

Perth and Kinross Council
Development Management Committee – 5 July 2017
Report of Handling by Interim Head of Planning

Part demolition, change of use and extension to hotel to form dwellinghouse, erection of 4 dwellinghouses and associated works at Land 40 Metres North West Of Bonaly Cottage, Main Street, Kinnesswood

Ref. No: 16/00326/FLL
Ward No: N8 Kinross-shire

Summary

This report recommends **approval** of the variation to the wording of the conditions which were approved by the Development Management Committee on 19 October 2016 as part of the above application. The application has been subject to a Section 75 Legal Agreement to secure a commuted sum for affordable housing. There were a number of pre commencement conditions which formed part of the planning consent and unfortunately due to some miscommunication on behalf of the applicant and his contractor, the demolition of buildings on the site was commenced without first awaiting the issue of the planning permission and discharging the pre commencement planning conditions. Therefore in order to ensure a competent planning permission is issued it is the intention to revise the wording of the conditions so they provide an appropriate timescale for submission of the required information.

BACKGROUND AND DESCRIPTION

- 1 This report relates to a variation in the wording of the “minded to approve” permission which was determined by the Development Management Committee (DMC) of 19 October 2016 which refers to the part demolition, change of use and extension to hotel to form dwellinghouse, erection of 4 dwellinghouses and associated works at Land 40 Metres North West Of Bonaly Cottage, Main Street, Kinnesswood.
- 2 During that meeting the DMC accepted the recommendation of officers to approve the application subject to sixteen conditions and the preparation of a Section 75 (S75) legal agreement to ensure the payment of a commuted sum relating to affordable housing provision. There is also an associated Conservation Area Consent (CAC) application (16/00325/CON) for the demolition of buildings on the site which was approved at the same DMC.
- 3 The S75 between the applicant and the Council was signed and agreed on 8th March 2017 which would normally allow for the planning permission to be released. Conditions 5, 6, 7, 8 and 12 all require information to be submitted “Prior to the commencement of development on site”. Unfortunately due to miscommunication on behalf of the applicant and his contractor, works to demolish the buildings on site commenced prior to the planning permission being issued and prior to these “pre

commencement” conditions being discharged. It is therefore necessary to vary the wording of the planning conditions to allow for a new and appropriate timescale to be provided to ensure the Council receives the required information and to enable the planning conditions to be legally competent. It is in that regard that a minor variation to the wording of conditions is recommended. These are detailed within the appraisal section below.

- 4 The original recommendation also included a condition (14) to take down walls on the south western end of the Lomond Inn to a height of 900mm and retain these to be utilised as part of the garden walls/patio for plot 1. The applicant’s agent has informed the Planning Authority that these walls have not been retained as part of the demolition works.
- 5 Full detail of the initial assessment of development on this site is contained within the DMC Report of Handling for this application dated 19 October 2017. It is not intended to repeat in this report but is attached as Appendix 1 to this Report.

NATIONAL POLICY AND GUIDANCE

- 6 The Scottish Government expresses its planning policies through The National Planning Framework, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Creating Places, Designing Streets, National Roads Development Guide and a series of Circulars.

DEVELOPMENT PLAN

- 7 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2012-2032 and the Perth and Kinross Local Development Plan 2014.

TAYplan Strategic Development Plan (June 2012)

- 8 TAYPlan sets out a vision for how the region will be in 2032 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 2032 the TAYplan region 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”

- 9 The following sections of the TAYplan 2012 are of particular importance in the assessment of this application.

Policy 2 – Shaping better quality places

- 10 Seeks to ensure that climate change resilience is built into the natural and built environment, integrate new development with existing community infrastructure, ensure the integration of transport and land uses, ensure that waste management solutions are incorporated into development and ensure that high resource efficiency and low/zero carbon energy generation technologies are incorporated with development to reduce carbon emissions and energy consumption.

Policy 3: Managing TAYplan's Assets

- 11 Seeks to respect the regional distinctiveness and scenic value of the TAYplan area and presumes against development which would adversely affect environmental assets.

Perth and Kinross Local Development Plan 2014

- 12 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
- 13 Under the LDP, the majority of the site lies within the settlement boundary of Kinnesswood and within the Kinnesswood Conservation Area. The principal relevant policies are, in summary:

Policy PM1A - Placemaking

- 14 Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place. All development should be planned and designed with reference to climate change mitigation and adaptation.

Policy PM1B - Placemaking

- 15 All proposals should meet all eight of the placemaking criteria.

Policy PM2 - Design Statements

- 16 Design Statements should normally accompany a planning application if the development comprises 5 or more dwellings, is a non-residential use which exceeds 0.5 ha or if the development affects the character or appearance of a Conservation Area, Historic Garden, Designed Landscape or the setting of a Listed Building or Scheduled Monument.

Policy PM3 - Infrastructure Contributions

- 17 Where new developments (either alone or cumulatively) exacerbate a current or generate a need for additional infrastructure provision or community facilities, planning permission will only be granted where contributions which are reasonably related to the scale and nature of the proposed development are secured.

Policy RD1 - Residential Areas

- 18 In identified areas, residential amenity will be protected and, where possible, improved. Small areas of private and public open space will be retained where of recreational or amenity value. Changes of use away from ancillary uses such as local shops will be resisted unless supported by market evidence that the existing use is non-viable. Proposals will be encouraged where they satisfy the criteria set out and are compatible with the amenity and character of an area.

Policy RD4 – Affordable Housing

- 19 Residential developments consisting of 5 or more units should include provision of an affordable housing contribution of 25% of the total number of units proposed.

Policy PM4 – Settlement Boundaries

- 20 For settlements which are defined by a settlement boundary in the Plan, development will not be permitted, except within the defined settlement boundary.

Policy HE1B - Scheduled Monuments and Non Designated Archaeology

- 21 Areas or sites of known archaeological interest and their settings will be protected and there will be a strong presumption in favour of preservation in situ. If not possible provision will be required for survey, excavation, recording and analysis.

Policy HE2 - Listed Buildings

- 22 There is a presumption in favour of the retention and sympathetic restoration, correct maintenance and sensitive management of listed buildings to enable them to remain in active use. The layout, design, materials, scale, siting and use of any development which will affect a listed building or its setting should be appropriate to the building's character, appearance and setting.

Policy HE3A - Conservation Areas

- 23 Development within a Conservation Area must preserve or enhance its character or appearance. The design, materials, scale and siting of a new development within a Conservation Area, and development outwith an area that will impact upon its special qualities should be appropriate to its appearance, character and setting. Where a Conservation Area Appraisal has been undertaken the details should be used to guide the form and design of new development proposals.

Policy CF2 – Public Access

- 24 Development proposals which would have an adverse impact on the integrity of any core path.... Will be refused.

Policy TA1B - Transport Standards and Accessibility Requirements

- 25 Development proposals that involve significant travel generation should be well served by all modes of transport (in particular walking, cycling and public transport), provide safe access and appropriate car parking. Supplementary Guidance will set out when a travel plan and transport assessment is required.

Policy ER6 - Managing Future Landscape Change to Conserve and Enhance the Diversity and Quality of the Areas Landscapes

- 26 Development proposals will be supported where they do not conflict with the aim of maintaining and enhancing the landscape qualities of Perth and Kinross and they meet the tests set out in the 7 criteria.

Policy EP2 - New Development and Flooding

- 27 There is a general presumption against proposals for built development or land raising on a functional flood plain and in areas where there is a significant probability of flooding from any source, or where the proposal would increase the probability of flooding elsewhere. Built development should avoid areas at significant risk from landslip, coastal erosion and storm surges. Development should comply with the criteria set out in the policy.

Policy EP3B - Water, Environment and Drainage

- 28 Foul drainage from all developments within and close to settlement envelopes that have public sewerage systems will require connection to the public sewer. A private system will only be considered as a temporary measure or where there is little or no public sewerage system and it does not have an adverse effect on the natural and built environment, surrounding uses and the amenity of the area.

Policy EP3C - Water, Environment and Drainage

- 29 All new developments will be required to employ Sustainable Urban Drainage Systems (SUDS) measures.

Policy EP12 – Contaminated Land

- 30 The creation of new contamination will be prevented. Consideration will be given to proposals for the development of contaminated land where it can be demonstrated that remediation measures will ensure the site / land is suitable for the proposed use.

OTHER POLICIES

- 31 Developer Contributions and Affordable Housing Supplementary Guidance – September 2016.

SITE HISTORY

- 32 There have been numerous applications in relation to alterations and extensions to the former Inn which are not relevant to this proposal. The more relevant recent applications are outlined below:

14/00707/FLL Erection of five dwellinghouses and associated engineering operations
17 July 2014 Application Withdrawn

15/00505/FLL Erection of 5 dwellinghouses and associated works 26 February 2016
Application Withdrawn

15/00506/CON Demolition of buildings 26 February 2016 Application Withdrawn

16/00325/CON Demolition of buildings Approved at DMC 19 October 2016

CONSULTATIONS

- 33 None required as this report relates solely to a minor variation to the wording of the conditions.

REPRESENTATIONS

- 34 None received in relation to this minor variation to the wording of conditions as no further notification was required.

ADDITIONAL STATEMENTS

35

Environment Statement	Not required
Screening Opinion	Not required
Environmental Impact Assessment	Not required
Appropriate Assessment	Not required
Design Statement / Design and Access Statement	Submitted
Reports on Impact or Potential Impact	Not required

APPRAISAL

Policy Appraisal

- 36 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) requires the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The determining issues here are whether the proposals comply with Development Plan policy or if there are other material considerations, which justify a

departure from policy. The other relevant policy considerations are outlined in the policy section above.

Re-worded Conditions

- 37 As outlined above conditions 5, 6, 7, 8 and 12 all require information to be submitted “Prior to the commencement of development....” or state that “Development shall not commence on site until....”.
- 38 Therefore in order to secure submission of this information given that development has already commenced on site, the proposal is to vary the wording of the conditions so that a detailed timescale for submission of the information is given.
- 39 It is therefore the intention is to replace the wording “Prior to the commencement of development” on conditions 5, 6 and 7 with “Within 6 months of the date of this decision”. And to replace “Development shall not commence on site until” in condition 12 to “Within 6 months of the date of this decision”. This will ensure the required information is submitted to the Council within an appropriate timescale.
- 40 Condition 8 refers to the erection of bat boxes and this has now been undertaken on site and therefore it is recommended that this condition is deleted.
- 41 Condition 14 required that the walls on the south western end of the Lomond Inn be retained at a height of 900mm but the applicant’s agent has indicated that this has not taken place. The retention of the walls was considered to be an important part of the development as it would retain the historic location of the walls as part of the new development. Therefore I intend to revise the wording of this condition (which will now be condition 13) to ensure the walls are rebuilt in natural stone to a height of 900mm and utilised as part of the garden ground for plot 1.

CONCLUSION AND REASONS FOR RECOMMENDATION

- 42 The variation of the conditions allows for a competent planning consent to be issued and ensures the Council retains control over the timing of submission of information required by condition. The revised conditions do not alter the policy position of the recommendation nor what will be developed on site. For completeness a full set of revised conditions are outlined below. Please note that the numbers of conditions 8-16 of the original report have now altered due to the deletion of condition 8.

RECOMMENDATION

A Approve the application subject to the following conditions:

- 1 The proposed development must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed on the planning permission.

Reason - To ensure that the development is carried out in accordance with the plans approved.

- 2 Prior to the development hereby approved being completed or brought into use, the vehicular access shall be formed in accordance with Perth and Kinross Council's Road Development Guide specification Type B, Fig 5.6 access detail to the satisfaction of the Planning Authority.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 3 Prior to the development hereby approved being completed or brought into use, turning facilities shall be provided within the site to enable all vehicles to enter and leave in a forward gear.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 4 Prior to the development hereby approved being completed or brought into use a minimum of 2 No. car parking spaces per dwelling shall be provided within the site.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 5 Within 6 months of the date of this decision notice, full details of a bin presentation area close to Main Street shall be submitted and approved in writing by the Planning Authority. The details shall ensure that adequate provision for bin collection is provided whilst respecting the character and visual amenity of the Conservation Area. The details, as approved, shall be implemented as part of the site development to the satisfaction of the Planning Authority.

Reason - In order to ensure adequate servicing facilities are provided.

- 6 Within 6 months of the date of this decision notice, a sample of the proposed natural stone, light buff render, natural slate and composite window materials shall be submitted to and approved in writing by the Planning Authority. The scheme as agreed, shall be implemented prior to the completion or bringing into use of the development, whichever is earlier.

Reason - In order to protect the character and appearance of Kinnesswood Conservation Area.

- 7 Within 6 months of the date of this decision notice, full details of all proposed hard and soft landscaping shall be submitted to and approved in writing by the Planning Authority. The details shall include hedge boundaries to all plots and full details of a planting scheme along the entire south west boundary of the site together with the finishing material of the access track and boundary walls. The details shall include the species, planting density and stock sizes for all planting. The scheme as agreed,

shall be implemented prior to the completion or bringing into use of the development, whichever is earlier.

Reason - In order to protect the character and appearance of Kinnesswood Conservation Area.

- 8 All works to buildings or structures that may be used by bats (such as demolition, roof stripping, excavations or building works or associated operations) shall only be carried out under the direction of a licensed bat ecologist to ensure that an offence is not committed.

Reason - To reduce the risk of disturbing any bats present within the buildings.

- 9 All trenches associated with the development shall be dug with sloping sides. Open pipework/culverts shall be sealed at the end of each working day.

Reason – In the interests of bio diversity and to prevent animals from being trapped in open excavations or pipework.

- 10 Demolition works shall only take place between 1 December and 31 March to reduce the risk of disturbing any bats present to the satisfaction of the Council as Planning Authority.

Reason – To reduce the risk of disturbing any bats present within the buildings.

- 11 Within 6 months of the date of this decision notice, 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. Validation 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.

- 12 The walls which previously formed the south western end of the Lomond Inn building shall be rebuilt in natural stone to a height of 900mm and be retained as part of the

walling for the garden ground/patio of plot 1 to the satisfaction of the Council as Planning Authority. These works should be undertaken as part of the works to develop plot 1 and completed in their entirety prior to the occupation of plot 1.

Reason – In order to ensure the south western end of the historic Lomond Inn is reinstated as part of the new development in the interests of protecting the character of the Kinnesswood Conservation Area.

- 13 All slates removed from the demolished buildings shall be retained and re-used, where possible, in the new development to the satisfaction of the Council as Planning Authority.

Reason - In order to protect the character and appearance of Kinnesswood Conservation Area.

- 14 The use of replacement UPVC rainwater goods on the former Lomond Inn (plot 1) is not approved. The rainwater goods on plot 1 shall be new cast iron to match the existing or the existing cast iron rain water goods should be retained and repaired where necessary all to the satisfaction of the Council as Planning Authority.

Reason - In order to protect the character and appearance of Kinnesswood Conservation Area.

B JUSTIFICATION

The revised set of conditions ensures the Planning Authority retains control over the submission of the required information to discharge the conditions and ensures that the planning permission which is issued is legally competent given the unfortunate early commencement of development on site.

C PROCEDURAL NOTES

None.

D INFORMATIVES

None.

Background Papers:	None
Contact Officer:	John Williamson – Ext 75360
Date:	21 June 2017

NICK BRIAN
INTERIM HEAD OF PLANNING

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Development Management Committee – 19 October 2016
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Ref. No: 16/00326/FLL
Ward No: N8 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

- 1 Full planning consent is sought for the redevelopment of the former Lomond Inn in Kinnesswood Conservation Area. The proposal seeks to partially demolish the Lomond Inn and convert the remaining structure into a single dwelling. Further demolition of associated buildings is also proposed which are detailed within an associated application for Conservation Area Consent (16/00325/CON) which is also under consideration at this committee meeting. The site is located on the south west side of Main Street and slopes from the road down to the edge of the settlement. The application site extends beyond the settlement boundary of Kinnesswood.
- 2 The site was occupied for approximately 125 years by the Lomond Inn and the building footprint area has been extended many times, together with the construction of a separate accommodation annexe and garage outbuildings, until eventual closure in 2012, due to the poor economic conditions.
- 3 The application site extends to 4014sqm and includes all of the existing buildings together with the hardstanding/car parking area to the rear (south-west) of the buildings and a strip of agricultural land which sits below the main site and outwith the Kinnesswood settlement boundary. The site slopes from north east to south west.
- 4 Part of the main former Lomond Hotel building is to be retained (plot 1) and converted into a detached dwelling. A detached garage is proposed for this

dwelling to the rear. The remaining buildings on site are proposed to be demolished in their entirety and replaced with four further detached dwellings to result in a total of five dwellings on the site. Plots 2, 3 and 4, located where the existing car park to the rear of the buildings is currently located, are proposed to be occupied by large scale detached dwellings with integral double garages and finishing materials including natural slate on the roof, light buff render, buff stonework and timber/aluclad windows in white. These detached houses are proposed to extend to approximately 8.4m in height. The garden ground for plots 2, 3 and 4 is located to the south west on a strip of agricultural land which is located outwith the Kinnesswood settlement boundary. Plot 5 is proposed to replace the annexe building which is to be demolished and sits directly opposite the former Lomond Inn. This plot is a smaller scale cottage style dwelling which extends to approximately 6.3m in height. Access from Main Street is proposed in a similar location to that which exists. The application site is bound on its north eastern side by Main Street, to the south west by agricultural fields and on the north west and south east by existing residential development.

NATIONAL POLICY AND GUIDANCE

- 5 The Scottish Government expresses its planning policies through The National Planning Framework, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Creating Places, Designing Streets, National Roads Development Guide and a series of Circulars.

DEVELOPMENT PLAN

- 6 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2012-2032 and the Perth and Kinross Local Development Plan 2014.

TAYplan Strategic Development Plan (June 2012)

- 7 TAYPlan sets out a vision for how the region will be in 2032 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:
- 8 *“By 2032 the TAYplan region 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”*
- 9 The following sections of the TAYplan 2012 are of particular importance in the assessment of this application.

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- 10 Seeks to ensure that climate change resilience is built into the natural and built environment, integrate new development with existing community infrastructure, ensure the integration of transport and land uses, ensure that waste management solutions are incorporated into development and ensure that high resource efficiency and low/zero carbon energy generation technologies are incorporated with development to reduce carbon emissions and energy consumption.

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- 13 Under the LDP, the majority of the site lies within the settlement boundary of Kinnesswood and within the Kinnesswood Conservation Area. The principal relevant policies are, in summary:

Policy PM1A - Placemaking

- 14 Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place. All development should be planned and designed with reference to climate change mitigation and adaptation.

Policy PM1B - Placemaking

- 15 All proposals should meet all eight of the placemaking criteria.

Policy PM2 - Design Statements

- 16 Design Statements should normally accompany a planning application if the development comprises 5 or more dwellings, is a non-residential use which exceeds 0.5 ha or if the development affects the character or appearance of a Conservation Area, Historic Garden, Designed Landscape or the setting of a Listed Building or Scheduled Monument.

Policy PM3 - Infrastructure Contributions

- 17 Where new developments (either alone or cumulatively) exacerbate a current or generate a need for additional infrastructure provision or community facilities, planning permission will only be granted where contributions which are reasonably related to the scale and nature of the proposed development are secured.

Policy RD1 - Residential Areas

- 18 In identified areas, residential amenity will be protected and, where possible, improved. Small areas of private and public open space will be retained where of recreational or amenity value. Changes of use away from ancillary uses such as local shops will be resisted unless supported by market evidence that the existing use is non-viable. Proposals will be encouraged where they satisfy the criteria set out and are compatible with the amenity and character of an area.

Policy RD4 – Affordable Housing

- 19 Residential developments consisting of 5 or more units should include provision of an affordable housing contribution of 25% of the total number of units proposed.

Policy PM4 – Settlement Boundaries

- 20 For settlements which are defined by a settlement boundary in the Plan, development will not be permitted, except within the defined settlement boundary.

Policy HE1B - Scheduled Monuments and Non Designated Archaeology

- 21 Areas or sites of known archaeological interest and their settings will be protected and there will be a strong presumption in favour of preservation in situ. If not possible provision will be required for survey, excavation, recording and analysis.

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- 22 There is a presumption in favour of the retention and sympathetic restoration, correct maintenance and sensitive management of listed buildings to enable them to remain in active use. The layout, design, materials, scale, siting and use of any development which will affect a listed building or its setting should be appropriate to the building's character, appearance and setting.

Policy HE3A - Conservation Areas

- 23 Development within a Conservation Area must preserve or enhance its character or appearance. The design, materials, scale and siting of a new development within a Conservation Area, and development outwith an area that will impact upon its special qualities should be appropriate to its appearance, character and setting. Where a Conservation Area Appraisal has been undertaken the details should be used to guide the form and design of new development proposals.

Policy CF2 – Public Access

- 24 Development proposals which would have an adverse impact on the integrity of any core path.... Will be refused.

Policy TA1B - Transport Standards and Accessibility Requirements

- 25 Development proposals that involve significant travel generation should be well served by all modes of transport (in particular walking, cycling and public transport), provide safe access and appropriate car parking. Supplementary Guidance will set out when a travel plan and transport assessment is required.

Policy ER6 - Managing Future Landscape Change to Conserve and Enhance the Diversity and Quality of the Areas Landscapes

- 26 Development proposals will be supported where they do not conflict with the aim of maintaining and enhancing the landscape qualities of Perth and Kinross and they meet the tests set out in the 7 criteria.

Policy EP2 - New Development and Flooding

- 27 There is a general presumption against proposals for built development or land raising on a functional flood plain and in areas where there is a significant probability of flooding from any source, or where the proposal would increase the probability of flooding elsewhere. Built development should avoid areas at significant risk from landslip, coastal erosion and storm surges. Development should comply with the criteria set out in the policy.

Policy EP3B - Water, Environment and Drainage

- 28 Foul drainage from all developments within and close to settlement envelopes that have public sewerage systems will require connection to the public sewer. A private system will only be considered as a temporary measure or where there is little or no public sewerage system and it does not have an adverse effect on the natural and built environment, surrounding uses and the amenity of the area.

Policy EP3C - Water, Environment and Drainage

- 29 All new developments will be required to employ Sustainable Urban Drainage Systems (SUDS) measures.

Policy EP12 – Contaminated Land

- 30 The creation of new contamination will be prevented. Consideration will be given to proposals for the development of contaminated land where it can be demonstrated that remediation measures will ensure the site / land is suitable for the proposed use.

OTHER POLICIES

- 31 Developer Contributions and Affordable Housing Supplementary Guidance
– September 2016

SITE HISTORY

- 32 There have been numerous applications in relation to alterations and extensions to the former Inn which are not relevant to this proposal. The more relevant recent applications are outlined below:
- 33 14/00707/FLL Erection of five dwellinghouses and associated engineering operations 17 July 2014 Application Withdrawn
- 34 15/00505/FLL Erection of 5 dwellinghouses and associated works 26 February 2016 Application Withdrawn
- 35 15/00506/CON Demolition of buildings 26 February 2016 Application Withdrawn

CONSULTATIONS

EXTERNAL

- 36 **Portmoak Community Council** – objects on grounds of detrimental impact on Conservation Area, scale and height, impact on views, lack of detail in plans, lack of conservation report, impact on parking and public space.
- 37 **Scottish Water** – no response within statutory period

INTERNAL

- 38 **Environmental Health** – potential for contamination of land and therefore scheme to deal with contamination required.
- 39 **Perth and Kinross Heritage Trust** – no archaeological mitigation required
- 40 **Community Waste Advisor** – waste collection area required on site
- 41 **Contributions and Affordable Housing Officer** – affordable housing commuted sum of £18,750
- 42 **Transport Planning** – No objection subject to conditions
- 43 **Bio Diversity Officer** – conditions recommended in relation to bats and protected species

REPRESENTATIONS

44 A total of eighteen letters of representation were received during the first advertisement period for the application all of which objected to the proposal. During the second period of advertisement following revisions to the plans an additional three letters were received, two reiterating a previous objection and the other an additional new objection. Therefore a total of 19 letters of objection from individual households/businesses have been received. The letters include those from Portmoak Community Council and Kinross-shire Civic Trust.

45 The issues raised within the letters may be summarised as follows:

- Design
- Scale/massing
- Impact on character of Conservation Area/streetscape
- Density/overdevelopment
- Layout
- Outwith settlement boundary
- Contrary to Village Appraisal and Conservation Area Status Document
- Materials
- Lack of detail in plans
- Views from outwith village
- Loss of Open space
- Loss of car parking
- Loss of recycling facility
- Loss of Inn
- Lack of “Conservation Report”
- Content of Design Statement
- Impact on Rights of Way

46 All the relevant planning issues which have been raised are covered in the Appraisal section of this report.

ADDITIONAL STATEMENTS

47

Environment Statement	Not required
Screening Opinion	Not required
Environmental Impact Assessment	Not required
Appropriate Assessment	Not required
Design Statement / Design and Access Statement	Submitted
Reports on Impact or Potential Impact	Not required

APPRAISAL

Policy Appraisal

- 48 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) requires the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The determining issues here are whether the proposals comply with Development Plan policy or if there are other material considerations, which justify a departure from policy. The other relevant policy considerations are outlined in the policy section above and will be considered in more detail below.

Principle

- 49 The application site is located within the Conservation Area of Kinnesswood in an area designated for residential and compatible uses where Policy RD1 and HE3A apply. Policy RD1 supports residential development in principle subject to certain criteria, including protecting the amenity of neighbours, ensuring the design and scale of the proposal relates to the character and amenity of the area amongst others. Other relevant policies include PM1A and B which relate to placemaking and require new development to respect its surroundings in terms of appearance, height and scale and respect existing building lines amongst other criteria. As the site is zoned within the LDP for residential uses, the principle of residential use on this site is considered acceptable. The paragraphs below will provide an assessment of the relevant criteria above and associated LDP policies.

Impact on Character of Conservation Area/Visual Amenity/Design

- 50 Policy HE3A of the LDP seeks to ensure that new development contributes positively to the character and appearance of the Conservation Area. The implications of the demolition on the Conservation Area will be considered separately through application 16/00325/CON which is also under consideration at this committee meeting.

Lomond Inn (Plot 1)

- 51 It was noted from site visits that the Kinnesswood Conservation Area is made up of varying design styles with a mixed palette of materials evident. The former Lomond Inn is considered to play an important part in the historic character of the Conservation Area and acts as a gateway point into the Conservation Area from those travelling from the south east. The attractive south east elevation of the Lomond Inn sits directly adjacent to the footpath. This elevation of the Lomond Inn is proposed to be retained and converted into a dwelling. I consider the retention of this part of the Lomond Inn to be a key element to this proposal to ensure that a fundamental part of the historic character and appearance of the Conservation Area is retained. Furthermore the layout as proposed also allows the existing layout of the Inn to be retained with the proposed access to remain in a similar position. I consider the element of the Lomond Inn which is to be retained to be the key aspect of the existing building with the most important relationship with the Conservation Area. This part of the building is in a poor state of repair and it is evident that work is required to bring it back up to a standard befitting of the Conservation Area location. The proposal seeks to repair and replace the natural slate roof, repair and replace structural timbers and to install new composite timber

aluclad windows to replace the existing upvc windows. The harling and timber lining board on all sides of the building is also to be replaced. The rainwater goods are also to be replaced but with black upvc piping. It is noted that rainwater goods on the building are cast iron. Policy HE3B of the LDP seeks to ensure the character and appearance of the Conservation Area is maintained or improved. The use of upvc is considered to reduce the quality of materials on the site and is not considered acceptable. Therefore, given the proximity of plot 1 to the public road the use of either new cast iron rainwater goods to match the existing or the repair of the existing rainwater goods is considered important. A condition is proposed to ensure exact details of the colours and finishing materials are submitted for approval. The proposal is considered to bring the remaining part of the building back up to an appropriate standard for the Conservation Area and is considered to be an overall improvement to the character and appearance of the area as required by LDP policy.

Plots 2, 3 and 4

- 52 The houses proposed on plots 2, 3 and 4 to the rear (south west of the site) are larger in scale and will therefore impact on the visual amenity and character of this part of the Conservation Area. These detached dwellings will be visible from Main Street as one travels through the Conservation Area and would form part of the visual character of the area. Whilst the houses extend to 8.4m in height, the land slopes away from Main Street in this location and sectional drawings have been provided which show the relationship of the proposed houses with the Lomond Inn and demonstrate that they will have a similar net ridge height to the former Inn.
- 53 Whilst the design of the dwellings are more modern in their appearance, nevertheless, the scale and bulk of the dwellings are broken up to a certain extent by the breaks in the ridge line. As the houses are set back on the site, away from Main Street I believe their overall bulk and massing when viewed from the public realm will be reduced to an acceptable extent. Furthermore the position of plot 1 and 5 will also provide an element of screening to the larger dwellings when viewed from Main Street and therefore the large lengthy extent of the north east elevations of each house will not be evident from Main Street to their full extent. Given the position of the houses, set back on the site, the extent and scale of the dwellings is considered to be appropriate. The finishing materials include natural slate on the roof, a light buff harling and white composite windows. The slate roof is considered to relate successfully to roof coverings in the village. There have been numerous discussions relating to the finishing materials on these plots together with the remainder of the development. The submission initially proposed to utilise a reconstituted stone finish on the walls. This was not considered to be appropriate in this location and failed to relate to the established character. The plans have since been amended and a light buff coloured rendered with natural stone basecourse is now proposed. I consider the revisions to result in a simplified material palette which has an improved relationship with the surrounding buildings. It was evident during a site visit the the majority of buildings within the Conservation Area are stone with slate or pantile roofs. There are, however, examples of

harled/painted properties within the Conservation Area. I consider the light buff harling colour with small areas of natural stone to be an appropriate material finish for this site given the mixture of finishes in the village. I also consider the use of a aluclad timber window in white to be appropriate to the context of the village.

- 54 The impact of the scale and size of the properties when viewed from the south west and from outside the settlement has been raised in letters of representation, stating that the scale and materials proposed will be out of character with the remainder of the village. The houses are proposed to sit adjacent to the settlement boundary and therefore will be visible from wider views of the settlement from Loch Leven, the Heritage Trail and surrounding approach roads. It is clear that these houses will alter the visual amenity of the settlement when viewed from the surrounding area, however the houses are proposed to fill a clearly evident gap site in the settlement and will therefore be seen against the existing surrounding built form and context and at a distance. As the buildings will sit within the clearly defined built up settlement I do not consider the impact on visual amenity from surrounding vantage points to be a significant concern.

Plot 5

- 55 The annexe building located to the immediate south east of the Inn is proposed to be demolished. The demolition of this building is welcomed as it is considered to have a poor relationship with the historic character of the area with little cohesion in its fenestration design. Its scale and bulk has little positive relationship with the Inn. The proposed replacement building is smaller in scale than the building to be demolished and seeks to utilise a relatively traditional cottage like design and proportions which has an improved relationship with the Inn and the adjacent buildings on Main Street. I consider plot 5 to result in a significant improvement to the character and appearance of the Conservation Area in accordance with LDP policy.

Village Appraisal and Conservation Area Status Document

- 56 Letters of representation raised concern regarding the loss of an existing view from Main Street, south west towards Loch Leven which is identified within the Village Appraisal and Conservation Area Status Document. Whilst it is recognised that the open nature of the existing site does provide views out of the settlement in this direction I believe the layout of the proposal does seek to retain at least part of this view in the proposal. A glimpse view will remain between plots 3 and 4 towards Loch Leven which is considered sufficient to ensure that part of this historic character of the Lomond Inn site is retained whilst allowing for the development of the site and the site being brought into active use. Furthermore it should be noted that the ridge heights of the proposed houses at plots 2, 3 and 4 are no higher than the existing Lomond Inn and therefore given the topography of the settlement there may still be views apparent from areas within the village over the top of the proposed houses towards Loch Leven.

- 57 This document also states that the setting of the village adjacent to Bishop Hill and views in and out should be protected from further development. My interpretation of this statement in the document is to protect the land around the settlement from development. The statement would be at odds with the content of the LDP if it meant that no development at all would be permitted within the settlement of Kinnesswood. As indicated above, the development is considered to sit comfortably with the built form within the remainder of the settlement and I do not consider the proposal to result in a detrimental impact on the setting of the village or views in and out of the village to a significant degree.

Loss of Open Space

- 58 Letters of representation raise concern regarding the loss of open space within the village. None of the application site is designated within the LDP as being protected open space and as such the site is not offered any specific policy protection in this regard.

Layout/Character and Density

- 59 The layout and position of plot 1 and plot 5 are considered to follow the historic layout of the Lomond Inn with the vehicular access point positioned centrally between them. Each of these units are positioned to allow for a small front garden area for each property with private amenity space positioned to the rear. New planting is proposed along the boundaries to provide enclosure to these plots.
- 60 Plots 2, 3 and 4 are positioned in a linear fashion towards the south west boundary of the site. A strip of land outwith the settlement is to be utilised to provide private garden ground for each house and an assessment of the issues relating to the settlement boundary is outlined in the section below. The proposed layout is considered appropriate as plots 3 and 4 are provided with an appropriate level of garden ground for houses of this size. The layout of plot 2 is L shaped in order to cater for its corner position on the site. The location of the house does limit the usability of the garden ground, splitting it into two useable sections, however I still consider this to be acceptable.
- 61 The central part of Kinnesswood is characterised by detached, semi detached and terraced properties fronting directly onto Main Street with garden ground extending to the rear. Towards the outskirts of the village there are more detached properties in larger plots. It is noted that there is limited development towards the southwest and edge of the settlement within Kinnesswood but that there are some examples of where built development extends to the settlement boundary, including further north west at Kinnesswood Farm and as such there is precedent for development of the nature and character proposed within the Conservation Area. The submission includes a financial appraisal of the site which indicates that there is limited scope to develop solely the buildings fronting Main Street given the purchase price of the site although the information contained within this document

is relatively limited. It has not been made available on the Council's planning portal due to the sensitive financial and commercial nature of the information contained within. I consider it important to secure the development of this site for the long term viability of the site and the Conservation Area given its current condition and the evidence suggests that allowing for additional development to the rear of the site will help to deliver this. Whilst the detached units to the rear of the site do not relate to the predominant character of the Conservation area in terms of their position I am willing to accept development in this location to secure the overall development of the site.

- 62 The finishing of the access road and the species and number of trees and hedges proposed on the site is not marked on the submitted plans. I consider it important to ensure that the plots are delineated by soft landscaping in the form of hedging and I also consider the provision of hedging and tree planting on the south west boundary to be important to ensure landscape containment for the site similar to that which exists on the neighbouring properties which back onto the edge of the settlement. I consider all of these elements to be key to the layout and as such a condition is recommended to ensure that full details of the hard and soft landscaping are submitted for approval.

Settlement Boundary

- 63 As outlined above, the garden grounds of plots 2, 3 and 4 are located outwith the Kinnesswood settlement boundary as identified in the LDP. There is a general presumption against built development on land immediately adjacent to settlement boundaries in order to prevent urban sprawl. In this instance the rear elevations of plots 2, 3 and 4 sit immediately on the settlement boundary. Whilst some of the rear patio areas for these houses will be located outwith the settlement, the main built form will be located within. It is evident from a site visit that the rear garden ground of the properties to the south east (Ravenraig, Mo-Dhachaidh and Woodlands) extend further south west than the rear of the current Lomond Inn site. As a consequence, whilst the application site is proposed to extend outwith the identified settlement, it is nevertheless, no further than the rear garden ground line which exists on the properties to the south east. As such I do not consider the proposal to include garden ground outwith the settlement boundary to be of any significant detriment to the visual amenity of the area and do not consider it to create any concerns regarding the sprawl of development outwith the settlement.

Residential Amenity

- 64 Policy PM1A and PM1B seeks to ensure, amongst other criteria, that new development respects the residential amenity of the surrounding area. Policy RD1 contains similar criteria.
- 65 As outlined above there are neighbouring residential properties on both the south east and north west sides of the application site. Plot 5 is located in close proximity to Briar Cottge, however the orientation of plot 5, together with it facing towards a blank gable will ensure there is limited impact in terms of overlooking and overshadowing.

- 66 Plot 1 (Lomond Inn) is located close to the boundary with Lochglow to the north west. The rear elevation of Plot 1 faces towards Lochglow, however this is similar to the layout of the former Inn and again faces towards a blank gable. As such I do not consider there to be any issues relating to overlooking or overshadowing from plot 1.
- 67 The gable end of plot 4 is proposed in close proximity to the boundary with Briar Cottage to the south east, however no windows are proposed on this gable and the ridge height is proposed to step down at this end. I am satisfied that whilst the elevation is in close proximity to the boundary it will not result in any significant impact on the amenity of Briar Cottage.
- 68 Similarly the gable end (facing north east) of Plot 2 is located in close proximity to the boundary with Lochglow. Again this section of the house is proposed to step down from the main section of the dwelling and no windows are proposed on this gable. I am satisfied that this will have no significant impact on the amenity of Lochglow.
- 69 Each of the dwellings is proposed to have its own area of private amenity space. The depth of the garden ground for plots 2, 3 and 4 is fairly limited for houses of the size proposed, however they are considered sufficient to provide a reasonable area of amenity space for future occupiers. The houses are also positioned to ensure there is no overlooking or overshadowing between each house and as such the residential amenity of future occupiers is considered to be appropriate.
- 70 Overall I consider the proposals to be acceptable in terms of the residential amenity of residents of the surrounding area and that of the future occupiers of the dwellings and therefore in accordance with the relevant placemaking policies of the LDP and the criteria outlined in Policy RD1.

Loss of Recycling Facility

- 71 There is a Council operated recycling facility located within the existing car park to the rear of the Lomond Inn which will require to be relocated to accommodate the new development. Waste Services are aware of the development proposals and have indicated that they are currently seeking an alternative location for the recycling facilities. As Waste Services are actively seeking an alternative location for the recycling facilities I do not consider the existing siting to be an issue which would impact on the recommendation of approval of this application.

Loss of Car Parking

- 72 The existing car parking area to the rear of the site appears to be in use by some of the local community and letters of representation have raised concerns regarding the loss of this car parking as a result of the development. This car parking is taking place on private land and is not a designated car parking area in planning terms.

The Planning Authority has no remit in this matter and I do not consider the parking of vehicles on this currently unused private area of land to have any bearing on the recommendation of this application.

Developer Contributions

Education Infrastructure

- 73 The 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, or likely to be operating following completion of the proposed development and extant planning permissions, at or above 80% of total capacity.
- 74 This proposal is within the catchment of Portmoak Primary School. Education & Children's Services have no capacity concerns in this catchment area at this time.

Transportation Infrastructure

- 75 The site is located outwith the area where a contribution towards transportation infrastructure is sought.

Affordable Housing

- 76 The Council's Affordable Housing Policy requires that 25% of the total number of houses, above a threshold of 5 units, for which planning consent is being sought is to be in the form of affordable housing.
- 77 In this case the requirement is $5 \times 25\% = 1.25$ units.
- 78 In line with the supplementary guidance and discussion with Housing and Community Care department it has been agreed that a commuted sum would be most appropriate in this instance.
- 79 On this basis the required commuted sum payment in line with the supplementary guidance would be **£15,000 x 1.25= £18,750**
- 80 This can be secured either through an upfront payment or a Section 75 agreement between the applicant and the Council. As such no consent should be issued until the payment has been received or an agreement has been signed. This will ensure compliance with Policy RD4 of the LDP.

Access/Traffic/Transport

- 81 As outlined above the main vehicular access into the site is to be retained with access directly from Main Street. Main Street is relatively straight in this location and benefits from existing traffic calming measures in close proximity to the site as

such vehicle speeds are likely to be low. As the site previously operated as an Inn I do not consider the proposed development to result in a significant level of increased traffic over that which utilised the Inn. Transport Planning have been consulted on the proposal and have provided no objections subject to the access onto Main Street being formed in accordance with Council standards. They have also requested that turning facilities and two car parking spaces per dwelling are provided on site. This can also be secured by condition. Subject to these conditions the proposal is considered to be in accordance with Policy TA1B of the LDP.

Waste Collection

- 82 The site is served by Council waste collection and Waste Services have indicated that the proposed properties will be provided with a three bin system, general, recyclables and garden and food waste which should be presented to Main Street for collection. A bin presentation area has been recommended by Waste Services close to Main Street and this can be secured by condition.

Drainage

- 83 The site is served by the public drainage system in Kinnesswood and the application form indicates that the intention is to connect into this system. It also states that the proposal is to connect to the public water supply network and that a sustainable urban drainage system (SUDS) will be utilised to cater for surface water drainage. The principle of this is considered to comply with policies EP3B and C of the LDP. The exact detail and design of the drainage proposals will be secured through a building warrant.

Rights of Way

- 84 The potential impact on “common law” rights of way is raised within a letter of representation. The Main Street of Kinnesswood is an adopted Core Path (PTMK/146) however I do not consider any of the development proposed to be of detriment to the use of this path which is along a public road. As such I am satisfied that the proposal complies within the criteria outlined in Policy CF2 of the LDP.

Bio Diversity

- 85 The ecological surveys submitted with the application provide details of bat activity in the vicinity of the development. No confirmed bat roosts were found and the report recommended some measures to enhance the site for biodiversity. These can be secured through planning conditions. As such the proposal is considered to comply with Policy NE3 which relates to Bio Diversity.

Flooding

- 86 There are no flooding concerns at the site and therefore the proposal complies with Policy EP2 of the LDP.

Contaminated Land

- 87 Environmental Health have indicated that their service is in the possession of a site investigation report of December 2013 which identified some contamination on site. This investigation made a recommendation for either capping or removal of the contaminated material. It is unknown whether these remedial works have been undertaken therefore a condition is recommended. This will ensure the compliance with policy EP12 of the LDP.

Detail in Plans

- 88 Letters of representation have raised concern regarding the level of detail contained within the submitted plans and have sought additional street elevation drawings. Whilst this request is noted I consider the level of information submitted with the application sufficient to provide a clear understanding of the development proposed and allow an assessment to be made.

Lack of “Conservation Report”

- 89 A letter from the Portmoak Community Council raised the issue of the lack of any “Conservation Report” on this proposal. This has been raised in separate letters of complaint to the Council and a detailed answer has been provided to the Community Council and I therefore do not intend to provide any detail on that issue within this report. In conclusion there is no requirement for a “Conservation Report” to be prepared as the Community Council suggest and an assessment of the merits of this application are provided within this report.

Economic Impact

- 90 Whilst the closure of the Lomond Inn is unfortunate it is clear from the information submitted that there is no market for a facility of this nature within Kinnesswood and it has remained closed and out of use since 2012. Whilst the loss of the Inn and the employment which it generated will have a detrimental impact on the economy of Kinnesswood, nevertheless, I consider the evidence submitted sufficient to justify an alternative residential use on the site particularly given the Inn has remained closed for a period of approximately 4 years. There will be limited economic impact associated with the construction phase of the development.

LEGAL AGREEMENTS

- 91 A Section 75 Agreement may be required for payment of the affordable housing commuted sum of £18,750, if this is not done as an upfront payment.

DIRECTION BY SCOTTISH MINISTERS

- 92 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, regulations 30 – 32 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

- 93 In conclusion, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, the proposal is considered to be in accordance with the Development Plan. I can find no material considerations which would justify refusal of the application. I consider the proposal as a whole to result an improvement to the visual amenity and character of the Kinnesswood Conservation Area through the development of an identified area of need which is currently in poor condition. On balance the benefits of the works proposed to the former Lomond Inn and the overall proposal to bring the site back into active use are considered to improve the character and visual amenity sufficiently to merit the approval of additional residential development on the site.

RECOMMENDATION

A Approve the application subject to the following conditions:

- 1 The proposed development must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed on the planning permission.

Reason - To ensure that the development is carried out in accordance with the plans approved.

- 2 Prior to the development hereby approved being completed or brought into use, the vehicular access shall be formed in accordance with Perth and Kinross Council's Road Development Guide specification Type B, Fig 5.6 access detail to the satisfaction of the Planning Authority.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 3 Prior to the development hereby approved being completed or brought into use, turning facilities shall be provided within the site to enable all vehicles to enter and leave in a forward gear.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 4 Prior to the development hereby approved being completed or brought into use a minimum of 2 No. car parking spaces per dwelling shall be provided within the site.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 5 Prior to the commencement of any development full details of a bin presentation area close to Main Street shall be submitted and approved in writing by the

Planning Authority. The details shall ensure that adequate provision for bin collection is provided whilst respecting the character and visual amenity of the Conservation Area. The details, as approved, shall be implemented as part of the site development to the satisfaction of the Planning Authority.

Reason - In order to ensure adequate servicing facilities are provided.

- 6 Prior to the commencement of any development a sample of the proposed natural stone, light buff render, natural slate and composite window materials shall be submitted to and approved in writing by the Planning Authority. The scheme as agreed, shall be implemented prior to the completion or bringing into use of the development, whichever is earlier.

Reason - In order to protect the character and appearance of Kinnesswood Conservation Area.

- 7 Prior to the commencement of any development full details of all proposed hard and soft landscaping shall be submitted to and approved in writing by the Planning Authority. The details shall include hedge boundaries to all plots and full details of a planting scheme along the entire south west boundary of the site together with the finishing material of the access track and boundary walls. The details shall include the species, planting density and stock sizes for all planting. The scheme as agreed, shall be implemented prior to the completion or bringing into use of the development, whichever is earlier.

Reason - In order to protect the character and appearance of Kinnesswood Conservation Area.8 Prior to work commencing on the demolition of existing buildings a total of 4 bat boxes shall be provided in trees on site as indicated in the bat protection plan (section 6 of the Bat Survey). Photographic evidence of the installation shall be submitted to and approved in writing by the Planning Authority prior to the demolition commencing. The bat boxes shall remain in place in perpetuity.

Reason – To provide alternative habitat on site for bats.

- 9 All works to buildings or structures that may be used by bats (such as demolition, roof stripping, excavations or building works or associated operations) shall only be carried out under the direction of a licensed bat ecologist to ensure that an offence is not committed.

Reason - To reduce the risk of disturbing any bats present within the buildings

- 10 All trenches associated with the development shall be dug with sloping sides. Open pipework/culverts shall be sealed at the end of each working day.

Reason – In the interests of bio diversity and to prevent animals from being trapped in open excavations or pipework.

- 11 Demolition works shall only take place between 1 December and 31 March to reduce the risk of disturbing any bats present to the satisfaction of the Council as Planning Authority.

Reason – To reduce the risk of disturbing any bats present within the buildings.

- 12 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

I. measures to treat/remove contamination to ensure the site is fit for the use proposed

II. measures to deal with contamination during construction works

- III. condition of the site on completion of decontamination measures. 13 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. Validation 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.

- 14 The walls on the south western end of the Lomond Inn building shall be taken down to a height of 900mm and be retained as part of the walls for the garden ground/patio of plot 1 to the satisfaction of the Council as Planning Authority.

Reason – In order to ensure the south western end of the historic Lomond Inn remains as part of the new development in the interests of protecting the character of the Kinnesswood Conservation Area.

- 15 All slates removed from the demolished buildings shall be retained and re-used, where possible, in the new development to the satisfaction of the Council as Planning Authority.

Reason - In order to protect the character and appearance of Kinnesswood Conservation Area.

- 16 The use of replacement UPVC rainwater goods on the former Lomond Inn (plot 1) is not approved. The rainwater goods on plot 1 shall be new cast iron to match the existing or the existing cast iron rain water goods should be retained and repaired where necessary all to the satisfaction of the Council as Planning Authority.

Reason - In order to protect the character and appearance of Kinnesswood Conservation Area.

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

- 1 No consent shall be issued until a the payment of a commuted sum towards affordable housing provision of £18,750 has been secured through either through an up front payment or a Section 75 Legal Agreement has been agreed between the application and the Council.
- 2 The formal planning consent shall not be issued until such time as the required commuted sum for Affordable Housing has been secured. In the event that the applicant does not a) make the required payment upfront within 14 days of the date of the committee decision or b) complete a legal agreement for its delayed payment within a 4 month period, the application will be refused under delegated powers.

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 No work shall be commenced until an application for building warrant has been submitted and approved.
- 5 The applicant should be advised that in terms of Section 56 of the Roads (Scotland) Act 1984 he 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 Environmental Protection Agency.

- 6 No work shall commence on site until consent has been granted for the associated Conservation Area Consent application for the demolition of buildings (Ref: 16/00325/CON).
- 7 The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended, it is an offence to remove, damage or destroy the nest of any wild birds while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.

Background Papers: 19 letters of representation
Contact Officer: John Williamson – Ext 75360
Date: 4 October 2016