

**TCP/11/16(402)**  
**Planning Application – 15/01930/IPL – Renewal of permission 12/01716/IPL (erection of dwellinghouse in principle) land 100 metres south east of Seggieden House, Kinfauns**

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**TCP/11/16(402)**

**Planning Application – 15/01930/IPL – Renewal of permission 12/01716/IPL (erection of dwellinghouse in principle) land 100 metres south east of Seggieden House, Kinfauns**

**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 2008

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 & MRS BOWRY**

Address **SEGGIEDEN HOUSE  
KINFRAUN**

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail\*

## Agent (if any)

Name **R T HUTTON**

Address **2 FACTORS BRAC  
LIMERKINS  
FIFE  
KY11 3H9**

Contact Telephone 1 **01383 872000**

Contact Telephone 2 **07881097659**

Fax No **N/A**

E-mail\* **hutton874@btinternet.com**

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

Yes ☒ No ☐

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

Planning authority

**PERTH & KINROSS COUNCIL**

Planning authority's application reference number

**15/01930/172**

Site address

**LAND 100 METRES SOUTH EAST OF  
SEGGIEDEN HOUSE, KINFRAUN**

Description of proposed  
development

**RENEWAL OF PERMISSION 12/01716/172  
(ERECTION OF A HOUSE IN PRINCIPLES)**

Date of application

**13.11.15**

Date of decision (if any)

**7.01.16**

**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:

**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 type="checkbox"/>            | <input checked="" 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:

APPLICANTS WOULD ASSIST ACCESS TO THE SITE

**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.

PLEASE SEE SEPARATE DOCUMENT

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.

**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.

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**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

[Redacted Signature]

Date

1.04.16



**STATEMENT IN SUPPORT OF THE APPLICATION FOR REVIEW OF  
THE DELEGATED DECISION TO REFUSE THE APPLICATION FOR  
THE RENEWAL OF PERMISSION IN PRINCIPLE FOR THE  
ERECTION OF A DWELLINGHOUSE ON LAND 100 METRES SOUTH  
EAST OF SEGGIEDEN HOUSE, KINFAUNS.**

**COUNCIL REFERENCE: 15/01930/IPL.**

**R T HUTTON PLANNING CONSULTANT  
MARCH 2016**

## **1.0 Background to the application for review.**

1.1 In November 2012 Mr and Mrs Bowry were granted planning permission in principle by Perth and Kinross Council for the erection of a dwelling house on land south east of Seggieden House, Kinfauns. The site of the application was within a large walled garden, and the Council's policy relating to new housing in the countryside makes specific allowance for such development. At the time of this decision the first Perth Local Development Plan had not reached the final stage of adoption, though it was noted that the site lay within an area that had been identified as part of the green belt around Perth, in accordance with the strategy of TAYplan.

1.2 In concluding that the 2012 planning application should be approved, Council planners noted that the green belt boundary was still the subject of disagreement and not finally approved, and therefore no weight was given to that policy. In line with the established housing in the countryside policy the application was approved, albeit subject to conditions designed to ensure that the new house fitted well into its countryside location. Of particular significance in this regard was the requirement that the house design should sensitively relate to the walled garden setting, and that it should be of a height which did not exceed that of the wall. It was also a requirement of this permission that the wall should be fully surveyed and repaired as necessary, which in itself is a major undertaking. Clearly compliance with these conditions would have resulted in the long term future of an important landscape feature being assured, and the new house would have had a very minimal impact on the local landscape.

1.3 The restoration of the garden wall was seen by the applicants as a first step in the restoration of this country estate. However, in the time following the granting of the planning permission in principle for the new house, the applicants were not in a position to proceed with the development, and so in November 2015 they applied to have their permission renewed in order to give them the time to have detailed plans prepared in accordance with the requirements of their planning permission. However, much to their dismay this application was refused, with two reasons given for the decision, both based upon green belt policy. The applicants understand the aims behind such policy, and believe that their proposal would not compromise such aims. In light of this they now seek a review of the decision to refuse

the application to renew the earlier planning permission.

## **2.0 The planning proposal**

2.1 Seggieden House is a relatively modern dwelling located south of the village of Kinfauns, and immediately north of the River Tay. However, historically the estate at Seggieden was of considerable importance as was evidenced by the impressive country house which existed on site until the 1960's, and by the size of the walled garden, such features being scaled to the size of the estate they served. Sadly much of the built structures of the estate and the designed landscape have suffered since the demolition of the house, but it is now Mr and Mrs Bowry's intention to restore/rebuild some of the structures, and reinstate the landscape framework which provided their setting.

2.2 The walled garden is an impressive structure which encompasses an area of 2.03 acres. The walls are 4 metres high over most of their length, and constructed of clay bricks. However, the scale of the structure makes its maintenance a very expensive undertaking, and without some form of subsidy the future of the wall is not assured. It was with this in mind that the first application was made to build within the walled area, as the applicants were aware that Council planning policy allowed such development.

2.3 The land available within the walled area is such that a modest sized house could easily be accommodated without encroaching on most of the area, thus respecting the character of the garden. With the height of the house limited to be less than that of the wall, its visual impact would be very limited, and would only be noticeable from a distance from the south side of the Tay. Servicing of the proposed house presents no difficulties, and the first planning application raised no objection from any of those consulted by the Council.

2.4 Mr and Mrs Bowry accepted the conditions imposed on their permission, and were in agreement with the sentiment behind the design considerations, as it is their wish to ensure that any development at Seggieden fits well into the local landscape and respects the character of the former estate.

### 3.0 Comments on the reasons for refusal

3.1 The two reasons given for refusal of the application are:

“ 1.The site falls within the area identified as greenbelt where policy NE5 of the Proposed Local Development Plan 2012 applies. The proposal is contrary to Policy NE5 as it does not lie within one of the categories of acceptable development outlined within the policy.

2. The proposal is contrary to TAYplan policy 3 as it fails to preserve the setting and special character of the greenbelt or safeguard the countryside from inappropriate encroachment.”

3.2 The applicants would now wish to consider each of these reasons and explain why they believe that there is a policy justification to approve this application for review. They would wish to consider firstly the reason relating to TAYplan, as this is derived from the strategic plan, and there is a logic in working from the general to the more specific.

3.3 TAYplan policy 3 is headed “Managing TAYplan’s Assets: Safeguarding resources and land with potential to support the sustainable economic growth“. The text preceding the policy explains the planning aims behind the designation of green belts where it states:

**“Limiting the types of land uses that can occur within green belts at Perth and St Andrews will contribute to protecting the settings and historic cores of those settlements from inappropriate development and prevent coalescence with neighbouring areas”.**

The location of Seggieden, in a countryside area away from Perth, means that any development there can really have no impact on the town. Similarly the development as proposed cannot be seen as in any way resulting in the coalescence of settlements. Therefore, the main aims of green belt policy as set out in TAYplan are not adversely affected by this proposed development. More positively the

applicants would suggest that restoring the significant man made, historical landscape feature which is the walled garden, will contribute to maintaining the character of the countryside. The planning benefits of restoring walled gardens is clearly set out in the Council's policy on housing in the countryside. Section 3.1(b) of the policy states that new houses will be acceptable within walled gardens where the development "would not affect the integrity of the structure or the garden, **and may assist in the preservation of the wall**".

3.4 From the above the applicants have shown how their proposed house does not act against the aims of green belt policy as set out in TAYplan, and will have a positive effect in restoring and ensuring the long term future of an important landscape feature.

3.5 The first reason for refusal is based upon the fact that the proposed house does not fall within any of the categories specified in Policy NE5 of the Local Development Plan under which development will be permitted in the green belt. However, the applicants would point out that when assessing any proposal against planning policies it is a requirement that the aims behind the policies must be considered as well as their detailed wording (House of Lords decision on the case of *Edinburgh Council v the Secretary of State for Scotland* 1998 SLT 120).

3.6 Section 3.8 of the plan deals with the historic environment, and explains that this is important part of the local cultural heritage, and helps to enhance the local distinctiveness of the area. It goes on to explain that Scottish Planning Policy encourages local authorities to safeguard this historic environment through the land use planning system. Specific mention is made of gardens, designed landscapes and non-statutory landscape features. Within the context of this policy it can be appreciated that the applicants' intention to restore a historically important walled garden is the type of action that is being encouraged.

3.7 Policy EH4 of the Local Development Plan, "Gardens and Designed Landscapes", explains that such features make a significant contribution to the character of the area. Whilst the landscape at Seggieden is not on a formal list of protected sites, there is clear evidence that it has been the subject of a specific landscaping plan at the time the estate was being developed. However, as with other features within the estate, it has become overgrown and in need of

attention to restore the planned character. Such restoration is part of the applicants' long term plans.

3.8 Policy NE5 is concerned specifically with green belts, and is the single policy cited in the reason for refusal. Unfortunately, it does not set out explicitly the aims behind the policy, but simply lists the limited circumstances under which development will be permitted. It is a pity that the policy is written in such a negative way, as it does not allow for development which would have a positive impact and help maintain the character of the area, which seems to be a general objective in green belts. However, a note attached to the policy does explain that the Council intention to prepare supplementary guidance, one aim of which will be to achieve landscape enhancement, presumably such as that intended by the applicants.

3.9 Therefore, whilst the applicants accept that their proposed development does not fall within any of the categories of acceptable green belt development in Policy NE5, they do believe that what they propose would have a very positive impact in protecting and enhancing the local landscape character. When balancing this against any negative effect the development may have, there is a strong case for allowing this application for review.

#### **4.0 Conclusions.**

4.1 Seggieden is the site of a former country estate where evidence of the former structures and designed landscape are evident. Mr and Mrs Bowry wish to restore many of these features, and so return much of the original character back to the area. The site was included in a green belt designation in 2014 when the Local Development Plan was adopted, and it is for this reason alone that an earlier planning permission in principle for a house within the walled garden was not renewed.

4.2 It is accepted by the applicants that their proposed new house does not meet any of the criteria of Policy NE5 which specifies those limited types of development which are generally found acceptable in the green belt. However, in coming to the conclusion to refuse to renew the earlier permission, it is considered that no recognition was given to the environmental benefits which would result from the proposal. The restoration of the walled garden would be a significant

benefit both historically and environmentally, and the impact of the new house would be mitigated by the design limitations specified in the earlier planning permission.

4.3 We hope that members of the Local Review Body will have sympathy with the applicants' aims to restore much of their land holding, and will grant this review and so allow a start to be made on the restoration of a significant landscape and historic feature.





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## **PLANNING DECISION NOTICE**

## **REPORT OF HANDLING**

**REFERENCE DOCUMENT** *(part included in applicant's submission, see pages 891-898)*



# PERTH AND KINROSS COUNCIL

Mr And Mrs Bowry  
c/o Shand Architecture  
Stuart Shand  
Studio One  
Crook Of Devon  
Kinross  
KY13 0UL

Pullar House  
35 Kinnoull Street  
PERTH  
PH1 5GD

Date 07.01.2016

## TOWN AND COUNTRY PLANNING (SCOTLAND) ACT

Application Number: **15/01930/IPL**

I am directed by the Planning Authority under the Town and Country Planning (Scotland) Acts currently in force, to refuse your application registered on 13th November 2015 for permission for **Renewal of permission 12/01716/IPL (erection of a dwellinghouse in principle) Land 100 Metres South East Of Seggieden House Kinfauns** for the reasons undernoted.

Development Quality Manager

### Reasons for Refusal

1. The site falls within the area identified as greenbelt where Policy NE5 of the Proposed Local Development Plan 2012 applies. The proposal is contrary to policy NE5 as it does not lie in one of the categories of acceptable development outlined within the policy.
2. The proposal is contrary to Tayplan Policy 3 as it fails to preserve the setting and special character of the greenbelt or safeguard the countryside from inappropriate encroachment.

### 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](http://www.pkc.gov.uk) "Online Planning Applications" page

**Plan Reference**

**12/01716/IPL/1**

**12/01716/IPL/2**

**12/01716/IPL/3**

# REPORT OF HANDLING

## DELEGATED REPORT

Ref No	15/01930/IPL	
Ward No	N1- Carse Of Gowrie	
Due Determination Date	12.01.2016	
Case Officer	John Russell	
Report Issued by		Date
Countersigned by		Date

**PROPOSAL:** Renewal of permission 12/01716/IPL (erection of a dwellinghouse in principle)

**LOCATION:** Land 100 Metres South East Of Seggieden House Kinfauns

### 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 outweigh the Development Plan.

**DATE OF SITE VISIT:** 26 November 2015

### SITE PHOTOGRAPHS



### BACKGROUND AND DESCRIPTION OF PROPOSAL

The site is located outwith a settlement boundary, to the south of the A90 on a rectangular sloping plot extending to approximately 8400 sqm. This proposal seeks to renew consent for the erection of a single dwelling to the north (higher ground) of a traditional brick built walled garden. The walled garden related historically to Seggieden House and estate, which no longer exists.

## **SITE HISTORY**

12/01716/IPL Erection of dwellinghouse (in principle) 21 November 2012  
Application Permitted

## **PRE-APPLICATION CONSULTATION**

Pre application Reference: 12/00581/PREAPP

## **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**

TAYplan policy 3 is applicable to the assessment of this application. This requires the designation of the green belt to preserve settings, views and special character including their historic cores; assist in safeguarding the countryside from encroachment; to manage long term planned growth including infrastructure and define appropriate forms of development within the green belt based on Scottish Planning Policy.

### **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 PM4 - Settlement Boundaries**

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

#### **Policy NE5 - Green Belt**

Development in the Green Belt will only be allowed where it conforms with the 5 criteria set out. The Housing in the Countryside Policy RD3 does not apply in the Green Belt.

#### Policy EP4 - Health and Safety Consultation. Zones

Full account will be taken of advice from the Health and Safety Executive in determining planning applications for development within the consultation zones identified on the proposals and inset maps.

#### Policy NE1A - International Nature Conservation Sites

Development which could have a significant effect on a site designated or proposed as a Special Area of Conservation, Special Protection Area or Ramsar site will only be permitted where an Appropriate Assessment shows that the integrity of the site will not be adversely affected, there are no alternative solutions and there are imperative reasons of overriding public interest.

### OTHER POLICIES

#### **Development Contributions**

Sets out the Council's Policy for securing contributions from developers of new homes towards the cost of meeting appropriate infrastructure improvements necessary as a consequence of development.

### **CONSULTATION RESPONSES**

BP Consultations:- No concerns in principle however should the applicant wish to apply for full planning permission, we request that they liaise closely with our Wayleaves Office.

Local Flood Prevention Authority:- No response received.

Environmental Health:- No response received on this application but their comments on the previous application are still applicable. (Recommend that the applicant be required to submit a Noise Impact Assessment with any subsequent approval of matters application. This assessment should include proposed mitigation measures such that an acceptable level of amenity is ensured for the proposed property).

Scottish Natural Heritage:- No response received.

Perth and Kinross Heritage Trust:- No archaeological mitigation is required.

Contributions Officer:- This proposal is a renewal of an existing consent which pre-dated the adoption of the Transport Infrastructure Supplementary Guidance. The Guidance will not apply.

As this application is only "in principle" it is not possible to provide a definitive answer at this stage on the capacity of the primary school however it should be noted that the Developer Contributions Policy would apply to all new residential units with the exception of those outlined in the policy. The determination of appropriate contribution, if required, will be based on the status of the school when the full application is received.

Transport Planning:- No objection.

Scottish Water:- No response received.

Development Planning:- From a policy point of view the proposal is contrary to policy NE5: Green Belt.

## REPRESENTATIONS

No letters of representation have been received.

## 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

I have reviewed the report of handling for application 12/01716/IPL and agree with the recommendation made at that time and the weighting given to the proposed plan and green belt designation, reproduced below:-

*"The site lies in the green belt in the proposed LDP and the proposal would be contrary to the terms of policy NE5. However although the green belt designation has been established by TAYplan there are unresolved representations to both the detailed boundaries and the policy framework (some of which relate to the application of the housing in the countryside policy) which will have to be taken to the examination. Consequently it would*



*be premature to give any weight to the LDP until these representations have been heard and the adopted local plan and the recently approved housing in the countryside guide should be used when determining the application. On the basis of the above, it is considered appropriate to give more material weight to the extant plan.”*

The site history is an important material consideration in the determination of this application however as required by the planning Act I am required to take account of the now adopted development plans.

TayPlan 2012 requires a Green Belt to be designated around Perth as per Policy 3. The Green Belt boundary is now defined and incorporated into the adopted Perth and Kinross Local Development Plan 2014. Policy NE5 Greenbelt confirms that development in the Green Belt will only be permitted where it can be demonstrated that it is essential for agriculture, horticulture (including allotments) or forestry operations that are appropriate to the Green Belt. There is some scope within the policy for alterations, extensions or changes of use of existing buildings as well as some other developments including those for essential infrastructure or those that improve public access to the countryside and are appropriate to the character of the Green Belt.

Accordingly no support is gleaned from policy NE5 for the erection of a dwellinghouse accordingly it is contrary to Tayplan and the adopted Perth and Kinross Local Development Plan 2014.

I note that the earlier 2012 application was considered to comply with the housing in the countryside policy, however as the site is now located in the Green Belt the housing in the countryside policy is no longer applicable in the determination of this application and the proposal has no support via this policy.

### **Design and Layout**

No detailed house design is provided as this is an in principle application, although, the proposed dwelling footprint and associated infrastructure is shown on the proposed block plan. Conditional control could be applied to secure an appropriate layout and house design. However as noted above the principle of the application is contrary to the development plan.

### **Landscape**

The development is considered to conflict with the landscape aims of the greenbelt.

### **Residential Amenity**

There are no residential amenity concerns for neighbouring properties.

Environmental Health has recommended a Noise Impact Assessment (NIA) which should be submitted through the resultant reserved matters application

and incorporate mitigation measures to mitigate impacts from A90 traffic noise.

### **Roads and Access**

Transport Planning have no objection subject to conditions.

### **Drainage and Flooding**

Both SEPA and the Councils flooding officer, through the earlier application, have confirmed that the house location as proposed (albeit notional at this stage) is outwith the 1:200 year flood risk and would not on this basis advise against development.

### **Developer Contributions**

This proposal is a renewal of an existing consent which pre-dated the adoption of the Transport Infrastructure Supplementary Guidance. The Guidance will not apply.

As this application is only “in principle” it is not possible to provide a definitive answer at this stage on the capacity of the primary school. The determination of appropriate contribution, if required, would be based on the status of the school when the full/reserved matters application is received.

### **Economic Impact**

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

### **Conclusion**

I am acutely aware that if the renewal of this application is not allowed the 2012 application will lapse. I have discussed the weighting and balance that must be applied in the assessment of this proposal with the Council’s Legal Section and also taken account of the relevant case law (Pye v. The Secretary of State for the Environment and North Cornwall District Council 1998). In this case I consider the updated policy position carries more weight and the application to renew should be refused.

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 contrary to the approved TAYplan 2012 and 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**

### **Reasons for Recommendation**

- 1 The site falls within the area identified as greenbelt where Policy NE5 of the Proposed Local Development Plan 2012 applies. The proposal is contrary to policy NE5 as it does not lie in one of the categories of acceptable development outlined within the policy.
- 2 The proposal is contrary to Tayplan Policy 3 as it fails to preserve the setting and special character of the greenbelt or safeguard the countryside from inappropriate encroachment.

### **Justification**

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

### **Informatives**

None.

### **Procedural Notes**

Not Applicable.

## **PLANS AND DOCUMENTS RELATING TO THIS DECISION**

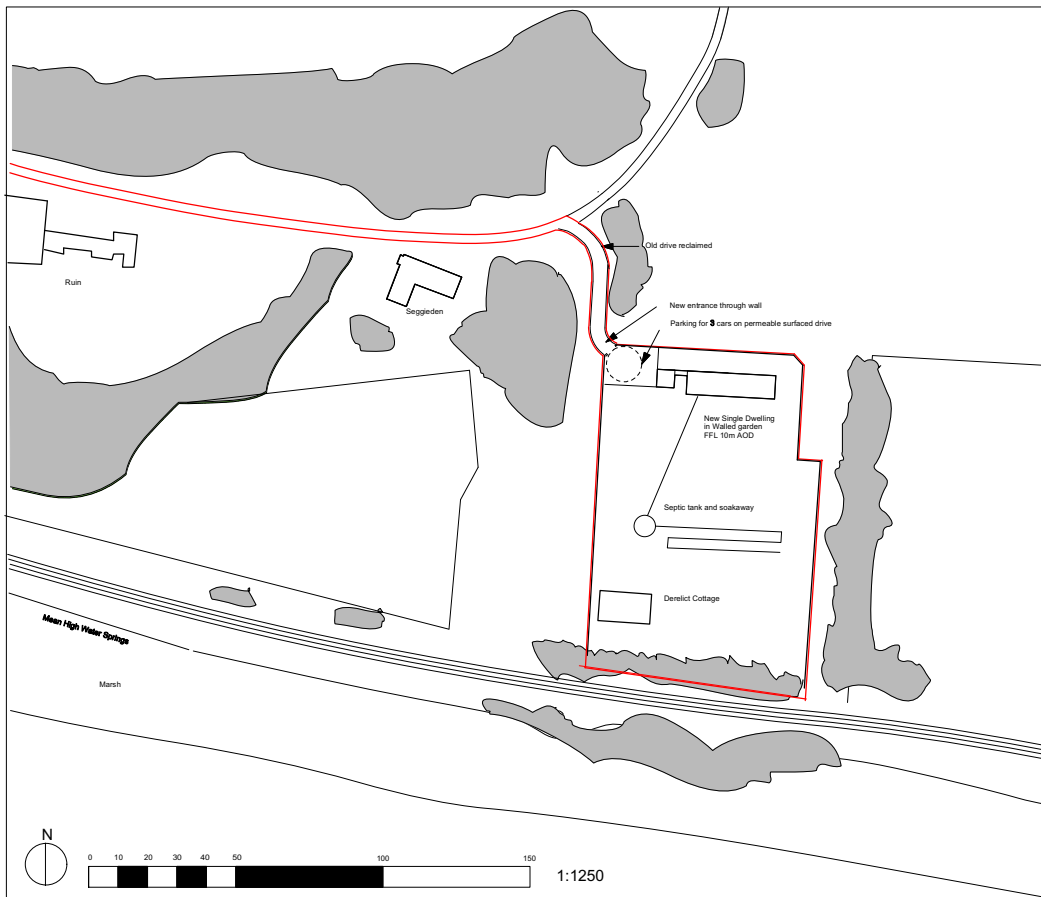
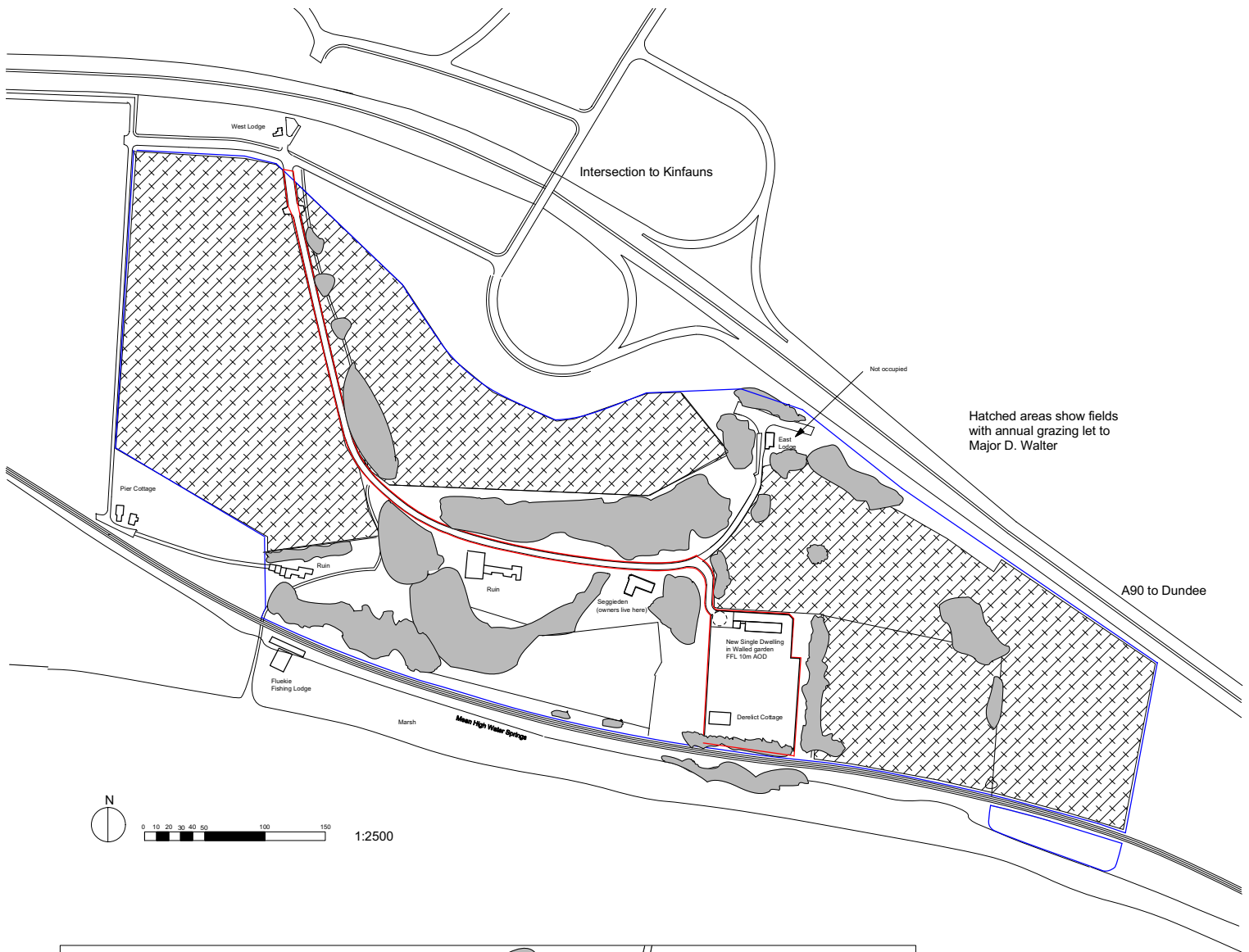
12/01716/IPL/1

12/01716/IPL/2

12/01716/IPL/3

**Date of Report 05.01.2016**





Walker Architecture  
Cedar House, Logie Road PH13 7TH  
01738880419 mark@walker-architecture.com

Mr & Mrs Bowry

Application for Permitted Development of  
Single dwelling in Walled Garden at Seggieden  
Kinfauns, Perth

30SK01  
Sept 2012





APPROXIMATE ROUTE OF BP FORTIES PIPELINE  
SEGGIEDEN, BY KINFAUNS.



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**TCP/11/16(402)**

**Planning Application – 15/01930/IPL – Renewal of permission 12/01716/IPL (erection of dwellinghouse in principle) land 100 metres south east of Seggieden House, Kinfauns**

## **REPRESENTATIONS**





**Ken W Smith**  
Northwood Wayleaves Consultancy

29 Northwood Park  
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Livingston  
EH54 8BD  
Email: [kwsmith1@virginmedia.com](mailto:kwsmith1@virginmedia.com)  
Mobile: 07340 603360

Attn: Nick Brian  
Perth and Kinross Council  
Planning and Development  
35 Kinnoull Street  
Perth  
PH1 5GD

Date: 3<sup>rd</sup> December 2015

Dear Sir,

**REFERENCE: 15/01930/IPL**

**RE: RENEWAL OF PERMISSION 12/01716/IPL (ERECTION OF A DWELLINGHOUSE IN PRINCIPLE), LAND 100 METRES SOUTH EAST OF SEGGIEDEN HOUSE, KINFAUNS for MR AND MRS BOWRY.**

We thank you for your recent consultation regarding the above planning application and advise you that we have no concerns in principle however should the applicant wish to apply for full planning permission, we request that they liaise closely with our Wayleaves Office.

Yours faithfully,

**Ken W Smith**  
Northwood Wayleaves Consultancy  
For and on behalf of  
**BP Exploration Operating Company Limited.**



## Comments to the Development Quality Manager on a Planning Application

<b>Planning Application ref.</b>	15/01930/IPL	<b>Comments provided by</b>	Euan McLaughlin
<b>Service/Section</b>	Strategy & Policy	<b>Contact Details</b>	<b>Development Negotiations Officer:</b> Euan McLaughlin Tel: 01738 475381 Email: <a href="mailto:emclaughlin@pkc.gov.uk">emclaughlin@pkc.gov.uk</a>
<b>Description of Proposal</b>	Renewal of permission 12/01716/IPL (erection of a dwellinghouse in principle)		
<b>Address of site</b>	Land 100 Metres South East Of Seggieden House Kinfauns for Mr And Mrs Bowry		
<b>Comments on the proposal</b>	<p><b>Primary Education</b></p> <p>With reference to the above planning application the Council 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.</p> <p>This proposal is within the catchment of Kinnoull Primary School.</p> <p><b>Transport Infrastructure</b></p> <p>With reference to the above planning application the Council Transport Infrastructure Developer Contributions Supplementary Guidance requires a financial contribution towards the cost of delivering the transport infrastructure improvements which are required for the release of all development sites in and around Perth.</p> <p>This proposal is a renewal of an existing consent which pre-dated the adoption of the Transport Infrastructure Supplementary Guidance. The Guidance will not apply.</p>		
<b>Recommended planning condition(s)</b>	<p><b>Primary Education</b></p> <p>As this application is only "in principle" it is not possible to provide a definitive answer at this stage however it should be noted that the Developer Contributions Policy would apply to all new residential units with the exception of those outlined in the policy. The determination of appropriate contribution, if required, will be based on the status of the school when the full application is received.</p>		
<b>Recommended informative(s) for applicant</b>	N/A		

Date comments returned	26 November 2015
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# Memorandum

To	Development Quality Manager	From	Regulatory Service Manager
Your ref	15/01930/IPL	Our ref	MP
Date	7 January 2015	Tel No	01738 476415

The Environment Service

Pullar House, 35 Kinnoull Street, Perth PH1 5GD

## **Consultation on an Application for Planning Permission**

**Re: Renewal of permission 12/01716/IPL (erection of a dwellinghouse in principle)  
Land 100 Metres South East Of Seggieden House Kinfauns for Mr And Mrs Bowry**

I refer to your letter dated 18 November 2015 in connection with the above application and have the following comments to make.

### **Environmental Health**

Recommendation

**I have no objection in principle to the application but recommend the under noted condition be included on any given consent.**

### **Comments**

This application is a resubmission of 12/01716/IPL, therefore I have reiterated Environmental Healths comments to that application below.

### **Noise**

The applicant proposes to build a new single dwelling inside a walled garden owned by the applicant, which is at present partly use for growing fruit and vegetables but is largely unused at the moment. There has been pre application discussion 12/00581/PREAP with the planning authority. The applicant already owns and lives in the existing property at Seggieden House.

The proposed property will be approximately 155 metres from the A9 Dundee Road and it is my contention that any future residents will be aware at times of road traffic noise from the A90. However there are already existing properties that a closer West Lodge, Seggieden which is approximately 20 metres from the A90 and East Lodge which is approximately 34 metres from A90, however according to the map submitted by applicants this property is not occupied.

Therefore, while there is existing housing located in closer proximity to the A90 in this area, I would advise that road traffic may be a material consideration in your assessment of residential amenity for future residents. I would further remind you that this Service has no powers to deal with noise complaints from road traffic noise.

Therefore, if you are minded to approve this application, I recommend that the applicant be required to submit a Noise Impact Assessment with any subsequent approval of matters application. This assessment should include proposed mitigation measures such that an acceptable level of amenity is ensured for the proposed property.

There are no letters of objections at the time of writing this memorandum.

### **Condition**

Development shall not begin until a noise impact assessment, to be executed by a suitably qualified consultant, has been submitted to and approved in writing by the planning authority. This assessment should include proposed mitigation measures such that an acceptable level of amenity is ensured for the proposed development.





To:	John Russell, Planning Officer
From:	Sarah Winlow, Heritage Officer (Maternity Cover)
Tel:	01738 477080
Email:	SWinlow@pkht.org.uk
Date:	11 <sup>th</sup> December 2015

**15/01930/IPL: Renewal of permission 12/01716/IPL (erection of a dwellinghouse in principle) Land 100 Metres South East Of Seggieden House Kinfauns for Mr And Mrs Bowry**

Thank you for consulting PKHT on the above application.

In respect to archaeology and the planning process, as outlined by Scottish Planning Policy paragraphs 135-151, the proposed development does not raise issues. No archaeological mitigation is required.



### Comments to the Development Quality Manager on a Planning Application

<b>Planning Application ref.</b>	15/01930/IPL	<b>Comments provided by</b>	Katrina Walker
<b>Service/Section</b>	Development Plans	<b>Contact Details</b>	76509
<b>Description of Proposal</b>	Renewal of permission 12/01716/IPL (erection of a dwellinghouse in principle)		
<b>Address of site</b>	Land 100 Metres South East Of Seggieden House, Kinfauns		
<b>Comments on the proposal</b>	<p>The proposed site is covered by the Green Belt designation and is within the Sidlaw Hills Special Landscape Area. LDP policies of relevance are NE5: Green Belt, and ER6: Managing Future Landscape Change. TAYplan Policy 3: Managing TAYplan's Assets is also relevant. LDP Policy RD3: Housing in the Countryside does not apply within the Green Belt.</p> <p>TAYplan Policy 3 requires the LDP to designate a Green Belt boundary at Perth to preserve its setting, views and special character; assist in safeguarding the countryside from encroachment; to manage long term planned growth; and define appropriate forms of development within the Green Belt. LDP policy NE5 is a restrictive policy which only permits development within the Green Belt in specific limited circumstances. The only circumstances under which a new house may be permitted within the Green Belt under the current policy is either via the change of use of an existing building, or if it can be demonstrated that it is essential for agriculture, horticulture, or forestry operations appropriate to the Green Belt.</p> <p>Policy ER6 permits development proposals which do not conflict with the aim of maintaining and enhancing the landscape qualities of Perth &amp; Kinross. 7 criteria are listed against which proposals should be assessed. The Landscape Supplementary Guidance objectives for the Sidlaw Hills SLA include the requirement to ensure high design quality of new development within this landscape. Compliance against policy ER6 would therefore require to be assessed at full application stage.</p> <p>There is an existing in principal consent for a house on this site which was approved prior to the designation of the Green Belt. The applicant is seeking to extend this consent which was due to expire on 21 November. This application was submitted prior to the expiry of that consent and this may have some bearing on how the application is determined. From a policy point of view, however, the proposal is contrary to policy NE5: Green Belt and cannot therefore be supported.</p>		
<b>Recommended planning condition(s)</b>			

<b>Recommended informative(s) for applicant</b>	
<b>Date comments returned</b>	1/12/15

### Comments to the Development Quality Manager on a Planning Application

<b>Planning Application ref.</b>	15/01930/IPL	<b>Comments provided by</b>	Niall Moran
<b>Service/Section</b>	Transport Planning	<b>Contact Details</b>	x76512
<b>Description of Proposal</b>	Renewal of permission 12/01716/IPL (erection of a dwellinghouse in principle)		
<b>Address of site</b>	Land 100 Metres South East Of Seggieden House Kinfauns		
<b>Comments on the proposal</b>	Insofar as the Roads matters are concerned I do not object to the proposed renewal of this permission.		
<b>Recommended planning condition(s)</b>			
<b>Recommended informative(s) for applicant</b>			
<b>Date comments returned</b>	9 December 2015		

