

Perth and Kinross Council
Planning and Placemaking Committee – 13 December 2023
Report of Handling by Strategic Lead – Economy, Development and Planning
(Report No. 23/356)

PROPOSAL:	Erection of a dwellinghouse
LOCATION:	Land 20 metres north of The Orchard, Lochty, Almondbank

Ref. No: [23/01095/FLL](#)
Ward No: P9- Almond And Earn

Summary

This report recommends approval of a detailed planning application for a change of house type on a consented residential site at Lochty on the western edge of Perth. The development is considered to comply with the relevant provisions of the Development Plan and there are no material considerations apparent which outweigh the Development Plan.

BACKGROUND AND DESCRIPTION OF PROPOSAL

- 1 This planning application seeks to obtain a detailed planning permission for a change of house type on a consented residential plot within the Lochty area at the western edge of Perth.
- 2 The site is rectangular shaped and was formerly garden ground which was part of a residential property named 'Ellengowan', which is immediately to the north of the site. A number of planning permissions have been granted on the site since 2002 – all relating to the erection of a single dwelling, with the most recent being a 2018 detailed planning application (18/00115/FLL). That permission has commenced by virtue of a material start occurring within the prescribed timescales, however progression on building out that permission has ceased.
- 3 It is understood that the site has recently been sold, and this planning application seeks approval for amendments to the approved house type which are considered to be material changes from the previously approved details.
- 4 As per the earlier permissions, the proposed house will provide two levels of accommodation with the upper level contained within the roof space through the combination of dormers and rooflights – three dormers are proposed on the front elevation (east), and 4 to the rear (west). The principal changes from the 2018 permission are a slightly larger floor area, an increase in ridge line, and changes to the style and number of dormer windows. A short section of an existing

southern boundary hedge is now proposed for removal, when it was previously being retained.

- 5 All other matters such as vehicular access arrangements, parking provision, bin/recycling collections and drainage remain unaltered from the extant permission.

Pre-Application Consultation

- 6 The proposed development is not classed as a Major development in terms of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009; therefore, the applicant was not required to undertake any formal pre-application consultation with the local community.

DEVELOPMENT PLAN

- 7 The Development Plan for the area comprises National Planning Framework 4 (NPF4), the Perth and Kinross Local Development Plan 2 (2019) (LDP2) and statutory supplementary planning guidance (SPG).

National Planning Framework 4

- 8 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.
- 9 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 3: Biodiversity
- Policy 14: Design, Quality and Place

Perth and Kinross Local Development Plan 2 (2019)

- 10 The Local Development Plan 2 (LDP2) is the most recent statement of Council policy and is augmented by Supplementary Guidance. As was the case for the previous planning applications, the site is located within the settlement boundary of Perth, where the following policies are applicable,
 - Policy 1: Placemaking
 - Policy 5: Infrastructure Contributions
 - Policy 17: Residential Areas
 - Policy 41: Biodiversity
 - Policy 53: Water Environment and Drainage

Statutory Supplementary Planning Guidance (SPG)

- 11 The following statutory SPGs are applicable to this proposal,
- Developer Contributions and Affordable Housing (2020)
 - Placemaking Guide (2020)

NATIONAL POLICY AND GUIDANCE

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

Of relevance to this proposal are:

Planning Advice Notes

- 13 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

National Roads Development Guide 2014

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

OTHER PKC POLICIES

- 15 The following non-statutory planning guidance are applicable to the proposal:
- Planning for Nature (2020)

SITE HISTORY

- 16 02/00403/OUT - Erection of one dwellinghouse approved (in outline) was approved on 11 June 2002
- 17 09/00221/OUT - Erection of a dwellinghouse (in outline) was Approved On 8 May 2009

- 18 12/00760/IPL - Renewal of planning consent (09/00221/OUT) for the erection of a dwellinghouse (in principle) was approved on 25 June 2012
- 19 13/01899/AML - Approval of matters specified in conditions (12/00760/IPL) Erection of a dwellinghouse was approved on 15 January 2014
- 20 17/00957/FLL - Full Planning Permission for Erection of a dwellinghouse was approved on 4 August 2017
- 21 18/00115/FLL - Full Planning Permission for Erection of a dwellinghouse was Approved on 21 February 2018, and this permission has commenced.

CONSULTATIONS

- 22 As part of the planning application process the following bodies were consulted:

External

Scottish Water: No objection in terms of public capacity issues.

Transport Scotland: No response in terms of the impact on the A85(T). The proposed access arrangements with the trunk road are however not being altered from previous permissions.

Internal

Transportation and Development: The level of onsite parking provision (3) meets with the standards of the National Roads Development Guide.

Environmental Health: No objection in terms of a potential private water supply occurring, if a public connection is not viable or practicable.

Structures and Flooding: No objection to the proposal in terms of flooding or drainage, subject to conditions concerning surface water disposal.

Development Contributions Officer: No requirement for any additional developer contributions.

Community Waste Advisor: No response received.

REPRESENTATIONS

- 23 Nineteen representations were received, of which 17 are objecting to the proposal and two are offering support. In terms of the objectors, the main issues raised within their representations are:

- Proposal is contrary to the Development Plan

- Impact on visual amenity
- Impact on residential amenity
- Impact on biodiversity
- Impact on road and pedestrian safety

These issues are addressed in the Appraisal section of the report.

- 24 In terms of the letters of support, these suggest that the proposal would enhance the area and would result in environmental improvements from the site's current condition.

ADDITIONAL STATEMENTS

Screening Opinion	EIA Not Required
Environmental Impact Assessment (EIA)/ Environmental Report	Not applicable
Appropriate Assessment under Habitats Regulations	AA Not Required
Design Statement or Design and Access Statement	Submitted
Report on Impact or Potential Impact	Ecology Survey

APPRAISAL

- 25 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) require the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The Development Plan comprises NPF4, the LDP2 and statutory SPGs. The relevant policy considerations are outlined in the policy section above and are considered in more detail below.
- 26 In terms of other material considerations, this involves considerations of the Council's other non-statutory policies and supplementary guidance, namely Planning for Nature as well as the site's recent planning history – which is a significant material consideration.

Policy

- 27 The principle of a residential dwelling on this site has been firmly established by the previous planning permissions which have been granted and in the case of the 2018 permission, commenced. It would be unreasonable, unjustified and ultimately undefendable for the Council to opt to reassess the acceptability of the principle of erecting a single dwelling on the site again.
- 28 It is therefore the settled position of the Council, that the sole consideration for this proposal is ultimately whether or not the proposed house type is acceptable

from a visual and residential amenity perspective, and there are relevant policies relating to these issues in all parts of the Development Plan.

- 29 In terms of the NPF4, Policy 14 (Design, Quality and Place) looks to ensure that all new developments have a high standard of design, whilst Policies 1 (Placemaking) and 17 (Residential Areas) of the LDP2 look to ensure that all new developments contribute positively to the quality of the surrounding built and natural environment and protect existing visual and residential amenity of the area concerned.
- 30 The Placemaking SPG promotes good design principles for all new developments and looks to protect both visual and residential amenity by ensuring that both the proposed design is appropriate for its setting, and that existing environs are considered.

Visual Amenity, Design and Layout

- 31 The proposal which has been brought forward is comparable to the 2017 planning permission in terms of its general appearance and proportions (from the front), its overall height, its wall to roof ratios and its relationship to the boundaries of the plot – which at the time, were considered to be acceptable. The current proposal does make a distinct change in the style of dormers with smaller windows proposed from those consented in 2017 and 2018, however what is proposed would not necessarily look out of character with the area and are not visually offensive.
- 32 The same applies to the increase in the numbers of dormers on both the front and rear elevations, which has also changed from the previous permissions. The additional number of dormers on both elevations would change the appearance of the dwelling, but not to a level which would make the resultant dwelling appear visually incongruous, especially when viewed from the A85 when traveling eastwards. It is also noted that the property of 'Ellengowan' has a number of dormers on its principal elevation, albeit of a different style than what is proposed here.
- 33 All other design and layout matters are acceptable, subject to some minor changes secured through condition (Condition 6) and the proposal is considered to comply with the Placemaking and Design policies contained in all parts of the Development Plan.

Residential Amenity

- 34 The proposed change of house type does not introduce any new issues in terms of the impact on existing neighbours which have not been previously considered, either in 2017 or 2018.
- 35 The principal area of interaction at first floor level would be between the proposed rear dormers, and part of the private garden area of 'Ellengowan' to the

north of the site. Both the 2017 and the 2018 permissions would have resulted in some degree of interaction due to the physical relationship of the proposed house and the garden ground of 'Ellengowan', but avoiding any visual interaction in a settlement is an unrealistic expectation. A more sensible approach is to ensure that any impacts are reasonable (and of a level of what might be expected), and in this case to ensure that any impact is comparable to what already is likely to occur by virtue of the extant planning permission.

- 36 It is noted that one of the proposed dormers would be several metres closer to the northern boundary than the consented arrangement, which could potentially increase the degree of overlooking, and result in a greater loss of privacy to the affected property from what has been approved.
- 37 The dormer in question serves a bedroom which has another dormer on the same elevation, so there is no reason why a minor amendment could not be made to change the north most dormer on the rear elevation to a roof light, which would in turn reduce the ability of the user to look sideways. This would also bring the relationship and impact on the neighbour to the north to something similar of the 2018 permission. Condition 6 relates to this.
- 38 In terms of the interaction with the residential property to the south, it is noted that two side windows are proposed at ground floor close to the boundary. Along the boundary presently is a mature hedge, with a 1.8m fence on the neighbour's side. The applicant has indicated that this fence will remain, but the hedge is to be removed. It is understood that an agreement has been reached between the two parties to remove the hedge, which has been affecting the property to the south and with the fence, is challenging to maintain. Subject to the fence being retained, the interaction between the existing and proposed will be mitigated by the existing fence and there would be scope for a more suitable replacement along the boundary which benefits both parties. Condition 4 relates to this.
- 39 Lastly, a concern has been raised that the additional height of the dwelling would impact adversely on light entering the ground floor windows of 'Ellengowan', and shadows would affect both the property and some areas of the garden ground. The Council's Placemaking Guide makes reference to this issue, and in most cases the use of a 25-degree rule is used as a good starting point to establish whether or not further light / shadow assessments are required. The key principles of the test comprise drawing a line at 25 degrees towards a proposed development starting at the mid-point of the ground floor window. An officer's assessment of this, showed a marginal 'breach' of the 25-degree line, so it is not considered necessary to seek any further assessment.
- 40 Accordingly, subject to the imposition of conditions the proposal is considered to be in accordance with Policies 1 and 17 of the LDP2, and the guidance provided within the Placemaking Guide 2020.

Roads and Access

- 41 The proposed change of house type raises no new issues concerning parking provision or access related matters. Standard conditions which are similar to those previously attached to the extant planning permission are again recommended (Condition 5).

Drainage and Flooding

- 42 The proposed change of house type raises no new issues concerning drainage or flooding matters. A standard condition requiring all surface water to be disposed of in a manner which does not shed onto neighbouring land is recommended (Condition 3). The proposal is therefore considered to comply with Policy 53 Water Environment and Drainage of LDP2.

Waste Collection

- 43 The proposed change of house type raises no new issues concerning waste or recycling provision, and collection will take place at the road end.

Conservation Considerations

- 44 The proposal has no implications in terms of impacting on listed buildings, conservation areas or local archaeology.

Natural Heritage and Biodiversity

- 45 The proposed change of house type raises no new issues concerning ecological issues. The planning application has been supported with an updated ecology report to take into account some concerns over Great Crested Newts on the site and the survey, and conclusions and recommendations are all in order. The proposal is therefore consistent with Policy 3 of the NPF4, Policy 41 of the LDP2 and the guidance offered by the Planning Guidance on Planning for Nature.

Southern Hedge

- 46 Both the 2017 and the 2018 planning permissions sought to retain the southern hedge in its entirety through conditions. The applicant has indicated they wish to remove the hedge for the eastern ½ of the southern boundary, and that the construction of both the 2018 permission and the proposed would require its removal. With an existing fence providing mitigation for residential amenity, the removal of a small portion of the hedge is considered acceptable – subject to some degree of compensatory planting within the wider garden area. Condition 4 relates to this.

Retaining Wall

- 47 The proposed dwelling will encroach to within 1m of the boundaries of the site. To the north of the site is an existing retaining wall. It would be the applicant's responsibility to ensure that their development does not compromise the structure integrity of the wall and comply with all the relevant building regulations through the submission of a competent and approvable Building Warrant submission. An informative note is recommended to highlight this position (Informative 3).

Water Supply

- 48 Scottish Water have indicated that there is sufficient capacity within the public system to service this development. In the unlikely event that a connection was not a viable or practical option, any new private supply will have to comply with the relevant private water regulations. An informative note to this effect is recommended (Informative 5).

Developer Contributions

- 49 A developer contribution in relation to Transport Infrastructure was paid in relation to 17/00957/FLL. As the number of residential units across the site is not increasing from the extant permission, then there is no requirement for any additional contributions.

Economic Impact

- 50 The proposal would have little impact on the local economy.

VARIATION OF APPLICATION UNDER SECTION 32A

- 51 The applicant opted to make some minor changes to their design statement during the course of the planning application, however these changes did not affect the key principles of the application.

PLANNING OBLIGATIONS AND LEGAL AGREEMENTS

- 52 None required.

DIRECTION BY SCOTTISH MINISTERS

- 53 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, regulations 30 – 33 there have been no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in or notification relating to this application.

CONCLUSION AND REASONS FOR RECOMMENDATION

- 54 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 comply with NPF4, the LDP2 and statutory SPGs. Account has been taken account of the relevant material considerations and none has been found that would justify overriding the Development Plan.

RECOMMENDATION

Approve the planning application, subject to the following conditions,

1. This planning permission will last only for three years from the date of this decision notice, unless the development has been lawfully started within that period.

Reason: This is a Planning Permission in terms of Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by Section 32 of the Planning (Scotland) Act 2019

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

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

3. Storm water drainage from all paved surfaces, including the access, shall be disposed of by means of suitable a Sustainable Urban Drainage System to meet the requirements of best management practices. Prior to the commencement of the development hereby approved, precise details of the surface water drainage system shall be submitted to and approved in writing by the Council as Planning Authority. The approved details shall thereafter be implemented in full and completed before the first occupation of the dwelling.

Reason: In order to ensure the site is adequately drained.

- 4.. Prior to the commencement of the development hereby approved, details of the proposed boundary treatments and new compensatory planting to offset the loss of the portion of the southern boundary hedge shall be submitted to and approved in writing by the Council as Planning Authority. The approved details shall be implemented in full and completed before the first occupation of the dwelling. In the event of any planting failing within 5 years it shall be replaced on a 'like for like' basis within the next available planting season.

Reason: In order to clarify the terms of this planning permission, and to protect visual and residential amenity.

5. Visibility splays shall be maintained on each side of the access to the satisfaction of the local Planning Authority, after consultation with Transport Scotland. For the avoidance of doubt, these splays are the triangles of ground bounded on 2 sides by the first 2.4metres of the centreline of the vehicular access (the set back dimension) and the nearside trunk road carriageway measured 120metres (the y dimension) in both directions from the intersection of the access with the trunk road. In a vertical plane, nothing shall obscure visibility measured from a driver's eye height of between 1.05metres and 2.00metres positioned at the set back dimension to an object height of between 0.26metres and 1.05metres anywhere along the y dimension.

Reason: To ensure that vehicles entering or exiting the access can undertake the manoeuvre safely and with minimum interference to the safety and free flow of traffic on the trunk road.

6. The north most dormer window on the rear (west) elevation is not approved. Prior to the commencement of the development hereby approved, an amended rear elevation which replaces the dormer with a rooflight shall be submitted to and approved in writing by the Council as Planning Authority. The approved details shall be implemented in full, and the rear elevation shall remain unaltered thereafter.

Reason: In order to protect existing residential amenity.

B JUSTIFICATION

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

C PROCEDURAL NOTES

None

D INFORMATIVES

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

3. No work shall be commenced until an application for building warrant has been submitted and approved. The applicant should undertake their own due diligence concerning the impact on the existing retaining wall along the northern boundary.
4. Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning permission for a development does not provide a defence against prosecution under this Act.
5. 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.
6. In terms of Condition 3, the applicant is advised to refer to Perth & Kinross Council's [Supplementary guidance on Flood Risk and Flood Risk Assessments 2021](#) and the SUDS Manual (C753) as it contains advice relevant to your development.

Background Papers: 19 letters of representation
Date: 1 December 2023

DAVID LITTLEJOHN
STRATEGIC LEAD – ECONOMY, DEVELOPMENT AND PLANNING

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