

TCP/11/16(457) – 16/01664/FLL – Change of use from open space to garden ground and formation of vehicular access, 37 and 38 Potterhill Gardens, Perth

INDEX

- (a) Papers submitted by the Applicant (***Pages 275-292***)
- (b) Decision Notice (***Pages 295-296***)
 - Report of Handling (***Pages 297-304***)
 - Reference Documents (***Pages 305-306***)
- (c) Representations (***Pages 307-310***)
- (d) Further Information (***Pages 311-312***)

TCP/11/16(457) – 16/01664/FLL – Change of use from open space to garden ground and formation of vehicular access, 37 and 38 Potterhill Gardens, Perth

**PAPERS SUBMITTED
BY THE
APPLICANT**

NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN
RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE)
(SCOTLAND) REGULATIONS 2013

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

IMPORTANT: Please read and follow the guidance notes provided when completing this form.
Failure to supply all the relevant information could invalidate your notice of review.

Use BLOCK CAPITALS if completing in manuscript

Applicant(s)

Name MR DEREK BONTHRONE

Address 37 POTTERHILL GARDENS
PERTH

Postcode PH2 7EB

Contact Telephone 1 [REDACTED]

Contact Telephone 2 [REDACTED]

Fax No N/A

E-mail* [REDACTED]

Agent (if any)

Name N/A

Address [REDACTED]

Postcode [REDACTED]

Contact Telephone 1 [REDACTED]

Contact Telephone 2 [REDACTED]

Fax No [REDACTED]

E-mail* [REDACTED]

Mark this box to confirm all contact should be
through this representative: ☐

* Do you agree to correspondence regarding your review being sent by e-mail?

Yes ☒ No ☐

Planning authority

PERTH & KINROSS COUNCIL

Planning authority's application reference number

~~16/01664/FLL~~ 16/01664/FLL

Site address

37 & 38 POTTERHILL GARDENS, PERTH PH2 7EB

Description of proposed
development

CHANGE OF USE OF OPEN SPACE TO GARDEN GROUND INCLUDING
VEHICULAR ACCESS TO NUMBERS 37 & 38 POTTERHILL GARDENS

Date of application

29/09/2016

Date of decision (if any)

02/11/2016

Note. This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

Nature of application

1. Application for planning permission (including householder application) ☒
2. Application for planning permission in principle ☐
3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition) ☐
4. Application for approval of matters specified in conditions ☐

Reasons for seeking review

1. Refusal of application by appointed officer ☒
2. Failure by appointed officer to determine the application within the period allowed for determination of the application ☐
3. Conditions imposed on consent by appointed officer ☐

Review procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

1. Further written submissions ☒
2. One or more hearing sessions ☒
3. Site inspection ☒
4. Assessment of review documents only, with no further procedure ☐

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

AFTER SEEKING ADVICE FROM THE COUNCIL ON REQUIREMENTS FOR MY APPLICATION, I WAS ADVISED TO KEEP MY APPLICATION SIMPLE. I SUBMITTED ALL RELEVANT INFORMATION AND ASSUMED THAT MY APPLICATION WAS SUFFICIENT HAVING RECEIVED NO INSTRUCTION TO THE CONTRARY. COUNCIL HAD ALREADY AGREED TO SELL THE LAND TO MY NEIGHBOUR AND MYSELF

Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- | | Yes | No |
|--|-------------------------------------|--------------------------|
| 1. Can the site be viewed entirely from public land? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

Statement

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

SEE ATTACHED LETTER AND CORRESPONDING DOCUMENTS, SUPPORTING MY
APPEAL

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes No
☐ ☒

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

1. STATEMENT IN SUPPORT OF APPEAL
2. IMAGES OF PROPOSED SITE AND NEARBY OPEN SPACE
3. EMAIL CORRESPONDENCE FROM COUNCIL RE FEEDBACK FROM PREVIOUSLY SUBMITTED PROPOSAL
4. EMAIL CORRESPONDENCE FROM COUNCIL RE ADVICE ON ADVISED REQUIREMENTS
5. COPY OF DETAILS OF PROPOSED WORKS SUBMITTED WITH APPLICATION
6. ROUGH SKETCH OF PLAN SUBMITTED TO COUNCIL BUT LATER WITHDRAWN IN FAVOUR OF KEEPING PROCESS SIMPLE.
7. EMAIL CORRESPONDENCE RE PURCHASE OF LAND

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

Checklist

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

- ☒ Full completion of all parts of this form
- ☒ Statement of your reasons for requiring a review
- ☒ All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

Declaration

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed



Date

19/12/2016

Statement In Support Of Appeal

Policy Appraisal

I find this particular point of refusal confusing. The Council have already agreed a price for the sale of the land, and, along with the terms and conditions of sale (which my neighbour and I have agreed to), have not changed in the eight years since our first enquiry about buying the land.

If the RD 1 Policy was implemented in 2014, how can the council seek to retain this area of open space on one hand, when on the other they are quite happy to sell?

I struggle to accept that the proposed site is considered open space with recreational and amenity value when compared to nearby locations (see enclosed images).

The proposed site is an eyesore and has never been maintained since 2008, shortly after the council submitted the letter detailing the price and terms and conditions, for the purchase/sale of the land. Did they stop maintaining it because they thought the sale was pending? At the same time, the streetlight and cabling which sat kerbside to the front of number 38 was relocated further down street, perhaps for the same reason – a sale was pending?

On reflection, I realise my scaled plan submitted, offered very little by way of improving or contributing positively to the street-scene, I put this down to the fact that I was advised by the planning department during a pre application discussion, to keep works to a minimum. All relevant information was submitted and I naturally assumed that all was sufficient as I received no information to the contrary.

In addition, during the application process, I sought advice from the planning department as to what would be deemed acceptable in respect of my proposal but no one was able to tell me what was or wasn't acceptable.

Design, Layout & Visual Amenity

Again, you say that this is an important area of open space. If that is the case, why are the council keen to sell, and why has it been neglected in eight years?

You are of the opinion that this proposal could set a precedent for future similar ones.

I believe that my application is unique to the area as very few other properties have the capacity to replicate my plan and thus it would seem unlikely that an influx of similar applications would be submitted.

Although not detailed in my submitted application (through reasons already mentioned), my neighbour and myself are seeking to develop our own garden ground. Whilst I am proposing to remove existing vegetation, I am also proposing to replace it with new vegetation to surround the parking spaces effectively creating garden space around both numbers 37 and 38. At a guess, I would say that no more than 20 square feet on each of the 72 square foot bit of land would be utilised for parking. The remaining area would be vegetation.

With reference to no one from within the council being able to advise on what would be/wouldn't be acceptable re my proposal, the style and structure of the walls changed during a pre-application discussion. I was advised to keep the walls to 1 metre in height. I naturally assumed that the materials for the walls were not significant nor was it pointed out to me during that discussion that I would need to include the materials.

In order to compliment the street scene, I would be quite happy to replace the walls with hedging, including a miniature hedge to divide the boundary between number 37 and 38.

These hedges would stop 0.5 metre short of the kerb and would be 1 metre in height.

I disagree with your comment that the site could be used for caravan / van storage. Though not detailed in my application, I have stated above that the parking area on each of the 72 square foot bit of land would house one vehicle each. Neither myself or my neighbour have any interest in either vehicle and besides there is nothing in place to stop these vehicles being parked on the main thoroughfare within Potterhill Gardens, which, surely, is a more prominent position.

Biodiversity

You say that "The site currently contributes to the biodiversity of the area and this considered to be compromised in its entirety by the proposal not incorporating any areas of planting or vegetation".

This seems a bit of an overstatement for such a small area of land with overgrown, unsightly bushes. I have stated elsewhere, that shrubbery/planting will occupy the areas not reserved/outlined for off road parking. Greenspace raised no objections to the removal of the vegetation, although they stated that they would have preferred the retention of some shrubbery.

My intention is to retain the tree which sits in front of number 37, but how can you justify the comment that "the wildlife and wildlife habitats are protected".

What wildlife are there in these bushes?

Landscape

You say that the scale and nature of the proposals do not raise any significant landscape impact issues and the impact would be limited to a streetscape impact. Surely this is a contradiction to your comments in Biodiversity?

Roads and Access

My proposal creates additional parking whilst freeing up existing space for other residents to park in Potterhill Gardens. If anything, I would say that the current congested on street parking is more damaging to the visual amenity of the area than the removal of the overgrown bushes. The roads department raised no objections to my proposal.

Lack of Information

I sought advice throughout the application process and submitted all drafts and plans that included all details of the project and were informed this would be uploaded onto the system for me. Greenspace confirmed that whilst they had no objections to my plans, I should include grey (in keeping with colour scheme evident elsewhere in Potterhill) pavers as ground cover. Though not enforceable, I complied with their request and included detail of the materials (image and supplier product code) I was intending using in the document submitted in support of my application.

Gradient – the council advised that if we were sticking to the existing gradient/level, then no land surveys would be required.



Image of site at numbers 37 and 38 Potterhill Gardens



Nearby public open space which is of recreational and amenity value

would like to arrange something for 2nd week in September

(3)

Kind regards

Derek Bonthron
Sent from my iPad

On 5 Aug 2016, at 16:30, David Swann [REDACTED] wrote:

Hi Derek,

I haven't had any additional feedback as yet, I issued a reminder before I went off on holiday on the 9th of July, I believe some members of staff in Community Greenspace may be on holiday, I will send a further email.

Looking at the outline description you provided and comparing it with feedback provided previously (September 2010) by our Community Greenspace (summarised in bold black text) I would make the following observations (in bold green text).

1. **Removal of existing shrubbery** - Earlier feedback from our Community Greenspace commented that the parking bays could be accommodated within a shrub border and that we should seek to retain a rejuvenated shrub border 3-4m wide along the rest of the road frontage - I am unsure if this means that they wish for some shrubs to be retained within the subjects of sale, from the perspective of our section (Estates) and dealing with the sale of ground, it would not be possible to stipulate this as a title burden. As the ground would be sold for the purpose of garden ground/parking, normally the new owner would be free to choose the type of planting and layout (subject to complying with any statutory conditions), please note we can make stipulations relating to the boundaries of the subjects and whether or not boundary enclosures are required (please also refer to item 3).
2. **Kerb to be dropped in line with Council regulation** - Earlier feedback from our Community Greenspace mentioned that it looked as though there were services running along the back of the kerb so you would need to ensure these were ducted and that the utilities including street lighting were happy with the specification." - I believe these requirements would be addressed as part of the vehicular access consent associated with the planning application and therefore subject to any statutory consents that may be required.
3. **Erection of 3 x walls A) to border footpath and land in front of number 37 (double brick thick 1.5m reducing to 0.5m at opposite end B) single brick dividing wall between no's 37 & 38. C) as per A on opposite side, border between 38 and openspace.**
- No specific comment received on this previously I believe our

Point 3

* Point 2.

Community Greenspace wished to see what your proposals were for the interface between the land on the west boundary and east boundary between number 38 and the remaining openspace. I will need to await the view of Community Greenspace. The Council can specify whether or not enclosures are erected on the boundary, in addition any requirements to leave the area open may be required to comply with Planning conditions.

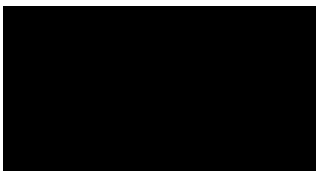
4. Grey Mono Block Pavers (herringbone style to allow vehicle parking.) Ground to match gradient camber of adjacent car park - Earlier feedback from our Community Greenspace mentioned that in terms of the details the monoblock would be fine if it is a grey or charcoal colour - your proposals meet this requirement, therefore your monoblock style is acceptable. Additionally it was mentioned that there were concerns about the level changes and that retaining walls would probably be required, details of your construction style for the retain walls was requested - I note your proposals are for the parking spaces to follow the gradient of the adjoining car park, albeit the spaces in that car park are at right angles to the slope. I will need to check whether our Community Greenspace section are happy for your proposals to go ahead subject to obtaining planning approval for and any statutory consents that may be required.
5. Singular/ Dual collapsible metal bollards kerbside at both number 37 and 38 - No specific comment received on this previously, I believe these proposals would be addressed as part of the vehicular access consent and the planning application and therefore subject to approval of Transport Planning/Planning and any statutory consents that may be required.

* Point 4

I will contact you as soon as I hear anything further from Community Greenspace on the above.

Kind Regards

David Swann
Estates Technician
Investment - Estates
Planning & Development
The Environment Service
Perth & Kinross Council
Pullar House
35 Kinnoull Street
Perth, PH1 5GD



<image001.png>

From: Mary Barr [REDACTED]
Subject: Change of use of landscaped area to form garden ground at 37 & 38 Potterhill Gardens, Perth
Date: 13 September 2016 at 11:08
To: [REDACTED]
Cc: Danny Hoey Snr [REDACTED]

(4)

Point 4

Dear Mr Bonthron

Following our telephone conversation yesterday concerning the above proposed works, please find below a list of the requirements of a planning application. This list is based on our discussion and the advice that if the proposed works are kept to a minimum, then less information is required for your planning application. I have discussed the site with a Planning Officer, Alma Bendall, and Transport Planning Officer, Tony Maric, who have both advised the less works proposed the less complicated the application process will be. It has been suggested that the boundary walls are kept to no more than 1 metre in height and stepped back at least 0.5 metres from the kerb and that the level changes are kept to a minimum. If this can be achieved, then these elements would not require planning permission and so further information such as elevations and site levels and cross sections wouldn't be required.

1. **Application Form and land ownership certificate** – I note you have completed an online application but have not submitted it. I am unable to accept the form in its raw state as the e-signature only appears once it has been formally submitted. You may wish to complete a manual form which I can help with. As I advised the easiest and cheapest way to submit would be one joint application. On this basis I would suggest that either yourself or Mr Hoey are noted as applicant and then the other is listed as an owner in the land ownership certificate (along with PKC).
2. **Fee** – The fee required for a change of use is £401. This is per application so if you decide to make two separate applications the fee would be £401 each rather than £199 each. It's worth noting that under Planning legislation it is a requirement for the Planning Authority to advertise applications in the local press. This is not always a requirement and is normally assessed once the application is validated (validation is the process I will undertake in which your application forms, fees, drawings and plans are all checked before neighbours are notified and the application allocated to a Planning Officer). If your application requires to be advertised then you will be sent a request for £61.10. This doesn't need to be submitted at this stage but it's worth being aware of.
3. **Location Plan** - The location plan must meet the requirement listed in the attached guidance note. In terms of the red site boundaries and blue ownership boundaries, I have attached a copy of the site plan you submitted with what I would expect the boundaries to be. Please check that what I have shown outlined in blue is in fact in your ownership and amend it if required.

(4)

4. **Site Plan** – You have submitted a site plan at 1:200 which is acceptable with the addition of the red and blue boundaries being shown, and it being noted the height of the proposed walls and any landscaping proposed (hedging and hard standing material). In terms of the proposed materials for the mono block, if possible you should use a porous material which will allow the free drainage of any surface water. If this is not possible, then the plan must show the proposed location of the drainage you intend to use.
5. **Bollard** – I would advise that the manufacturers brochure is submitted for the proposed bollards for information.

In the attached guidance note I have highlighted the relevant sections in yellow and the possible requirements are underlined in green. If you are not sure about anything please do not hesitate to contact me to discuss.

I am happy to help with the submission of the application as much as I can and if when you are ready to submit you would like to arrange to meet to allow me to check the application before it is formally submitted then I am happy to do so.

I hope this is of assistance.

Yours sincerely

Mary Barr

Technician –Development Management

Planning and Development

The Environment Service

Perth and Kinross Council

Pullar House

Kinnoull Street

Perth

PH1 5GD

Proposal for drive-in's at number 37 & 38 Potterhill Gardens

1. We to remove existing shrubbery as seen in image below



2. We to arrange the kerb to be dropped in line with council regulations



3. Erection of 3 x walls;
 - a). To border footpath and land in front of number 37
Wall will measure 1 metre in height and will run from main building to kerb, but stopping 0.5 metres short from the kerb (Indicated as A on enclosed plan)
 - b). Breeze block divider along border between numbers 37 & 38, measuring no more than 0.5 metres high (indicated as B on enclosed plan).

c). As per A, but bordering number 38 and 39. Indicated as C on enclosed plan.

4. Grey porous monoblock pavers

Whilst we will maintain existing gradient, contractors advised that up to 800 inches of soil will be excavated in order to lay required hardcore and sand, prior to the laying of the pavers

Driveline Piora Block Paving 200x100x60mm Charcoal



Marshalls Driveline Piora is a permeable alternative to Driveline 50. The patented Piora Block Paving Driveway System allows you to avoid the complicated and frustrating planning permission process. The unique patented 'Piora' nib design allows surface water to pass between blocks into a specially calculated sub-base without compromising structural performance of the driveway.

Product Code: LSMPCH60

No additional requirements for drainage have been allowed for or are required

5. Inclusion of singular / dual 6" diameter collapsible metal bollards kerbside at both number 37 & 38 respectively to prevent unwanted drivers from parking in these spaces. Each bollard will measure 1 metre in height

AUTOLOK KYP1 FOLD DOWN PARKING POST (H)620MM

Product code:
5013763031582



7

From: David Swann [REDACTED]
Subject: RE: Planning Application For Review
Date: 21 September 2016 at 12:36
To: Derek Bonthron [REDACTED] Mary Barr [REDACTED]

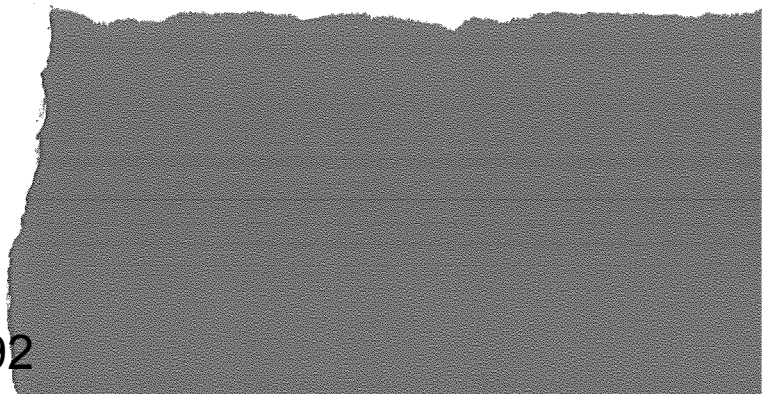
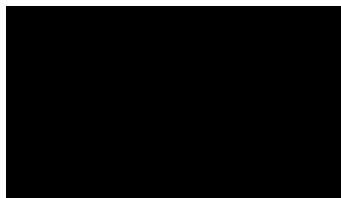
Hi Derek,

Just to confirm the sale of the subjects will be as per the agreed terms, which were subject to planning permission being received in connection with your proposed use of the subjects. Our Community Greenspace section advised they were willing to give up the area of open space and would not object to your proposed change of use.

We now have deemed consent from the Scottish Ministers for disposal of HRA land if we sell the land at market value, which is the case in this instance. If planning permission is obtained I will arrange to have the sale authorised by our Investment Manager and thereafter instruct our Legal Services to sell the ground. The additional legal and admin fees as well as the capital fee payment for the land will be due at conclusion of missives. The transaction will have to be dealt with as 2 separate sales to number 37 & 38 Potterhill Gardens respectively, please note however for our part only one administration fee will be charged.

I hope this is of assistance.

David Swann
Estates Technician
Investment - Estates
Planning & Development
The Environment Service
Perth & Kinross Council
Pullar House
35 Kinnoull Street
Perth, PH1 5GD



TCP/11/16(457) – 16/01664/FLL – Change of use from open space to garden ground and formation of vehicular access, 37 and 38 Potterhill Gardens, Perth

PLANNING DECISION NOTICE

REPORT OF HANDLING

REFERENCE DOCUMENTS

PERTH AND KINROSS COUNCIL

Mr Derek Bonthron
37 Potterhill Gardens
Perth
Scotland
PH27EB

Pullar House
35 Kinnoull Street
PERTH
PH1 5GD

Date 02.11.2016

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT

Application Number: **16/01664/FLL**

I am directed by the Planning Authority under the Town and Country Planning (Scotland) Acts currently in force, to refuse your application registered on 29th September 2016 for permission for **Change of use from open space to garden ground and formation of vehicular access 37 And 38 Potterhill Gardens Perth PH2 7EB** for the reasons undernoted.

Interim Head of Planning

Reasons for Refusal

1. The proposal is contrary to Policy RD1 of the Perth & Kinross Local Development Plan 2014 which seeks to retain small areas of private and public open space which are of recreational and amenity value as the proposal results in the loss of open space which has an important amenity value in the streetscene.
2. The proposal is contrary to Policy PM1A 'Placemaking' of the Perth & Kinross Local Development Plan 2014, as the proposed development would not contribute positively to the quality of the surrounding built and natural environment.
3. The proposal is contrary to Policy PM1B, criterion (b) of the Perth and Kinross Local Development Plan 2014, as the removal of the existing vegetation and the formation of parking facilities would erode and dilute the visual amenity and character of the area. The proposal would also set a precedent for other similar future development which could erode and dilute the visual amenity and character of the area further.

4. A lack of information has been submitted in relation to the proposal. This includes no indication of the proposed materials for the walls and ground cover. There is also no detailed information in relation to the proposed gradient of the land and no survey information has been provided in relation to the removal of the vegetation to ascertain that the ecological impact of the development can be satisfactorily mitigated thereby ensuring the protection of wildlife and wildlife habitats.

Justification

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

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

Plan Reference

16/01664/1

16/01664/2

REPORT OF HANDLING

DELEGATED REPORT

Ref No	16/01664/FLL	
Ward No	N12- Perth City Centre	
Due Determination Date	28.11.2016	
Case Officer	Sean Panton	
Report Issued by		Date
Countersigned by		Date

PROPOSAL: Change of use from open space to garden ground and formation of vehicular access.

LOCATION: 37 and 38 Potterhill Gardens, Perth, PH2 7EB.

SUMMARY:

This report recommends **refusal** of the application as the development is considered to be contrary to the relevant provisions of the Development Plan and there are no material considerations apparent which justify setting aside the Development Plan.

DATE OF SITE VISIT: 5th October 2016

SITE PHOTOGRAPHS



BACKGROUND AND DESCRIPTION OF PROPOSAL

The application site is on land to the rear of 37 and 38 Potterhill Gardens, Perth. The application seeks detailed planning permission to change the use from open space to garden ground and the formation of vehicular access.

The site is currently covered with mature shrubs and trees and it is proposed to remove these and replace them with 2 driveways, 1 each for both 37 and 38 Potterhill Gardens. The driveways will be subdivided with walls no more than 1 metre in height and the walls will stop short of the kerb at a minimum of 0.5metres to allow for a visibility space. There are no areas of replacement planting to be incorporated in this proposal as the driveways cover the full entirety from wall to wall. It is indicated that both of the proposed spaces will have parking posts present, however no details of these parking posts have been submitted. The materials for the walls and groundcover have also not been indicated.

SITE HISTORY

None.

PRE-APPLICATION CONSULTATION

Pre-Application Reference: 16/00033/PREAPP

The pre-application advice stated that the retention of open space is favoured where it is of recreational and amenity value and it is unlikely that a proposal removing this space for parking would be supported.

NATIONAL POLICY AND GUIDANCE

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

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 2012 – 2032 - Approved June 2012

Whilst there are no specific policies or strategies directly relevant to this proposal the overall vision of TAYplan should be noted. The vision states *“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 and visit and where businesses choose to invest and create jobs.”*

Perth and Kinross Local Development Plan 2014 – Adopted February 2014

The Local Development Plan is the most recent statement of Council policy and is augmented by Supplementary Guidance.

The principal policies are, in summary:

Policy PM1A - Placemaking

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 adaption.

Policy PM1B - Placemaking

All proposals should meet all eight of the placemaking criteria.

Policy RD1 - Residential Areas

In identified areas, residential amenity will be protected and, where possible, improved. Small areas of private and public open space will be retained where they are 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 NE2 – Forestry, Woodland and Trees

The Council will support proposals where there is the good protection and amenity of trees, or groups of trees, important for amenity, sport or recreation or because of their cultural or heritage interest.

Policy NE3 - Biodiversity

All wildlife and wildlife habitats, whether formally designated or not should be protected and enhanced in accordance with the criteria set out. Planning permission will not be granted for development likely to have an adverse effect on protected species.

Policy TA1A - Transport Standards and Accessibility Requirements

Encouragement will be given to the retention and improvement of transport infrastructure identified in the Plan.

OTHER POLICIES & GUIDANCE

The National Roads Development Guidance

Scottish Government Planning Advice Note 65 (Planning and Open Space)

CONSULTATION RESPONSES

Transport Planning:

No objection to the proposed development however recommend an attached condition and informative.

REPRESENTATIONS

No representations were received regarding this proposal.

ADDITIONAL STATEMENTS RECEIVED:

Environment Statement	Not Required
Screening Opinion	Not Required
Environmental Impact Assessment	Not Required
Appropriate Assessment	Not Required
Design Statement or Design and Access Statement	Not Required
Report on Impact or Potential Impact eg Flood Risk Assessment	Not Required

APPRAISAL

Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for the area comprises the approved TAYplan 2012 and the adopted Perth and Kinross Local Development Plan 2014.

The determining issues in this case are whether; the proposal complies with development plan policy; or if there are any other material considerations which justify a departure from policy.

Policy Appraisal

The site is located within a defined settlement boundary within the Perth & Kinross Local Development Plan 2014, therefore Policy RD1 – Residential Areas and Policy PM1A & PM1B: Placemaking are directly applicable. The Placemaking policies state that development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place, whilst Policy RD1 seeks to retain small areas of private and public open space which are of recreational and amenity value.

The scale and design of the proposal is considered to impact upon the character and amenity of the surrounding area whilst compromising the existing open space provision for reasons mentioned within this report. Overall, the proposal is considered to be contrary to the relevant policies of the Perth & Kinross Local Development Plan 2014 and should therefore be recommended for refusal.

The following paragraph from Scottish Government Planning Advice Note 65 (Planning and Open Space) should also be noted:

“The importance attached to open space in the strategy and development plans should be reflected in development management decisions. The

credibility of the planning system can be significantly undermined when policies on the protection and provision of open space are set aside in development management decisions without sound and clear justification, particularly when planning authorities have an interest in the land."

It is considered in this instance that there is no 'sound and clear justification' for the removal of this open space to allow for parking provisions and would therefore be contrary to advice from the Scottish Government.

Design, Layout and Visual Amenity

The character of Potterhill Gardens is defined by houses set back from the road with areas of open space and vegetation acting as distinctive and attractive boundaries within the streetscene. This is continued throughout Potterhill Gardens in a number of areas and for the life of the development they have largely remained un-compromised. This proposal would see the removal of an important area of open space which is heavily vegetated and contributes to the character of the streetscene due to its prominent location. The area also positively contributes to the visual amenity of this area due to the existing shrubs and trees on site. Not only would this proposal see the removal of this important area, it would set a precedent for other similar future developments which could in turn result in the loss of an excessive amount of open space provision within Potterhill Gardens. The Scottish Government highlight through Planning Advice Note 65 (Planning and Open Space) the value of open space and the importance of retaining them within our existing urban areas. This is in addition to Policy RD1 of the Local Development Plan which seeks to retain small areas of private and public open space which are of recreational and amenity value. I therefore believe that the principle of this development cannot be supported and this was highlighted to the applicant at pre-application stage.

With regards to the design of the proposal itself, this is considered to be uncomplimentary to the streetscene and would compromise the visual amenity of the area. This is due to the proposal incorporating no areas of planting whatsoever with little consideration towards the prominence of the site in defining Potterhill Gardens. The proposal would also see the site covered in its entirety with surface materials and would result in the construction of 3 walls, each approximately 1 metre in height. Whilst the surface materials of the site and the materials for the walls are unknown, it is unlikely that they will complement the area as much as the existing vegetation does. Furthermore, once this proposal is operational, this will result in the site having vehicles present and this will be a serious compromise to the existing on site vegetation. I also have concerns that this site could be used in the future for caravan or van storage and this would become a prominent feature on the streetscene due to the prominence of the site. The visual amenity of the existing vegetation on the site is considered to be much more appropriate for the streetscene than what is proposed in this application.

Overall, in relation to design, layout and visual amenity, I believe that this proposal cannot be supported due to the existing open space having an

important role in defining the streetscape of Potterhill Gardens and the proposal would compromise this and thus have a negative impact upon the streetscape.

Biodiversity

The site currently contributes to the biodiversity of the area and this is considered to be compromised in its entirety by the proposal not incorporating any areas of planting or vegetation. Furthermore, no survey information has been submitted in relation to the removal of the vegetation to ascertain that the ecological impact of the development can be satisfactorily mitigated thereby ensuring the protection of wildlife and wildlife habitats.

Landscape

The scale and nature of the proposals do not raise any significant landscape impact issues and the impact would be limited to a streetscape impact.

Residential Amenity

The nature of the proposal does not raise any issues in relation to residential amenity other than visual amenity which has been discussed under the 'Design, Layout and Visual Amenity' section of this report.

Roads and Access

It is considered that there will be no reduction in the availability of on-street parking should this development take place. At present, it is common for residents to park on the western side of the road. This proposal will see the driveways accessed from the eastern side of the road, and thus there will be no impact upon the existing on street parking arrangements. Residents will still be able to park on the western side of the road should this development take place as the road is just wide enough to turn a car suitably and safely in this location into the proposed driveways. In relation to the small car park at the side of the property, this will also not be compromised as there is to be a wall built which will prevent the residents of 37 and 38 Potterhill Gardens from utilising this as access.

Although the proposal is not considered to compromise existing parking arrangements, it is noted that The National Roads Development Guidance advises against creating environments where there is an over dominance of car parking to the front of properties. It is considered that this proposal would indeed result in the over dominance of parking in this location due to being directly next to an existing car park and would therefore be contrary to The National Roads Development Guidance. This was highlighted to the applicant at pre-application stage and no measures have been taken to mitigate this through this application.

Drainage and Flooding

There are no drainage and flooding implications associated with this proposed development.

Developer Contributions

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

Economic Impact

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

Conclusion

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 not considered to comply with the approved TAYplan 2012 or the adopted Local Development Plan 2014. I have taken account of material considerations and find none that would justify overriding the adopted Development Plan. On that basis the application is recommended for refusal.

APPLICATION PROCESSING TIME

The recommendation for this application has been made within the statutory determination period.

LEGAL AGREEMENTS

None required.

DIRECTION BY SCOTTISH MINISTERS

None applicable to this proposal.

RECOMMENDATION

Refuse the application.

Conditions and Reasons for Recommendation

- 1 The proposal is contrary to Policy RD1 of the Perth & Kinross Local Development Plan 2014 which seeks to retain small areas of private and public open space which are of recreational and amenity value as the proposal results in the loss of open space which has an important amenity value in the streetscene.
- 2 The proposal is contrary to Policy PM1A 'Placemaking' of the Perth & Kinross Local Development Plan 2014, as the proposed development

would not contribute positively to the quality of the surrounding built and natural environment.

- 3 The proposal is contrary to Policy PM1B, criterion (b) of the Perth and Kinross Local Development Plan 2014, as the removal of the existing vegetation and the formation of parking facilities would erode and dilute the visual amenity and character of the area. The proposal would also set a precedent for other similar future development which could erode and dilute the visual amenity and character of the area further.
- 4 A lack of information has been submitted in relation to the proposal. This includes no indication of the proposed materials for the walls and ground cover. There is also no detailed information in relation to the proposed gradient of the land and no survey information has been provided in relation to the removal of the vegetation to ascertain that the ecological impact of the development can be satisfactorily mitigated thereby ensuring the protection of wildlife and wildlife habitats.

Justification

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

Informatives

Not Applicable.

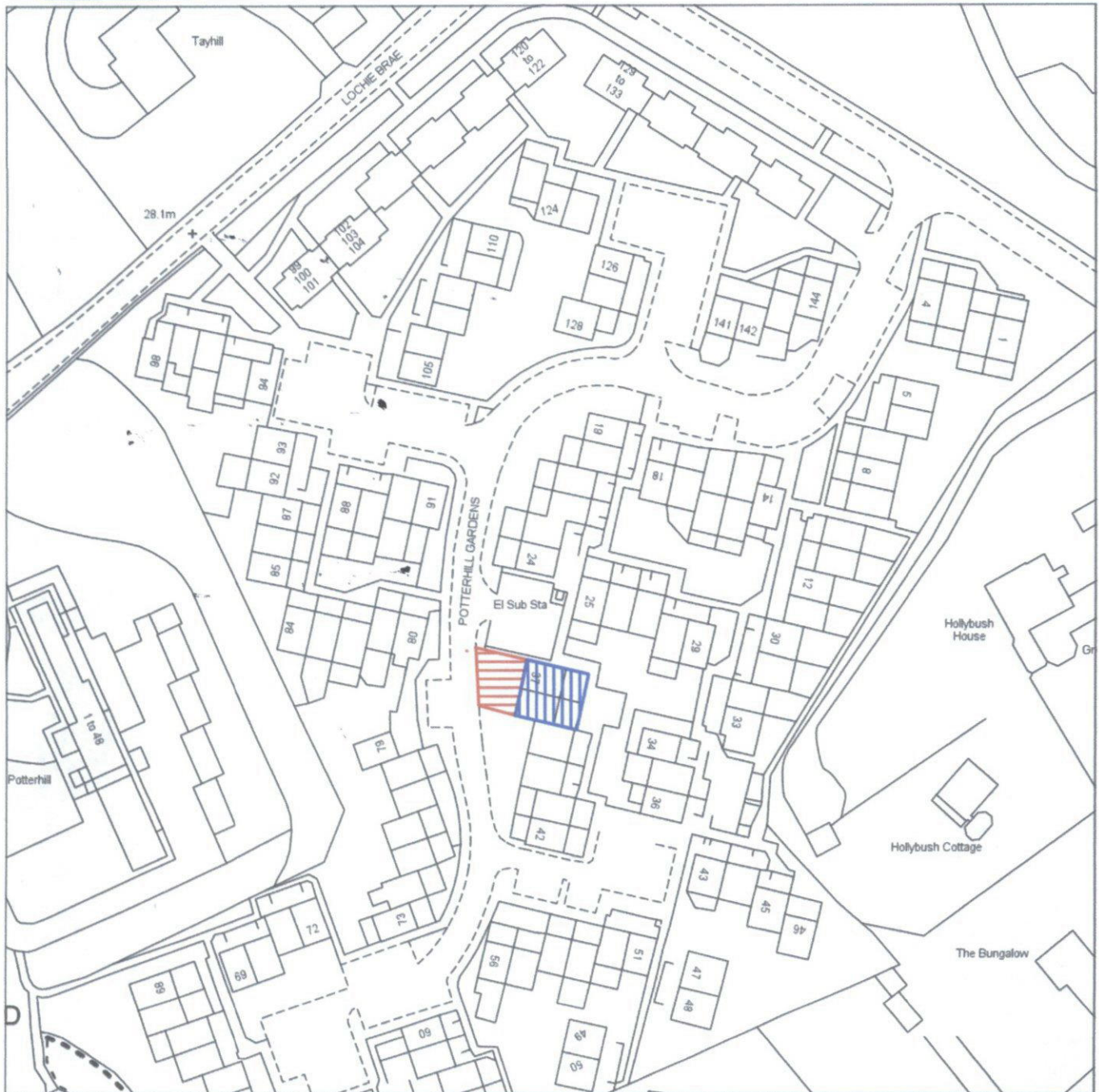
Procedural Notes

Not Applicable.

PLANS AND DOCUMENTS RELATING TO THIS DECISION

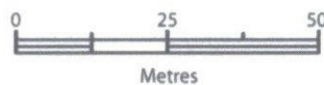
16/01664/1
16/01664/2

Date of Report 2nd November 2016



37, Potterhill Gardens, Perth

Scale 1:1250



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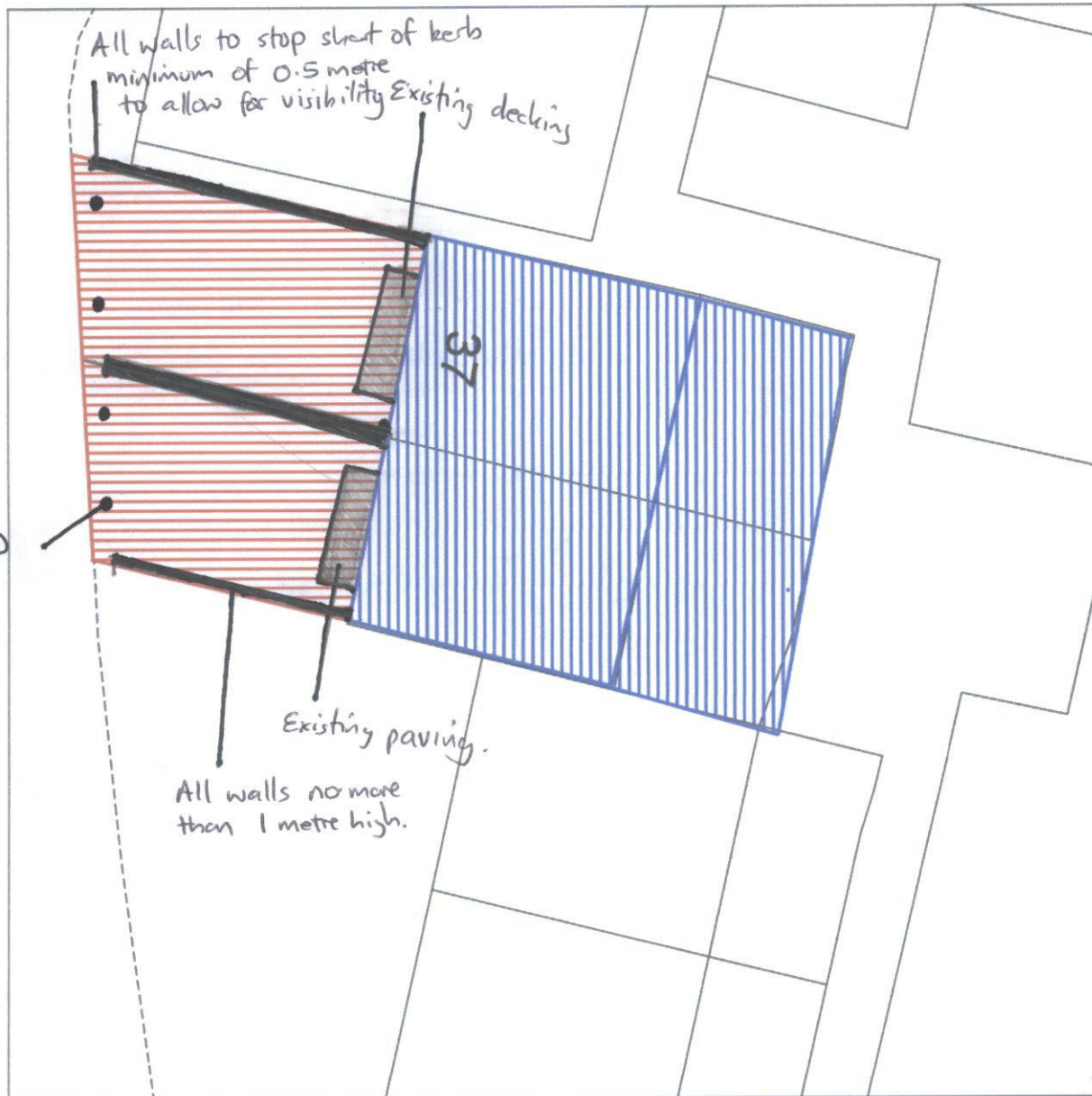
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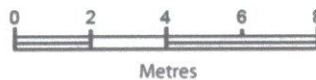
Date Of Issue: 29 May 2016
 Supplied By: Getmapping
 Supplier Plan Id: 161778 1250
 OS License Number: 100030848
 Applicant: Derek Bonthron

PERTH AND KINROSS COUNCIL
 DRAWING REF: 16/01664/1



38, Potterhill Gardens, Perth

Scale 1:200



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Date Of Issue: 02 June 2016
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 Supplier Plan Id: 161998_200
 OS License Number: 100030848
 Applicant: Derek Bonthron

PERTH AND KINCROSS COUNCIL

DRAWING REF: 16/01664/2

TCP/11/16(457) – 16/01664/FLL – Change of use from open space to garden ground and formation of vehicular access, 37 and 38 Potterhill Gardens, Perth

REPRESENTATIONS

Comments to the Development Quality Manager on a Planning Application

Planning Application ref.	16/01664/FLL	Comments provided by	Niall Moran
Service/Section	Transport Planning	Contact Details	
Description of Proposal	Change of use from open space to garden ground and formation of vehicular access		
Address of site	37 And 38 Potterhill Gardens Perth PH2 7EB		
Comments on the proposal	Insofar as the Roads matters are concerned I do not object to the proposed development provided the conditions indicated below are applied, in the interests of pedestrian and traffic safety.		
Recommended planning condition(s)	<p>Prior to the development hereby approved being completed or brought into use, the vehicular access shall be formed utilising dropped kerbs to the standards required by the Council as Roads Authority and shall be constructed so that no surface water or surfacing aggregate is discharged onto the public road.</p> <p>Reason - In the interests of road safety; to ensure an acceptable standard of construction within the public road boundary.</p>		
Recommended informative(s) for applicant	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.		
Date comments returned	27 October 2016		

TCP/11/16(457) – 16/01664/FLL – Change of use from open space to garden ground and formation of vehicular access, 37 and 38 Potterhill Gardens, Perth

FURTHER INFORMATION

The further information requested by the Local Review Body on 7 March 2017 was not received.

