

Perth and Kinross Council
Planning & Development Management Committee – 16 February 2022
Report of Handling by Head of Planning & Development (Report No. 21/33)

PROPOSAL: Erection of 2 dwellinghouses and garages (revised design)

LOCATION: Land SW of 16 Curate Wynd, Kinross

Ref. No: 21/02027/FLL

Ward No: P8- Kinross-shire

Summary

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

BACKGROUND AND DESCRIPTION OF PROPOSAL

- 1 The site area is 0.14 hectares and previously comprised a vacant piece of land within the settlement boundary of Kinross. There are residential properties and garden ground to the north, east, south and west of the site. The proposed dwellinghouses are out with but adjacent to the Kinross Conservation Area. Curate Wynd has bollards which restrict vehicular access to the site from the south. Vehicular access to the site would be from Bowton Road to the north.
- 2 This application seeks permission for the revised design of 2 dwellinghouses and garages that were previously approved under permission 21/01234/AML. The main changes are the incorporation of rooflight windows into the roof slope to enable the formation of habitable accommodation within the roof space. No changes to the overall roof heights from that approved under the previous permission are proposed. Additionally, the garage on Plot 2 is to be lengthened by 1 metre.
- 3 If the earlier permission 21/01234/AML was constructed and occupied, the dwellinghouses would benefit from permitted development rights which would enable the installation of the rooflight windows and the formation of the habitable accommodation within the roof space. This fall-back position has considerable weight in the determination of this application.

Pre-Application Consultation

- 4 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.

NATIONAL POLICY AND GUIDANCE

- 5 The Scottish Government expresses its planning policies through The National Planning Frameworks, the Scottish Planning Policy (SPP), Planning Advice Notes

(PAN), Creating Places, Designing Streets, National Roads Development Guide and a series of Circulars.

National Planning Framework 2014

- 6 NPF3 is a long-term strategy for Scotland and is a spatial expression of the Government's Economic Strategy and plans for development and investment in infrastructure. This is a statutory document and material consideration in any planning application. It provides a national context for development plans and planning decisions as well as informing the on-going programmes of the Scottish Government, public agencies and local authorities.

The Scottish Planning Policy 2014 (SSP)

- 7 The Scottish Planning Policy (SPP) sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:
 - The preparation of development plans;
 - The design of development, from initial concept through to delivery; and
 - The determination of planning applications and appeals.
- 8 The following sections of the SPP will be of particular importance in the assessment of this proposal:
 - Sustainability : paragraphs 24 – 35
 - Placemaking : paragraphs 36 – 57

Planning Advice Notes

- 9 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

Designing Streets 2010

- 10 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

- 11 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.

DEVELOPMENT PLAN

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

TAYPlan Strategic Development Plan 2016-2036

- 13 TAYPlan sets out a vision for how the region will be in 2036 and what must occur to bring about change to achieve this vision. The vision for the area as set out in the plans states that:

“By 2036 the TAYplan area will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice where more people choose to live, work, study and visit, and where businesses choose to invest and create jobs.”

Perth and Kinross Local Development Plan 2 (2019)

- 14 The Local Development Plan 2 (2019) (LDP2) sets out a vision statement for the area and states that, *“Our vision is of a Perth and Kinross which is dynamic, attractive and effective which protects its assets whilst welcoming population and economic growth.”* It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
- 15 The principal relevant policies are, in summary;
- Policy 1A: Placemaking
 - Policy 1B: Placemaking
 - Policy 5: Infrastructure Contributions
 - Policy 6: Settlement Boundaries
 - Policy 17: Residential Areas
 - Policy 28A: Conservation Areas: New Development
 - Policy 32: Embedding Low & Zero Carbon Generating Technologies in New Development
 - Policy 40A: Forestry, Woodland and Trees: Forest and Woodland Strategy
 - Policy 40B: Forestry, Woodland and Trees: Trees, Woodland and Development
 - Policy 41: Biodiversity
 - Policy 53B: Water Environment and Drainage: Foul Drainage
 - Policy 53C: Water Environment and Drainage: Surface Water Drainage
 - Policy 58A: Contaminated and Unstable Land: Contaminated Land
 - Policy 60B: Transport Standards and Accessibility Requirements: New Development Proposals

OTHER POLICIES

Developer Contributions and Affordable Housing Supplementary Guidance April 2020

- 16 This document sets out the Council’s policies on Developer Contributions in relation to Primary Education and Transport Infrastructure/A9 junction upgrades,

as well as setting out what Affordable Housing provision is required for new developments.

Placemaking Supplementary Guidance 2020

- 17 The Council has prepared Placemaking Supplementary Guidance (2020) to support Policy 1 (Placemaking) of the Perth and Kinross Local Development Plan 2 (2019). It is to be used in the assessment of planning applications and to assist in the placemaking process.

SITE HISTORY

- 18 **99/00696/OUT** was Refused On 2 September 1999 for Erection of 2 houses (in outline)
- 19 **05/00926/OUT** was Approved On 15 September 2005 for Erection of 2 no detached houses with integral garages with access and parking (in outline)
- 20 **18/01807/IPL** was Approved On 13 February 2019 for Residential development (in principle)
- 21 **21/00667/AML** was Refused On 8 June 2021 for Erection of 2 dwellinghouses and garages (approval of matters specified in conditions of 18/01807/IPL)
- 22 **21/01234/AML** was Approved On 23 September 2021 for Erection of 2 dwellinghouses and garages (approval of matters specified in conditions of 18/01807/IPL)

CONSULTATIONS

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

External

Scottish Water

- 24 No objection.

Internal

Structures And Flooding

- 25 No objection received.

Transport Planning

- 26 No objection.

Development Contributions Officer

- 27 No objection. Payment for the contribution requirement was received on 17 September 2021 as part of 21/01234/AML. The current application is for a revised design and no further contribution is required.

Environmental Health (Contaminated Land)

28 No objection subject to conditional control.

Environmental Health (Noise Odour)

29 No objection.

REPRESENTATIONS

30 A total of 12 letters of representation have been received in respect of the current application. The main issues raised within the representations are:

- Adverse effect on visual amenity
- Out of character with the area
- Excessive height
- Overdevelopment
- Impact on setting of Conservation Area
- Loss of privacy/ overlooking
- Loss of sunlight/ daylight
- Loss of trees
- Noise and light pollution
- Road safety concerns and inappropriate parking provision
- Flooding concerns
- Impact on open space

31 noted however this will be a short-term change to the status quo, and it is not consider that conditional control is required in this case.

34 Mud has been deposited onto the road from construction activity – Vehicle operators and contractors who deposit mud on the road are potentially liable for a range of offences. A range of powers are available to the Police and the Roads Authority to resolve this issue.

ADDITIONAL STATEMENTS

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

APPRAISAL

36 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 adopted Development Plan comprises the TAYplan Strategic Development Plan 2016–2036 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.

- 37 In this instance, 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.

Principle

- 38 It should be noted that the principle of development on this site has already been approved under permission 18/01807/IPL with detailed matters approved under the associated matters specified by condition permission 21/01234/AML.
- 39 The proposed amendments in this application to enable the incorporate rooflight windows to allow accommodation within the roof space are minor in nature and do not conflict with the principle of the approved development. Additionally, the garage on Plot 2 is to be lengthened by 1 metre.
- 40 It is worth noting that the planning permission in principle 18/01807/IPL allowed accommodation within the roofscape: Condition 2 is reproduced below:

2. *In pursuance of condition 1a) the residential development shall be limited to a maximum one storey in height (but allowing accommodation in the roof space). For the avoidance of doubt the indicative footprints and plans submitted with this application are not approved.*
Reason - In the interests of visual and residential amenity; to ensure a satisfactory standard of local environmental quality and to avoid over-intensive development of the site.

Design and Layout

- 41 The design and layout assessment associated with permission 21/01234/AML confirmed the following:-

Improvements have been made to the earlier scheme for the site. The massing of the building has been broken up by incorporating setbacks into the front elevation with a contemporary approach to detailing and design applied holistically to the bungalows. The site plan now illustrates the relationship with neighbouring dwellings and the footprints are considered to be acceptable when taking cognisance of properties to the west.

- 42 While representations highlight concerns with the design and layout, the assessment of the previous application confirmed the proposal was considered to comply with the placemaking policies and the proposal was not considered to have an adverse impact on the adjacent conservation area. The incorporation of rooflight windows without increasing the overall roof height does not alter this assessment. The lengthening of the garage by a further 1 metre is also not considered to alter this assessment as it is a minor expansion to the footprint.

Landscape

- 43 A tree survey has been submitted with the application detailing planting to be removed and retained. The site plan also details existing/proposed hedging/planting and boundary treatment to be retained along with details of new species to be planted, plant sizes and proposed numbers as well as areas of hardstanding.
- 44 With conditional control applied (Condition 2) the proposal complies with Policies 40A and 40B Forestry, Woodland and Trees, as well as the placemaking policies.
- 45 The site is not an area of zoned open space, therefore there is no conflict with Policy 14 Open Space Retention and Provision.

Residential Amenity

- 46 The formation of residential developments has the potential to result in overlooking and overshadowing to neighbouring dwellings and garden ground. There is a need to secure privacy and amenity for all the parties to the development those who would live in the new dwellings and those that live in adjoining dwellings.
- 47 Taking account of intervening window to window distances on the ground floor of the new dwellinghouses, as well as the angles between windows and installation of boundary screening, there is not considered to be any significant loss of privacy to neighbouring dwellings.
- 48 While representations consider the installation of the rooflight windows to cause privacy issues, their positioning, orientation and distance to neighbouring dwellings are not considered to result in a significant loss of amenity which would warrant the refusal of the application.
- 49 The site plan shows the context of the site layout in relation to neighbouring residential buildings. The development's relationship to neighbouring buildings and garden ground is acceptable. Some overshadowing will occur to the garden ground of properties on Curate Wynd, however, this overshadowing is not considered to necessitate refusal of the application.
- 50 The provision of housing within the urban environment is not considered to result in a level of light pollution that would justify refusal of the application.
- 51 With regards to noise, Environmental Health previously advised that conditional control should be applied with regards to the proposed air source heat pumps. This has been reapplied (Condition 5).
- 52 The Contaminated Land Officer has also been consulted on the application. Their response confirms that their Service has received, and reviewed reports, prepared by MM-EC Geoenvironmental Ltd: Ground Investigation Report dated June 2021 and a Remediation Statement dated October 2021 submitted in relation to previous planning permissions for this site. Due to further works being necessary and verification of the works required they recommend that conditional control is

reapplied to ensure that any ground contamination is dealt with accordingly (Condition 6).

Roads and Access

- 53 The concerns regarding the loss of parking are noted. The loss of carparking was previously assessed as part of the earlier in-principle application and Transport Planning raised no objection due to the close proximity of two car parks (School Wynd and Curate Wynd). They still offer no objection to this application.
- 54 The site layout illustrates a means of access to the site, vehicle parking and on-site turning facilities. It is considered that the proposal complies with Policy 60B Transport Standards and Accessibility Requirements: New Development Proposals. Conditional control will be applied to ensure parking and turning are secured prior to the occupation of the development (Conditions 3 and 4).

Drainage and Flooding

- 55 The site layout illustrates a foul connection to the mains sewerage system. The layout also illustrates the positioning of soakaways within the plots to comply with Policy 53B: Foul Drainage and Policy 53C: Surface Water Drainage.

Developer Contributions

- 56 The Council's Developer Contributions Supplementary Guidance requires a financial contribution towards increased primary school capacity in areas where a primary school capacity constraint has been identified. A capacity constraint is defined as where a primary school is operating at over 80% and is likely to be operating following completion of the proposed development, extant planning permissions and Local Development Plan allocations, at or above 100% of total capacity. This proposal is within the catchment of Kinross Primary School and the contribution requirement was received on 17 September 2021 as part of 21/01234/AML. The relevant contributions have therefore been secured in line with Policy 5: Infrastructure Contributions.

Economic Impact

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

VARIATION OF APPLICATION UNDER SECTION 32A

- 58 This application was not varied prior to determination.

PLANNING OBLIGATIONS AND LEGAL AGREEMENTS

- 59 Not required.

DIRECTION BY SCOTTISH MINISTERS

- 60 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

- 61 To conclude, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, the proposal is considered to comply with the approved TAYplan 2016 and the adopted Local Development Plan 2 (2019). If the previous permission 21/01234/AML was constructed and occupied, it would benefit from permitted development rights which would enable the installation of the rooflight windows and the formation of the habitable accommodation within the roof space. This fall-back position has considerable weight in the determination of this application.
- 62 Account has been taken account of the relevant material considerations and none has been found that would justify overriding the adopted Development Plan. In light of the above, the proposal is recommended for approval subject to the following conditions.

A RECOMMENDATION

Approve the application

Conditions and Reasons for Recommendation

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

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

2. The detailed landscaping and planting scheme which is hereby approved shall be implemented as part of the site development programme and thereafter maintained to the satisfaction of the Council as Planning Authority.

Reason - In the interests of visual amenity and to ensure the satisfactory implementation of the proposed planting scheme.

3. Prior to the development hereby approved being completed or brought into use, the turning facilities shown on the approved drawings shall be implemented and thereafter maintained.

Reason - In the interests of road safety; to ensure the provision of acceptable manoeuvring space within the curtilage of the site to enable a vehicle to enter and leave the site in forward gear.

4. Prior to the development hereby approved being completed or brought into use, the car parking facilities shown on the approved drawings shall be implemented and thereafter maintained.

Reason - In the interests of road safety; to ensure the provision of adequate off-street car parking facilities.

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

Reason - In order to safeguard the neighbouring residential amenity in the area.

6. Development shall not commence on site until an evaluation for the potential of the site to be affected by contamination by a previous use has been undertaken and, as a minimum, a Preliminary Risk Assessment (Phase 1 Desk Study) has been submitted for consideration and accepted by the Council as Planning Authority. If the preliminary risk assessment identifies the need for further assessment, an intrusive investigation shall be undertaken to identify;
 - I. the nature, extent and type(s) of contamination on the site
 - II. measures to treat/remove contamination to ensure the site is fit for the use proposed
 - III. measures to deal with contamination during construction works
 - IV. condition of the site on completion of decontamination measures.

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

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

B JUSTIFICATION

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

C PROCEDURAL NOTES

None.

D INFORMATIVES

1. This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period (see section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
2. Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the Planning Authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.

3. As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.
4. This planning permission is granted subject to conditions, some of which require further information to be submitted to Development Management either before works can start on site or at a certain time. The required information must be submitted via the ePlanning portal if your original application was lodged that way, otherwise send it to us at developmentmanagement@pkc.gov.uk. Please be aware that the Council has two months to consider the information (or four months in the case of a Major planning permission). You should therefore submit the required information more than two months (or four months) before your permission expires. We cannot guarantee that submissions made within two months (or four months) of the expiry date of your permission will be able to be dealt with before your permission lapses.
5. No work shall be commenced until an application for building warrant has been submitted and approved.
6. Application for a new postal address should be made via the Street Naming and Numbering page on the Perth & Kinross Council website at www.pkc.gov.uk/snn. Please note there is a charge for this service and submission cannot be made until the relevant Building Warrant has been approved.
7. The applicant is advised that in terms of Sections 56 of the Roads (Scotland) Act 1984 he/she/they must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environment Protection Agency.
8. For information, foul flows only will be allowed to discharge to the public system. The Developer should arrange to dispose of surface water privately, to the satisfaction of the statutory drainage Authority.
9. The applicant is advised that the granting of planning permission does not guarantee a connection to Scottish Water's assets. The applicant must make a separate application to Scottish Water Planning & Development Services team for permission to connect to the public wastewater system and/or water network and all their requirements must be fully adhered to.
10. The applicant should be aware of the requirements of the Council's Environment and Regulatory Services in relation to waste collection from the site and should ensure adequate measures are provided on site to allow for the collection of waste.
11. The approved stove system shall be installed and thereafter operated and maintained in accordance with the manufacturer's recommendations, such that smoke odours are not exhausted into or escape into any neighbouring dwellings. Failure to do so may result in an investigation and possible action by Environmental Health under the Environmental Protection Act 1990.

Background Papers: 12 letters of representation
Contact Officer: John Russell
Date: 3 February 2022

DAVID LITTLEJOHN
HEAD OF PLANNING & DEVELOPMENT

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