteria which require to be considered when assessing rural development proposals of this nature. NPF4 makes it clear that development in rural areas should contribute towards local living and take account the transport needs of the development as appropriate for a rural location. Policy 30 Tourism is also relevant and seeks to encourage, promote and facilitate sustainable tourism which benefits local people. Policy 13 also highlights the need to ensure that development proposals have been considered inline with sustainable travel and to provide (i) direct, easy, segregated and safe links to local facilities via walking, wheeling and cycle networks and (ii) accessible by public transport ideally supporting the use of existing services amongst other criteria.

No detail has been provided on the likely traffic generation of a proposal of this nature. Given the relatively remote nature of the site and the distance from Killin, the closest larger settlement, the majority of users will likely travel by private car. There is also no existing footway network on the A827 which would allow access through other means. There is no core path network in the local area either. The site is also not located within close proximity to allow use by the local population. NPF4 explicitly states that developments which result in unsustainable transport will not be supported. The site is not well connected to any existing core paths or cycling routes in the area and the only way to travel to nearby settlements from the site is along the A827 public road. This is considered to accentuate the concerns that the majority of users will access the site by private car. There are camp sites and holiday accommodation properties within the Morenish area but these are considered to be rather nucleated with on site facilities with limited walking or cycle linkages. The application site sits on a vacant site between Loch Tay Highland Lodges and Cruachan Farm Caravan and Camping Park to the east and Morenish House and High Creagan Caravan and Camping Park to the west. Killin is located 4.1km to the west. The only way of accessing the site from these sites and Killin is along the A827 which would most likely be undertaken by car given the lack of a footway, cycle routes and the lack of any existing bus stops.

It is also a concern that the developer has never progressed to a detailed application on this site despite initially obtaining permission in 2008 which is considered to raise doubts as to the business viability of this project which is an issue which requires to be considered under NPF4. The 2008 permission provided a business case for the diversification of the farm and sought to demonstrate the need for this to sustain the future of the farm. Given that the proposal has never progressed this would perhaps suggest that the need for diversification is not that apparent and that this would not be a requirement to sustain the future of the farm. Given the continued renewals, the lack of any progress on a detailed application and the change in policy framework since

the previous application it is considered to be appropriate to now refuse this application. There could potentially be a number of changes which have occurred on the farm during the last 15 years which are not taken into account given the continued renewal applications and lack of any detailed updates as to the current circumstances. It is also noted that some of these changes are referenced in letters of representation where they state that some areas of the original land holding may have been sold by the applicant. The applicant may have an opportunity to submit a further application for a farm shop should they wish to do so but this would require to be supplemented by substantial supporting information to demonstrate the business and viability case for the development based on an assessment of the market demand for this type of operation today and based on the current circumstances on the farm and the requirements of NPF4. There will also require to be work undertaken as to how customers would travel to and from the site to utilise sustainable means of transport which is not taken into account in this renewal. Any further application should also seek to utilise existing buildings on the farm as required by NPF4. The re-use of existing buildings as part of a diversification project is considered to be more appropriate in meeting the requirements of NPF4.

The proposal therefore fails to address the requirements of Policy 30 (i) of NPF4 as there is no up to date information on the contribution which the proposal would make to the current local economy given the changes which have occurred since the original approval and 30 (iv) of NPF4 as no information has been presented on opportunities for sustainable travel or any consideration of traffic generation or scope for sustaining rural public transport services. The proposal is also contrary to Policy 29 of NPF4 as whilst the proposal is a diversification of an existing business there is no up to date information on how the proposal will contribute towards the viability, sustainability and diversity of the rural community and the local rural economy.

Overall the principle of the farm shop in this location is now considered to be contrary to Policies 13, 29 and 30 of NPF4 due to the failure to take account of sustainable transport access to the site and the lack of information submitted regarding the business viability of the site based upon the current market circumstances and the 15 years which have passed since the original application was determined.

### **Competition**

Concerns have been raised in the previous application by neighbours in regard to the requirement of a farm shop in this location, particularly given an earlier consent at Tombreck (07/00830/FUL) which granted consent for a mixed use development accommodating a brewery with part mezzanine floor, a bakery and food processing, craft workshop with office, teaching workshop space, community space and an engineering workshop / farm vehicle maintenance. Competition between businesses is not a material planning consideration. However, the issues identified above relating to the current business case for the proposal and how it complies with regard to NPF4 are relevant now.

## **Ecology and Natural Heritage**

Nature Scot have been consulted regarding the proposed drainage and the proximity of the site to the Morenish Meadow SSSI but have offered no objection. They were also consulted previously and were satisfied with the proposal given the drainage arrangements proposed which will see drainage to the east away from the SSSI. Should any permission be granted this should be subject to a condition to request full details of the drainage arrangements as part of the detailed application.

## **Trees**

It is noted that there are trees on the application site adjacent to the access, therefore inline with Policy 40B of the LDP2 and Policy 6 of NPF4 a tree survey should be secured as part of any detailed submission to ensure that details of any felling and tree protection are submitted for consideration.

## **Sales**

The earlier permissions were granted subject to a condition to ensure the produce sold in the shop is local produce only to ensure the farm shop remains for its original purposes to sell locally produced produce and better the economy in the local area. The wording of the condition had been discussed previously with colleagues from the Council's Business Growth team and has been applied to all renewals to date. Should any permission be granted it should be subject to a similarly worded condition.

## **Design and Layout**

This is an application in principle only and therefore solely seeks to establish the principle of developing the site. Therefore no assessment of any visual or landscape impact has been undertaken.

## **Developer Contributions**

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

## **Economic Impact**

There may be some economic benefit associated with this proposal but no up to date information accompanies the application to demonstrate this and allow an assessment of the current circumstances.

## **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.

### **Reasons for Refusal**

1 The proposal is contrary to Policy 13: Sustainable Transport of the National Planning Framework 4 (NPF4) as the proposal is likely to only be accessible by private car and fails to provide for (i) direct, easy, segregated and safe links to local facilities and communities via walking, wheeling and cycle networks and (ii) accessible public transport ideally supporting the use of existing services.

2 The proposal is contrary to Policy 29: Rural Development of the National Planning Framework 4 (NPF4) as no detailed current information has been provided to demonstrate how the proposed development relates to the current operation of Morenish Farm and to demonstrate how the proposal contributes towards the viability, sustainability and diversity of the rural community and local rural economy. Furthermore, the site is remote and likely to be only accessible by private car and therefore fails to contribute towards local living and there is no provision for sustainable transport access.

3 The proposal is contrary to Policy 30: Tourism of the National Planning Framework 4 (NPF4) in particular criteria (i) as there is no up to date supporting information on the contribution which the proposal would make to the local economy and criteria (iv) as no information has been presented on opportunities for sustainable travel or any consideration of traffic generation or scope for sustaining rural public transport services.

**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**

08/01586/01

08/01586/02



Arc Architects Ltd  
Tom Morton  
31S Bonnygate  
Cupar  
Fife  
KY14 4BU

Pullar House  
35 Kinnoull Street  
PERTH  
PH1 5GD

Date of Notice: **31st August 2020**

## Town and Country Planning (Scotland) Acts.

Application Reference:**20/00985/IPL**

I am directed by the Planning Authority under the Town and Country Planning (Scotland) Acts currently in force, to grant your application registered on 22nd July 2020 for planning permission in principle for Renewal of permission 17/01366/IPL (Erection of farm shop and formation of ancillary parking (in principle)) at Land 60 Metres East Of Tay Cottage Killin subject to any undernoted conditions.

### **Conditions referred to above**

- 1 The development shall not commence until the following specified matters have been the subject of a formal planning application for the approval of the Council as Planning Authority: the siting, design and external appearance of the development (to demonstrate that the building will be finished in materials sympathetic to other buildings in the area; i.e slate roof, timber and natural stone), the hard and soft landscaping of the site, all means of enclosure, means of access to the site, vehicle parking and turning facilities (including provision of a waterproof cycling facility for a minimum of 6 cycles and provision of 12 car parking spaces), levels, drainage and waste management provision.

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

- 2 The farm shop shall be restricted to the sale of locally produced products only from farms and food enterprises located within the "Highland Perthshire Area" of the Perth and Kinross Council Local Development Plan 2019 and Stirling Council Local Development Plan Area unless otherwise agreed in writing with the Planning Authority.

Reason - In order that the Planning Authority may retain control over the future use of the premises which is located within an area intended primarily for agricultural use and to define the terms of the permission.

3 Further to Condition 1 above, a Tree Survey shall be submitted as part of the specified matters requiring to be the subject of a further formal planning application for the approval of the Council as Planning Authority. The Tree Survey shall include:

(a) a plan, to a scale and level of accuracy appropriate to the proposal, showing the position of every tree on the site and on land adjacent to the site (including street trees) that could influence or be affected by the development, indicating which trees are to be removed; and

(b) in relation to every tree identified a schedule listing:

i. information as specified in paragraph 4, BS 5837 2012: Trees in Relation to Design, Demolition and Construction;

ii. any proposed pruning, felling or other work; and

(c) in relation to every existing tree identified to be retained on the plan referred to in (a) above, details of:

i. any proposed alterations to existing ground levels, and of the position of any proposed excavation, that might affect the root protection area (see BS 5837 2012: Trees in Relation to Design, Demolition and Construction) and

ii. all appropriate tree protection measures required before and during the course of development (in accordance with BS 5837 2012: Trees in Relation to Design, Demolition and Construction), and

(d) areas of existing landscaping to be protected from construction operations and the method of protection.

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

4 Further to Condition 1 above, full details of all proposed drainage arrangements on the site to ensure the full protection of the nearby Morenish Meadow Site of Special Scientific Interest (SSSI) shall be submitted as part of the specified matters requiring to be the subject of a further formal planning application for the approval of the Council as Planning Authority.

Reason - To ensure the protection of the Morenish Meadow Site of Special Scientific Interest (SSSI)

5 Any planting failing to become established within five years shall be replaced in the following planting season with others of similar size, species and number to the satisfaction of the Council as Planning Authority.

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

## Justification

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

## Informatives

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

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

- 2 Applicants are advised that should their application for Approval of Matters specified be refused and/or their appeal against such refusal dismissed outwith the three year time limit they are entitled to submit a revised application for Approval of Matters specified within six months after the date of refusal of the earlier application or of the dismissal of an appeal against such refusal.
- 3 No work shall be commenced until an application for building warrant has been submitted and approved.
- 4 The applicant shall ensure the private water supply for the dwellinghouse/ Development complies with the Water Scotland Act 1980 (Section 63), The Private Water Supplies (Scotland) Regulations 2006 and The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017. Detailed information regarding the private water supply, including the nature, location and adequacy of the source, any storage tanks/ pipework and the filtration and disinfection treatment proposed to ensure provision of an adequate and consistently wholesome water supply shall be submitted to Perth and Kinross Council Environmental Health in line with the above Act and Regulations.
- 5 The applicant should ensure that any existing wayleaves for maintenance or repair to existing private water supply or septic drainage infrastructure in the development area are honoured throughout and after completion of the development.

**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 and Document Reference

08/01586/OUT/1

08/01586/OUT/2



# LAND OWNERSHIP CERTIFICATES

Town and Country Planning (Scotland) Act 1997  
Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland)  
Regulations 2008

## CERTIFICATE A, B, C OR CERTIFICATE D MUST BE COMPLETED BY ALL APPLICANTS

### CERTIFICATE A

Certificate A is for use where the applicant is the only owner of the land to which the application relates and none of the land is agricultural land.

#### I hereby certify that -

- (1) No person other than \_\_\_\_\_ was owner 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 application.
- (2) None of the land to which the application relates constitutes or forms part of agricultural land.

Signed:

\_\_\_\_\_

On behalf of:

Tony Allen & Belinda Snoxhall

Date:

12.07.2023

### CERTIFICATE B

Certificate B is for use where the applicant is not the owner or sole owner of the land to which the application relates and/or where the land is agricultural land and where all owners/agricultural tenants have been identified.

#### I hereby certify that -

- (1) \_\_\_\_\_ served notice on every person other than \_\_\_\_\_ who, at the beginning of the period of 21 days ending with the date of the application was owner of any part of the land to which the application relates. These persons are:

Name	Address	Date of Service of Notice

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

or

- (3) The land or part of the land to which the application relates constitutes or forms part of agricultural land and \_\_\_\_\_ served notice on every person other than \_\_\_\_\_ who, at the beginning of the period of 21 days ending with the date of the application was an agricultural tenant. These persons are:



**CERTIFICATE D**  
**Certificate D**

Certificate D is for use where the application is for mineral development.

(1) No person other \_\_\_\_\_ was an owner 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**

(2) \_\_\_\_\_ served notice on each of the following persons other than \_\_\_\_\_ who, at the beginning of the period of 21 days ending with the date of the accompanying application, was to the applicant's knowledge, the owner, of any part of the land to which the application relates. These persons are:

Name	Address	Date of Service of Notice

(3) None of the land to which the application relates constitutes or forms part of an agricultural holding.

**or**

(4) The land or part of the land to which the application relates constitutes or forms part of an agricultural holding and \_\_\_\_\_ served notice on each of the following persons other than \_\_\_\_\_ who, at the beginning of the period of 21 days ending with the date of the application, was an agricultural tenant.

(5) Notice of the application as set out below has been published and displayed by public notice

Signed:

On behalf of:\*

Date:

## CERTIFICATE E

Certificate E is for use where the applicant is the sole owner of all the land and the land to which the application relates is agricultural land.

**I hereby certify that -**

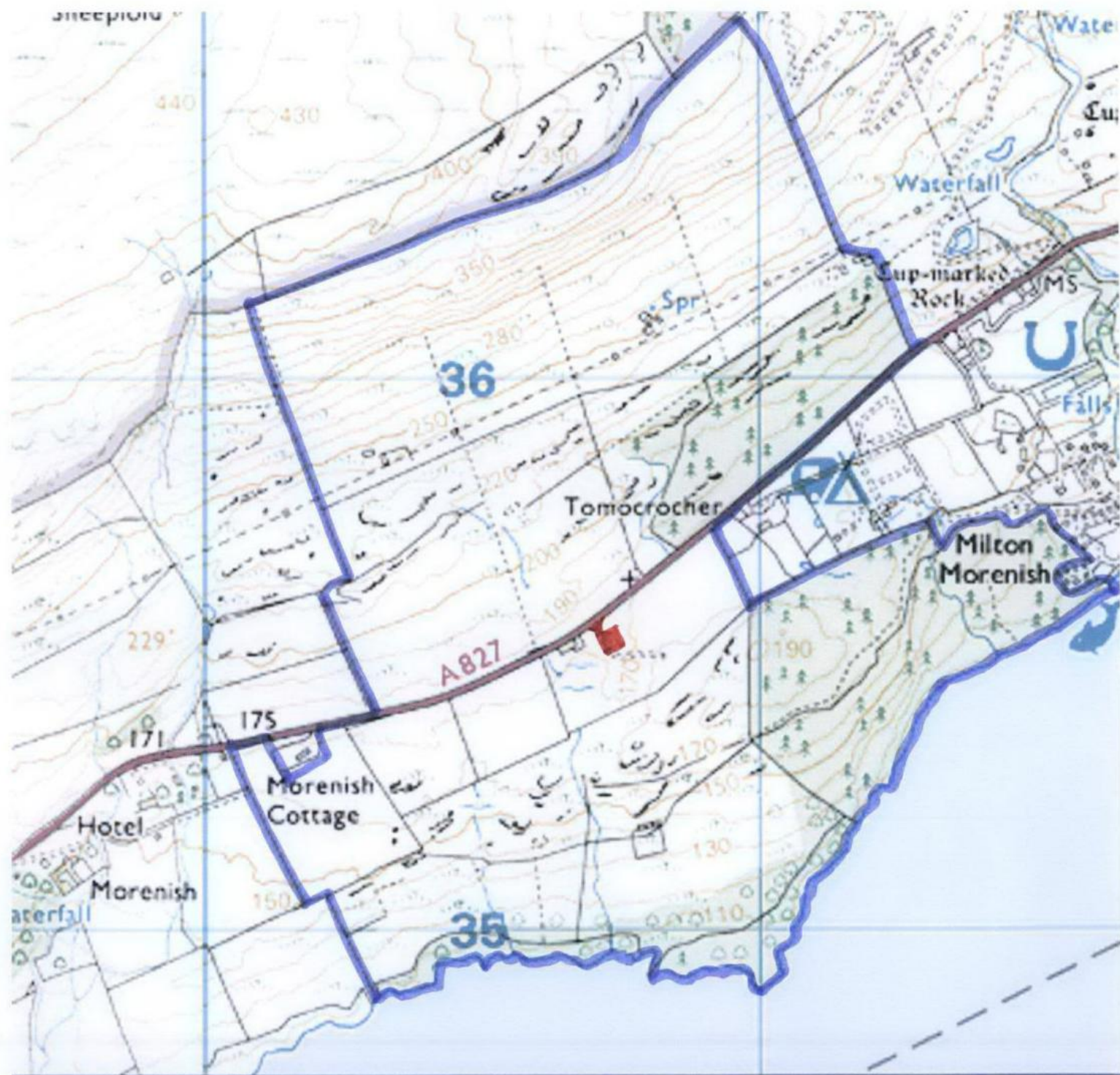
- (1) No person other than \_\_\_\_\_ was owner of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the application.
- (2) The land to which the application relates constitutes or forms part of agricultural land.

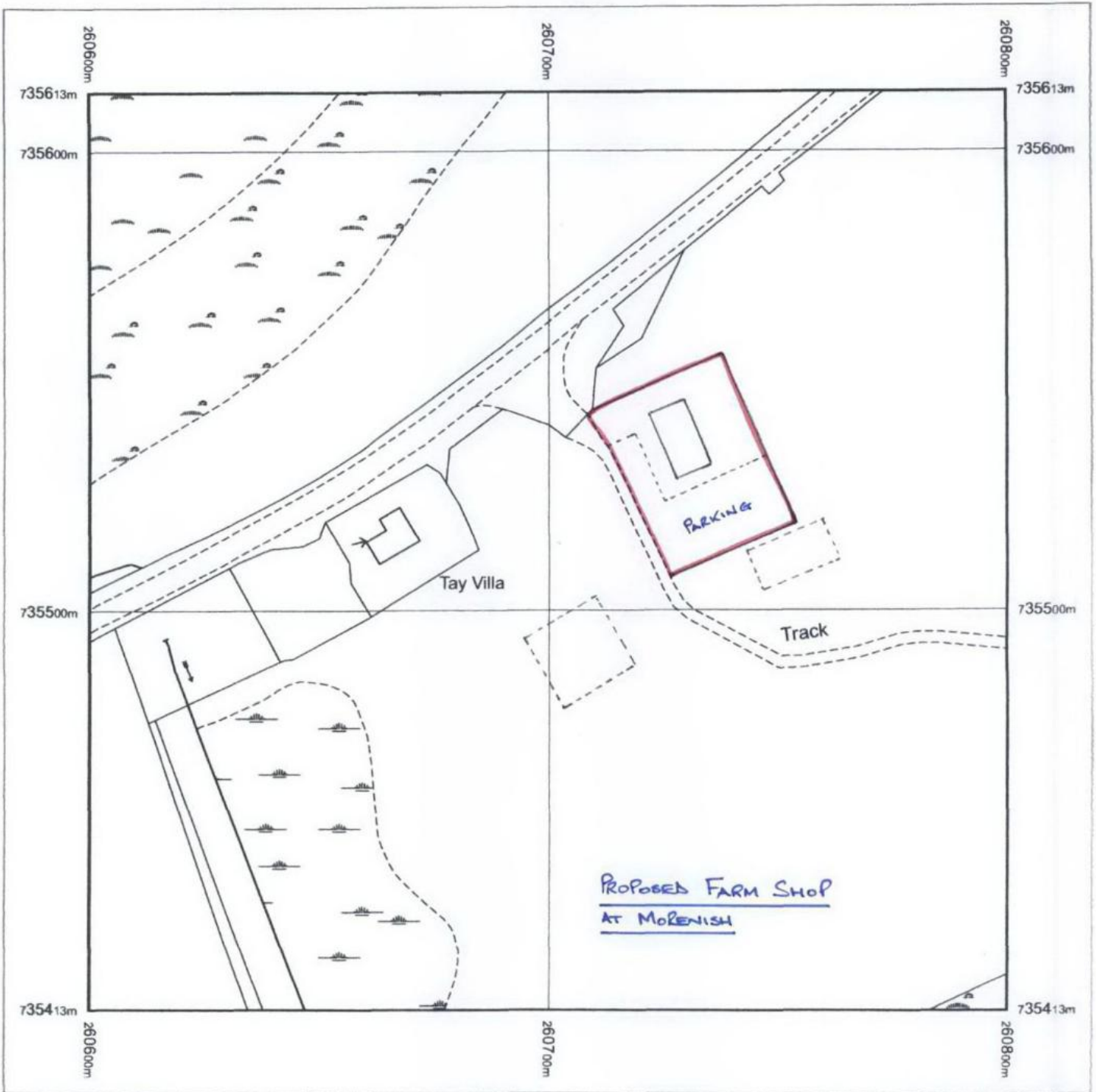
Signed:

On behalf of:

Date:

**Any personal data that you have been asked to provide on this form will be held and processed in accordance with the requirements of the 1998 Data Protection Act**





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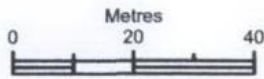
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