

**TCP/11/16(556) – 18/01176/IPL – Residential Development  
(in principle) on land 60 metres south west of Burnside  
House, Benarty Road, Kelty**

## **INDEX**

- (a) Papers submitted by the Applicant (***Pages 963-1064***)
- (b) Decision Notice (***Pages 1051-1061***)
  - Report of Handling (***Pages 1063-1064***)
  - Reference Documents (***Pages 995-1009***)
- (c) Representations (***Pages 1067-1084***)
- (d) Further Information (***Pages 1085-1108***)



**TCP/11/16(556) – 18/01176/IPL – Residential Development  
(in principle) on land 60 metres south west of Burnside  
House, Benarty Road, Kelty**

**PAPERS SUBMITTED  
BY THE  
APPLICANT**





# NOTICE OF REVIEW

Under Section 43A(8) Of the Town and County 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 2013

**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.**

**PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS ELECTRONICALLY VIA <https://www.eplanning.scot>**

1. Applicant's Details		2. Agent's Details (if any)	
Title		Ref No.	
Forename		Forename	Andrew
Surname		Surname	Bennie
Company Name	Lomond Group (Scotland) Ltd	Company Name	Andrew Bennie Planning Ltd
Building No./Name	Unit 5, Lomond Business Park	Building No./Name	
Address Line 1	Baltimore Road	Address Line 1	3 Abbots Court
Address Line 2		Address Line 2	
Town/City	Glenrothes	Town/City	Dullatur
Postcode	KY6 2PJ	Postcode	G68 0AP
Telephone		Telephone	
Mobile		Mobile	07720 700210
Fax		Fax	
Email		Email	andrew@andrewbennieplanning.com
<b>3. Application Details</b>			
Planning authority		Perth & Kinross Council	
Planning authority's application reference number		18/01176/IPL	
Site address			
Land 60m south west of Burnside House, Benarty Road, Kelty			
Description of proposed development			
Erection of Residential Development (in principle).			

Date of application 4/7/18

Date of decision (if any) 15/8/18

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

#### 4. Nature of Application

Application for planning permission (including householder application)

☐

Application for planning permission in principle

☒

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)

☐

Application for approval of matters specified in conditions

☐

#### 5. Reasons for seeking review

Refusal of application by appointed officer

☒

Failure by appointed officer to determine the application within the period allowed for determination of the application

☐

Conditions imposed on consent by appointed officer

☐

#### 6. 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.

Further written submissions

☐

One or more hearing sessions

☐

Site inspection

☒

Assessment of review documents only, with no further procedure

☐

If you have marked either of the first 2 options, 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 necessary.

#### 7. Site inspection

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

Can the site be viewed entirely from public land?

☒

Is it possible for the site to be accessed safely, and without barriers to entry?

☐

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

## 8. 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 refer to attached Statement in Support of Request to Review.

Have you raised any matters which were not before the appointed officer at the time your application was determined? Yes ☒ No ☐

If yes, please explain below a) why your are raising new material b) why it was not raised with the appointed officer before your application was determined and c) why you believe it should now be considered with your review.

The Request to Review is accompanied by a Tree Survey Report, the requirement for which was not known or anticipated prior to the application being refused and as such could not have been produced at an earlier stage.

## 9. 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

Please refer to the attached Schedule of Review Documents.

**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.

## 10. Checklist

Please mark the appropriate boxes to confirm that 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 requesting 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 hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents. I hereby confirm that the information given in this form is true and accurate to the best of my knowledge.

Signature:  Name: Andrew Bennie Date: 25/9/18

Any personal data that you have been asked to provide on this form will be held and processed in accordance with Data Protection Legislation.

STATEMENT IN SUPPORT OF LOCAL REVIEW  
RELATIVE TO THE REFUSAL OF  
PLANNING APPLICATION REFERENCE  
18/01176/IPL

3 Abbotts Court  
Dullatur  
G68 0AP

Tel: 07720 700210

E-mail: [andrew@andrewbennieplanning.com](mailto:andrew@andrewbennieplanning.com)

September 2018

**COPYRIGHT**

The contents of this report must not be reproduced in whole or in part without the formal written approval of Andrew Bennie Planning Limited.

## **CONTENTS**

- 1.0 Introduction
- 2.0 Proposals Subject to Review
- 3.0 Reasons for Requesting Review
- 4.0 Review Procedure
- 5.0 Additional Documentation
- 6.0 Grounds of Review
- 7.0 Summary

Appendix 1: Notice of Review Form

Appendix 2: Schedule of Documents

Appendix 3: Review Documents (on CD)

## **1.0 INTRODUCTION**

- 1.1 This Statement has been prepared by Andrew Bennie Planning Limited on behalf of Lomond Group (Scotland) Ltd in support of their request that the Planning Authority, under the provisions of Section 43A of the Town and Country Planning (Scotland) Act 1997 Review the decision of the Appointed Person to refuse planning permission in respect of planning application reference 18/01176/IPL.
- 1.2 This Statement should be read in conjunction with the matters set out within the completed Notice of Review Form, a copy of which is included at Appendix 1 of this Statement.

## **2.0 PROPOSALS SUBJECT TO REVIEW**

- 2.1 Under the terms of planning application reference 18/01176/IPL, planning permission in principle was sought for the formation of two dwelling houses on that land, which extends to 0.41ha in area, that comprises the application site, hereinafter referred to as the "Site".
- 2.2 The proposed house plots would be oriented on a northwest/southeast axis.
- 2.3 Whilst no details of the proposed dwelling houses which would be erected on these two plots are put forward for approval as part of the application, all such matters being reserved for approval at the "matters specified by condition" stage, the Proposed Site Plan which is submitted in support of this application demonstrates how two dwelling houses featuring a footprint of circa 230m<sup>2</sup> could be accommodated on each of the plots.
- 2.4 Each of the proposed plots would be accessed directly off Benarty Road, which forms the northern boundary of the Site.
- 2.5 The existing woodland, which bounds the Site to the south and west, would be retained as part of the proposed development.



### **3.0 REASONS FOR REQUESTING THE REVIEW**

- 3.1 On the basis of the Grounds of Review, which are set out within Section 5.0 of this Statement, it is submitted that the appointed person has failed to provide sufficient reasons to reasonably justify the refusal of this planning application when considered against the relevant provisions of the development plan.
- 3.2 Rather, it is submitted that the application proposals can be both fully and reasonably justified against the relevant provisions of the development plan and that the proposed development would not give rise to any demonstrable adverse impacts upon the established amenity of the surrounding area.
- 3.3 Consequently, this Review is put forward on the basis of the unreasonable and unjustifiable refusal of the planning application in question.

#### **4.0 REVIEW PROCEDURE**

- 4.1 In addition to consideration of those matters, which are set out within the Notice of Review Form and this Statement, it is requested that the Local Review Body also carry out an accompanied inspection of the application site.
- 4.2 Given the nature of the application proposals, it is considered that the carrying out of an accompanied site inspection represents the best means of allowing the Local Review Body to gain a full and proper understanding of the nature of the proposed development when considered within the context of the adjacent building group and of the lack of impact that the application proposals would have upon the surrounding area and in turn the extent to which the proposals can be reasonably justified against the relevant provisions of the adopted Local Development Plan.

## **5.0 ADDITIONAL DOCUMENTATION**

- 5.1 In addition to that documentation which was lodged in support of the application which forms the basis of this Request to Review, the documentation which supports this Review includes one additional document (see Document 5 within Appendix 3) which was not before the Appointed Person at the point at which the application was determined.
- 5.2 This additional document takes the form of a Tree Survey Report, which is produced as a means of responding to and addressing the third stated reason for the refusal of the application.
- 5.3 As such a report was not requested during the course of the Appointed persons consideration of the application and would have been provided timeously had such a request been made, noting also that no such report was required in relation to any of the previous applications which relate to the wider area of which the Site forms part, the need for this specific report could not have been anticipated prior to the terms of the refusal of the application being formally notified to the applicant.
- 5.4 Accordingly, it is respectfully requested that the Local Review Body allow for the submission of this additional document as part of this Review.

## **6.0 GROUNDS OF REVIEW**

- 6.1 The application which forms the basis of this Review, was refused planning permission on the basis of the reasons set out below:

**"1: By virtue of the sites lack of a suitable landscape containment, the proposal fails to accord with the requirements of Policy RD3 of Perth and Kinross Council's adopted Local Development Plan 2014 and Perth and Kinross Council's Housing in the Countryside Guide 2012, both of which require all new developments that extend an existing building group to take place in a definable site formed by existing topography and or well established landscape features which would provide a suitable setting.**

**2: As the proposal would not respect the existing building pattern of the area, the proposal is contrary to the requirements of Policy RD3 of Perth and Kinross Council's adopted Local Development Plan 2014 and Perth and Kinross Council's Housing in the Countryside Guide 2012, both of which require all new developments which extend an existing building group to respect the character, layout and building pattern of the existing group.**

**3: No tree survey has been submitted as part of the planning submission. There are trees on the planning application which are potentially affected by the development. To this end, the planning submission is contrary to Policy NE2B of Perth and Kinross Council's adopted Local Development Plan which states that Tree surveys, undertaken by a competent person, should accompany all applications for planning permission where there are existing trees on a site."**

- 6.2 A full copy of the Decision Notice on this application is provided at Document 7, within Appendix 3 of this Statement.
- 6.3 Our response to the stated reason for the refusal of planning application reference 18/01176/IPL is set out below.
- 6.4 Section 25 of the Town and Country Planning (Scotland) Act 1997 provides that:

**"Where in making any determination under the Planning Act, regard is to be had to the development plan, the determination shall be in accordance with the plan unless material considerations indicate otherwise".**

- 6.5 Section 37(2) of the Act further provides that in dealing with applications for planning permission:

**"... the Authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations."**

- 6.6 For the purposes of the determination of this Review, the current, approved development plan covering the application site comprises the approved TAYplan Strategic Development Plan and the adopted Perth and Kinross Local Development Plan (adopted 3<sup>rd</sup> February 2014).
- 6.7 Given the scale of the development to which this Review relates and as it does not give rise to any issues, which are a strategic consequence to the provisions of the TAYplan Strategic Development Plan, the terms of the TAYplan are not considered further within this Statement.

#### **Reason for Refusal 1**

- 6.8 The first stated reason for the refusal of this planning application states that:

**1: By virtue of the sites lack of a suitable landscape containment, the proposal fails to accord with the requirements of Policy RD3 of Perth and Kinross Council's adopted Local Development Plan 2014 and Perth and Kinross Council's Housing in the Countryside Guide 2012, both of which require all new developments that extend an existing building group to take place in a definable site formed by existing topography and or well established landscape features which would provide a suitable setting.**

- 6.9 Within the policy context which is created under the terms of Policy RD3 of the adopted Local Development Plan and the in light of the matters which are set out within the Housing in the Countryside Guide, it is clear that the Council have adopted a generally permissive approach in relation to the principle of the potential development of new housing in the countryside.
- 6.10 It is beyond doubt that the existing group of residential properties on Benarty Road, which lie to the immediate east of the Site, which include a number of recently constructed

dwelling houses, meet the definition of a "Building Group" as set out within the Housing in the Countryside Guide.

- 6.11 Given the specific nature of the Site to which this proposed development relates, it is considered that support for its development as proposed, can be drawn from those aspects of Policy RD3 and the Housing in the Countryside Guide, which relate to additions to "Building Groups".
- 6.12 The Guide makes clear that additions to existing building groups, either in the form of single or multiple houses, will be permitted where such houses extend the existing group into definable sites.
- 6.13 In referring to definable sites, it is understood that what is meant in this regard is that qualifying sites should have well defined boundaries, formed by existing topographical features of landscaping, which can be used to determine the outer limits of the site and which can thereafter be used to defend against any further development from taking place beyond the boundaries of the site.
- 6.14 The Site to which this Request to Review relates is bounded to the north by the line of Benarty Road, to the east by existing dwelling houses and to the south and west by both existing mature woodland and also by the line of a minor water course.
- 6.15 Recent photographs of the Site are provided at Document X within Appendix 3.
- 6.16 As a direct consequence of the nature of the established boundaries, which delineate the full extent of the Site, it is considered that the Site itself would meet any reasonable definition or understanding of what would constitute a "definable site" and that to this end, the development of the Site as proposed under this application would be in accordance with the terms of the Housing in the Countryside Guide.
- 6.17 It is also of significant relevance to note that as a direct consequence of the nature of the Sites southern and western boundaries, there is no prospect of any further development taking place to the west of the Site, with it being further considered that land to the north of the Site would be precluded from potential development due to the lack of any "defined site" characteristics.
- 6.18 Accordingly, it is considered that the proposals, which are subject to this Review, represent the last reasonable or justifiable opportunity to extend the existing building group further

on its western side and that due to the lack of "definable sites" beyond the boundary of the Site, this development will not lead to any further

- 6.19 These consideration leads obviously to the conclusion that the proposed development can be fully and reasonably justified against the provisions of Policy RD3 insofar as the proposed development represents and extension of an existing "building group".
- 6.20 With specific regards to the consideration of the proposals to which is Review relates against the requirements of those criteria (a)-(m), listed within The Housing in the Countryside Guide, it is submitted that criterion (a), (c), (f), (i), (j), (k) and (m) are of relevance to the determination of this application.
- 6.21 When the proposals under Review are considered against the above noted criterion, the following conclusions are drawn:
- (a) When assessed against the terms of the Council's "Guidance on the Siting and Design of Houses in Rural Areas", notwithstanding that this application seeks only to establish the principle of the erection of two dwelling houses on the Site, there is no reasonable basis upon which, within the context of the existing housing on Benarty Road (which include a number of newly constructed houses) that it could be reasonably concluded that the Site would not be capable of supporting a development that would meet in full the design requirements which are set out within this Guidance.
  - (c) The Site can be provided with a satisfactory means of both pedestrian and vehicular access via Benarty Road, over which the applicant enjoys full rights of access.
  - (f) Whilst the application seeks only to establish the principle of the proposed development of the Site, it is intended that externally, each of the proposed dwelling houses will be finished in materials to match and reflect those used on the adjacent dwelling houses on Benarty Road, with it being submitted that the precise details of the proposed external finishes can be fully and reasonably controlled via conditions attached to any planning permission issued pursuant to this application.
  - (i) To reflect and address the requirements of this criterion, it is intended that the design of each of the proposed dwelling house will make provision for the creation of a dedicated study room, which would meet on full the requirements of this criterion.

- (j) The proposed development is not considered too be in conflict with any other policies and proposals contained within the Plan.
- (k) The proposed development will have no adverse impact upon any identified biodiversity assets.
- (m) Whilst the application seeks only to establish the principle of the erection of two dwelling houses on the Site, there is no reasonable basis upon which it could be concluded that dwelling houses of an appropriate scale, layout and design could not be satisfactorily accommodated on the Site or that the erection of these dwelling houses could not, as is the case with the recently constructed dwelling houses to the east of the Site on Benarty Road, be suitably and successfully integrated into the wider landscape setting of the Site.

6.22 Accordingly, and in light of the matters set out above, it is submitted that the proposed development can be fully and reasonably justified against the relevant criteria set out with The Housing in the Countryside Guide.

6.23 Accordingly, it is our respectful submission that the terms of the first stated reason for the refusal of the application to which this Request to Review relates cannot be reasonably or justifiably defended.

6.24 In line with the provisions of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997, as amended, in determining this Review, it is necessary also to give due consideration to any other relevant material considerations.

6.25 To this end, it is submitted that the matters set out within the consultation responses, which have been received in relation to the application proposals and the planning history, which relates to the recent development of those dwelling houses which are located to the immediate east side of the application site, are of material relevance to the determination of this Review.

6.26 With regards to the first of these issues, it is of significance to note that none of the parties who have been consulted with as part of the Appointed Persons consideration of this application have offered any objection thereto. Consequently, it is reasonable to conclude that there are no "technical" issues, which would support the refusal of the application, with this conclusion being supported by the specific terms of the stated reasons for the refusal of the application.



- 6.27 With respect to the second of these two issues, it is considered that the planning permission granted by the Council, and the planning considerations which supported the same, in respect of those recently constructed dwelling houses which lie to the immediate east side of the application site are of direct material relevance to the determination of this Request to Review.
- 6.28 It is clear from the pre-development nature and characteristics of the site of these adjacent houses, which themselves were granted planning permission as an extension to the original building group on the north side of Benarty Road, that said site was strikingly similar to the site of the application which forms the basis of this Request to Review, with it being submitted that said site benefited from no greater degree of definition or containment when compared with the site of my clients application.
- 6.29 This being the case, it is submitted that it is wholly unreasonable for the Appointed Person to seek to impose a higher standard of site assessment in respect of this application when compared to that which was applied during and as part of the considerations which led up to the granting of planning permission in relation to the adjacent houses to the immediate east side of my clients site.
- 6.30 **Given the matters set out above, it is considered that having regard to the terms and provisions of Policy RD3 and the Housing in the Countryside Guide, the proposed development can be fully and reasonably justified.**

#### **Reason for Refusal 2**

- 6.31 The second stated reason for the refusal of this planning application states that:

**"As the site would not respect the existing building pattern of the area, the proposal is contrary to the requirements of Policy RD3 of Perth and Kinross Council's Local Development Plan 2014 and Perth and Kinross Council's Housing in the Countryside Guide 2012, both of which require all new developments which extend an existing building group to respect the character, layout and building pattern of the existing group."**

- 6.32 As has been noted above, the original building group on Benarty Road, which in its "original" form lay on the north side of the road only, has been extended at various points in the past, both on the north side of the road, as is evident from the age range of the

housing on this side of the road, and more recently, in line with the development which was granted planning permission for land lying to the immediate east side of the Site.

- 6.33 It is clear therefore that historically, the building group on Benarty Road has extended in a linear fashion first of all on the north side of the road and then more recently, and similarly in a linear fashion to the south side of the road.
- 6.34 The nature of the development, which is proposed under this application can therefore be reasonably and justifiably be considered to represent a logical and natural continuation of the manner in which this building group has extended over time, with it being of further relevance to note that the site, which is the subject of this Request to Review, represents to last opportunity to extend the building group on it western side.
- 6.35 It is as a consequence of this that it is submitted that there is no reasonable or justifiable basis upon which it can be asserted that the proposed development would be in any way at odds with or detrimental to the character, layout and building pattern of the existing building group.
- 6.36 **As such, it is submitted that on any reasonable measure, the proposed development is respectful of the existing building pattern in the area and that as such, the proposed development can be appropriately justified against the provision of Policy RD3 and the Housing in the Countryside Guide with regards to this specific issue and that the Appointed Person has failed to justify their position to the contrary.**

### **Reason for Refusal 3**

- 6.37 The third and final stated reason for the refusal of the application states that:

**No tree survey has been submitted as part of the planning submission. There are trees on the planning application which are potentially affected by the development. To this end, the planning submission is contrary to Policy NE2B of Perth and Kinross Council's adopted Local Development Plan which states that Tree surveys, undertaken by a competent person, should accompany all applications for planning permission where there are existing trees on a site.**

- 6.38 Given the nature of the recent planning history relating to the Site, and in the absence of any request on the part of the Appointed Person to submit the same during the course of the

consideration of the planning application, the need to provide an appropriate tree survey in support of the application could not have been predicted in advance and only became known after the application was determined by the Appointed Person.

6.39 A Tree Survey has however now been undertaken in respect of the Site and is submitted in support of this Request to Review (see Document X within Appendix 3).

6.40 This Tree Survey demonstrates that none of the trees within the vicinity of the Site will be affected by the proposed development.

6.41 **Consequently, it is respectfully submitted that the proposed development of the Site can, in light of the submission of the Tree Survey and taking into account the findings set out therein, be fully and reasonably justified against the provisions of Policy NE2B and that as such, the third stated reason for the refusal of the application can no longer be reasonably supported or justified.**

## 7.0 SUMMARY

- 7.1 It is my respectful submission that the Appointed Person has failed to adequately demonstrate that the proposed development cannot be fully and reasonably justified against the relevant provisions of the adopted development plan and that accordingly the decision to refuse the application cannot be reasonably or unjustifiably supported.
- 7.2 Furthermore, it is submitted that when a full and proper assessment of the merits of the application proposal is undertaken against the relevant provisions of the development plan, the principle of the development of the application site for residential development purposes can be fully and reasonably justified, and having had regard to those material considerations which are considered to be of relevance to the determination of this Review, no matters have been identified which would outweigh the acceptability of the proposed development based upon the provisions of the development plan.
- 7.3 The proposed development can also be fully and reasonably justified against the provisions of the Council's "Housing in the Countryside Guide", which adds further weight to the acceptability of the proposed development based upon development plan considerations.
- 7.4 **Taking into account all of those matters set out above, I would respectfully request that the Local Review Body uphold this Review and in so doing, grant planning permission in principle pursuant to planning application reference 18/01176/IPL.**

## **Schedule of Review Documents**

### **Planning Application Ref: 18/01176/IPL**

- Document 1: Application Forms
- Document 2: Location/Block Plan
- Document 3: Planning Statement
- Document 4: Flood Risk Assessment
- Document 5: Tree Condition Survey
- Document 6i: Site Photograph
- Document 6ii: Site Photograph
- Document 7: Report of Handling
- Document 8: Decision Notice





Pullar House 35 Kinnoull Street Perth PH1 5GD Tel: 01738 475300 Fax: 01738 475310 Email: [onlineapps@pkc.gov.uk](mailto:onlineapps@pkc.gov.uk)

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100127333-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Type of Application

What is this application for? Please select one of the following: \*

- ☐ Application for planning permission (including changes of use and surface mineral working).
- ☒ Application for planning permission in principle.
- ☐ Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- ☐ Application for Approval of Matters specified in conditions.

## Description of Proposal

Please describe the proposal including any change of use: \* (Max 500 characters)

In Principle application for two detached dwellings.

Is this a temporary permission? \*

☐ Yes ☒ No

If a change of use is to be included in the proposal has it already taken place?  
(Answer 'No' if there is no change of use.) \*

☐ Yes ☒ No

Has the work already been started and/or completed? \*

☒ No ☐ Yes – Started ☐ Yes - Completed

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☐ Applicant ☒ Agent

## Agent Details

Please enter Agent details

Company/Organisation:	Andrew Bennie Planning Ltd		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Andrew	Building Name:	
Last Name: *	Bennie	Building Number:	3
Telephone Number: *	07720 700210	Address 1 (Street): *	Abbotts Court
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Dullatur
Fax Number:		Country: *	UK
		Postcode: *	G68 0AP
Email Address: *	andrew@andrewbennieplanning.com		
Is the applicant an individual or an organisation/corporate entity? *			
<input type="checkbox"/> Individual <input checked="" type="checkbox"/> Organisation/Corporate entity			

## Applicant Details

Please enter Applicant details

Title:		You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	Unit 5
First Name: *		Building Number:	
Last Name: *		Address 1 (Street): *	Lomond Business Park
Company/Organisation	Lomond Group (Scotland) Ltd	Address 2:	Baltimore Road
Telephone Number: *		Town/City: *	Glenrothes
Extension Number:		Country: *	UK
Mobile Number:		Postcode: *	KY6 2PJ
Fax Number:			
Email Address: *			



## Site Address Details

Planning Authority:

Perth and Kinross Council

Full postal address of the site (including postcode where available):

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Northing

695802

Easting

314664

## Pre-Application Discussion

Have you discussed your proposal with the planning authority? \*

☐ Yes ☒ No

## Site Area

Please state the site area:

0.41

Please state the measurement type used:

☒ Hectares (ha) ☐ Square Metres (sq.m)

## Existing Use

Please describe the current or most recent use: \* (Max 500 characters)

Vacant land

## Access and Parking

Are you proposing a new altered vehicle access to or from a public road? \*

☒ Yes ☐ No

If Yes please describe and show on your drawings the position of any existing. Altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

<p>Are you proposing any change to public paths, public rights of way or affecting any public right of access? * <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.</p>
<h2 style="margin: 0;">Water Supply and Drainage Arrangements</h2> <p>Will your proposal require new or altered water supply or drainage arrangements? * <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span></p>
<p>Are you proposing to connect to the public drainage network (eg. to an existing sewer)? *</p> <p><input type="checkbox"/> Yes – connecting to public drainage network</p> <p><input checked="" type="checkbox"/> No – proposing to make private drainage arrangements</p> <p><input type="checkbox"/> Not Applicable – only arrangements for water supply required</p>
<p>As you have indicated that you are proposing to make private drainage arrangements, please provide further details.</p> <p>What private arrangements are you proposing? *</p> <p><input checked="" type="checkbox"/> New/Altered septic tank.</p> <p><input type="checkbox"/> Treatment/Additional treatment (relates to package sewage treatment plants, or passive sewage treatment such as a reed bed).</p> <p><input type="checkbox"/> Other private drainage arrangement (such as chemical toilets or composting toilets).</p>
<p>What private arrangements are you proposing for the New/Altered septic tank? *</p> <p><input type="checkbox"/> Discharge to land via soakaway.</p> <p><input checked="" type="checkbox"/> Discharge to watercourse(s) (including partial soakaway).</p> <p><input type="checkbox"/> Discharge to coastal waters.</p>
<p>Please explain your private drainage arrangements briefly here and show more details on your plans and supporting information: *</p> <div style="border: 1px solid black; padding: 10px; min-height: 80px;"> <p>Klargester Biodisc (or similar), leading to gravel trench, with high-level overflow to Kinnaird Burn</p> </div>
<p>Do your proposals make provision for sustainable drainage of surface water?? * <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>(e.g. SUDS arrangements) *</p> <p>Note:-</p> <p>Please include details of SUDS arrangements on your plans</p> <p>Selecting 'No' to the above question means that you could be in breach of Environmental legislation.</p>
<p>Are you proposing to connect to the public water supply network? *</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No, using a private water supply</p> <p><input type="checkbox"/> No connection required</p> <p>If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).</p>

## Assessment of Flood Risk

Is the site within an area of known risk of flooding? \*

☒ Yes ☐ No ☐ Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? \*

☐ Yes ☒ No ☐ Don't Know

## Trees

Are there any trees on or adjacent to the application site? \*

☒ Yes ☐ No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

## All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? \*

☐ Yes ☒ No

## Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013? \*

☐ Yes ☒ No ☐ Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

## Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? \*

☐ Yes ☒ No

## Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? \*

☐ Yes ☒ No

Is any of the land part of an agricultural holding? \*

☐ Yes ☒ No

Are you able to identify and give appropriate notice to ALL the other owners? \*

☒ Yes ☐ No

## Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate B

## Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

I hereby certify that

(1) - No person other than myself/the applicant was an owner [Note 4] of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application;

or –

(1) - I have/The Applicant has served notice on every person other than myself/the applicant who, at the beginning of the period of 21 days ending with the date of the accompanying application was owner [Note 4] of any part of the land to which the application relates.

Name:

Mr James Thomson

Address:

[REDACTED]

Date of Service of Notice: \*

04/07/2018

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding;

or –

(2) - The land or part of the land to which the application relates constitutes or forms part of an agricultural holding and I have/the applicant has served notice on every person other than myself/himself who, at the beginning of the period of 21 days ending with the date of the accompanying application was an agricultural tenant. These persons are:

Name:

Address:

Date of Service of Notice: \*

Signed: Andrew Bennie

On behalf of: Lomond Group (Scotland) Ltd

Date: 04/07/2018

☒ Please tick here to certify this Certificate. \*

## Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? \*

☐ Yes ☐ No ☒ Not applicable to this application

b) If this is an application for planning permission or planning permission in principle where there is a crown interest in the land, have you provided a statement to that effect? \*

☐ Yes ☐ No ☒ Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? \*

☐ Yes ☐ No ☒ Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? \*

☐ Yes ☐ No ☒ Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? \*

☐ Yes ☐ No ☒ Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? \*

☐ Yes ☐ No ☒ Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

☒ Site Layout Plan or Block plan.

☐ Elevations.

☐ Floor plans.

☐ Cross sections.

☐ Roof plan.

☐ Master Plan/Framework Plan.

☐ Landscape plan.

☐ Photographs and/or photomontages.

☐ Other.

If Other, please specify: \* (Max 500 characters)

Provide copies of the following documents if applicable:

A copy of an Environmental Statement. \*

☐ Yes ☒ N/A

A Design Statement or Design and Access Statement. \*

☒ Yes ☐ N/A

A Flood Risk Assessment. \*

☐ Yes ☒ N/A

A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). \*

☐ Yes ☒ N/A

Drainage/SUDS layout. \*

☐ Yes ☒ N/A

A Transport Assessment or Travel Plan

☐ Yes ☒ N/A

Contaminated Land Assessment. \*

☐ Yes ☒ N/A

Habitat Survey. \*

☐ Yes ☒ N/A

A Processing Agreement. \*

☐ Yes ☒ N/A

Other Statements (please specify). (Max 500 characters)

## Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mr Derek Grubb

Declaration Date: 04/07/2018

## Payment Details

Cheque:

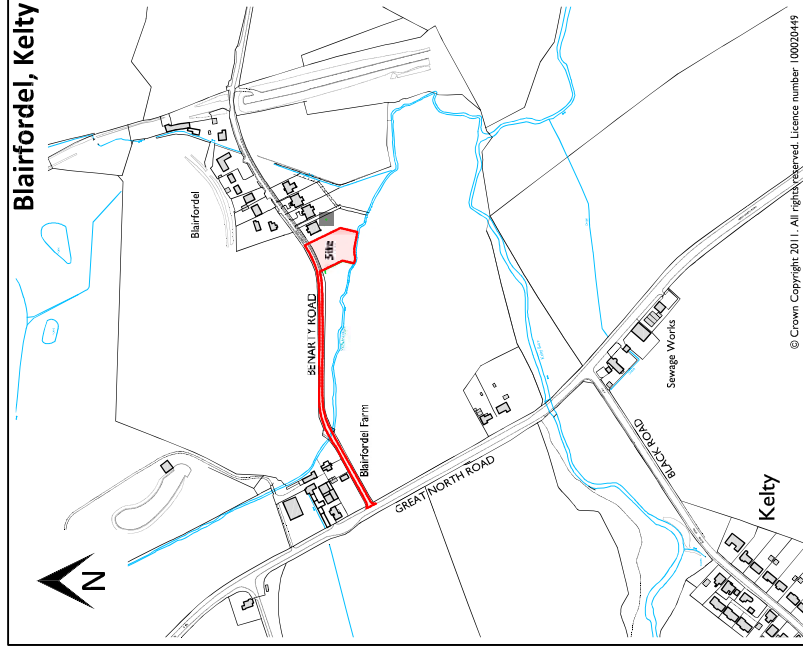


Created: 04/07/2018 14:47

# Block Plan



# Location Plan



Rev'n	Date	Description	By
-------	------	-------------	----

© DX2 Consultancy Ltd 2013. All rights reserved.

Project / Client:

**Proposed Dwellinghouses**  
at Plots 1 & 2, Benarty Road, Blairfordel  
for Lomond Group (Scotland) Ltd

Drawing Title:

**Planning:**  
Block and Location Plans

Document 2

DX2

CONSULTANCY

Architectural Services and  
Technical Construction Specialists

A:

317 Rona Place, Glenrothes, Fife, KY7 6RR

T:

07925-372034 / 07925-130388

E:

enquiries@dx2consultancy.com

W:

www.dx2consultancy.com

Project Reference:	18-035-Lomond	Scale:	1:500, 1:5000	Date:	21 June 18
Drawing Number:	18-033-128	Sheet size:	A2	Drawn:	d.v.
		Revision:		Checked:	d.d.g.





STATEMENT IN SUPPORT OF APPLICATION  
FOR PLANNING PERMISSION IN PRINCIPLE  
FOR THE ERECTION OF  
TWO DETACHED DWELLINGHOUSES  
AT  
BLAIRFORDEL FARM, BY KELTY

Andrew Bennie Planning Limited  
3 Abbots Court  
Dullatur  
G68 0AP

Tel: 07720 700210

E-mail: [andrew@andrewbennieplanning.com](mailto:andrew@andrewbennieplanning.com)

June 2018

**COPYRIGHT**

The contents of this report must not be reproduced in whole or in part without the formal written approval of Andrew Bennie Planning Limited.

## **CONTENTS**

- 1.0 Introduction
- 2.0 The Application Site
- 3.0 Planning Policy Background
- 4.0 The Application Proposals
- 5.0 Planning Assessment
- 6.0 Conclusions

## **1.0 INTRODUCTION**

- 1.1 This statement has been prepared by Andrew Bennie Planning Limited, on behalf of Lomond Group (Scotland) Ltd and is submitted in support of an application for planning permission in principle for the erection of two detached dwelling houses on that land which comprises the application site.
- 1.2 This statement provides information on both the Application Site and its surroundings and sets out an assessment of the policy basis against which the application proposals require to be assessed.
- 1.3 Should Perth & Kinross Council require any further, relevant information or clarification of any matters relating to these proposals, Andrew Bennie Planning Limited would be pleased to assist in its timeous provision.

## **2.0 THE APPLICATION SITE**

- 2.1 The application site, hereinafter referred to as the "Site", lies on the south side of Benarty Road, and comprises a flat, open rough area of land lying the immediate west side of a group of existing houses, which lie both the south and north side of Benarty Road.
- 2.2 The Site is bounded to the south and west by areas of existing mature woodland, which in turn are bounded by the line of a small water course which runs to the south and west of the Site.

### **3.0 PLANNING POLICY BACKGROUND**

- 3.1 The current, approved development plan covering the Site comprises the approved TAYplan Strategic Development Plan and the adopted Perth and Kinross Local Development Plan (adopted 3<sup>rd</sup> February 2014).
- 3.2 Given the scale of the development to which this application relates and as it does not give rise to any issues, which are a strategic consequence to the provisions of the TAYplan Strategic Development Plan, the terms of the TAYplan are not considered further within this Statement.
- 3.3 Under the terms of the adopted Local Development Plan, the Site is noted to fall out with any of the identified settlement boundaries which are detailed within the Plan and consequently, as is confirmed by the terms of the Kinross-shire Area Plan which appears on page 201 of the Plan, the Site falls within the boundary of the defined countryside.
- 3.4 Policy RD3: Housing in the Countryside, provides the basis against which applications for residential development within the defined countryside will require to be assessed and to this end advises that:

*"The Council will support proposals for the erection, or creation through conversion, of single and groups of houses in the countryside which fall into at least one of the following categories:*

- (a) Building Groups.*
- (b) Infill sites.*
- (c) New houses in open countryside on defined categories of sites as set out in section 3 of the Supplementary Guidance.*
- (d) Renovation or replacement of houses.*
- (e) Conversion or replacement of redundant non-domestic buildings.*
- (f) Development on rural brown field sites.*

*This policy does not apply in the Green Belt and its application is limited within the Lunan Valley Catchment Area to economic need, conversion or replacement buildings.*

*Development proposals should not result in adverse effects, either individually or in combination, on the integrity of the Firth of Tay and Eden Estuary, Loch Leven, South*

*Tayside Goose Roosts and Forests of Clunie SPAs and Dunkeld-Blairgowrie Loch and River Tay SACs.*

**Note:** *For development to be acceptable under the terms of this policy it must comply with the requirements of all relevant Supplementary Guidance, in particular the Housing in the Countryside Guide."*

- 3.5 The Housing in the Countryside Guide was approved, by the Council, in November 2012.
- 3.6 This guide reaffirms the support provided for under the terms of Policy RD3 for the development of single and groups of houses in association with, amongst other things, "Building Groups".
- 3.7 The guide also states that developments should meet the requirements of a list, (a)-(m), of specified criteria, as follows:

*"a) Proposals should comply with the guiding principles contained in the Council's current Guidance on the Siting and Design of Houses in Rural Areas and subsequent detailed design guidance.*

*b) Pre-application discussion is recommended.*

*c) Satisfactory access and services should be available or capable of being provided by the developer.*

*d) There will be a strong presumption against the replacement of Listed Buildings, or their restoration in a way, which is detrimental to the essential character of the original building.*

*e) All proposals for 5 units or more will either: require 25% of the proposed development to be for affordable housing; or require a developer contribution towards the provision of affordable housing, either on or off site. The council's housing needs assessment and the Affordable Housing Policy will be used to determine whether provision is to be on or off site or by way of a financial contribution.*

*Note: For the purposes of this policy the restoration or replacement of an existing occupied or vacant house (as opposed to a ruin) will not constitute the creation of a new unit.*

*f) The quality of the design and materials of the house(s) should be reflected in the design and finish of outbuildings, means of enclosure, access etc. The Planning Authority will consider whether permitted development rights in respect of extensions,*

*outbuildings and means of enclosure etc should be removed to protect the rural character of both the building and the curtilage of a new house(s).*

*g) Existing on site materials, particularly stone and slate, should be reused in the construction of the dwelling house and/or the boundary enclosure, in order to help reflect local character and contribute to sustainability.*

*h) Applications for dwellings on locations adjacent to a working farm will only be approved where a satisfactory residential environment can be created, and where the introduction of a dwelling will not compromise the continuation of legitimate agricultural and related activities or the amenity of the residents.*

*i) Encouragement will be given to the incorporation of measures to facilitate home working within new development*

*j) The proposed development should not conflict with any other policy or proposal in the Local Plan.*

*k) It is the Council's policy to halt the loss of biodiversity. Proposals must demonstrate how they will make a positive contribution to the biodiversity of the site. Proposals which might impact on protected sites, or where protected habitats or species (eg bats, barn owls, house martins, swallows, swifts) might be present, will require submission of a survey as part of the planning application to show their location. Proposals should include appropriate measures to avoid loss or disturbance to species. Failure to undertake a survey may mean the proposal contravenes the Wildlife and Countryside Act 1981 (as amended) and European Directives.*

*l) Development proposals should not result in adverse effects, either individually or in combination, on the integrity of the Firth of Tay and Eden Estuary, Loch Leven, South Tayside Goose Roosts and Forest of Clunie SPAs and Dunkeld-Blairgowrie Lochs and the River Tay SACs.*

*m) The proposal, in terms of scale, layout and design is appropriate to, and has a good fit with, the landscape character of the area in which it is located, and demonstrates a specific design approach to achieve integration with its setting. Buildings should be sympathetic in terms of scale and proportion to other buildings in the locality. Open space associated with the proposal should be considered as an integral part of the development. Suburban ranch-type fences and non-native fast growing conifers should be avoided. Where new planting is considered to be in keeping with local landscape character, locally native trees and shrubs should be used to integrate buildings with the surrounding landscape and to provide additional biodiversity benefits."*

3.8 Under the sub-heading "Building Groups", the guide advises that:

*"Consent will be granted for houses within building groups provided they do not detract from both the residential and visual amenity of the group. Consent will also be granted for houses, which extend the group into defined sites formed by existing topography and or well established landscape features which will provide a suitable setting. All proposals must respect the character, layout and building pattern of the group and demonstrate that a high standard of residential amenity can be achieved for the existing and proposed house(s)."*



#### **4.0 THE APPLICATION PROPOSALS**

- 4.1 Under the terms of this application submission, planning permission in principle is sought for the erection of two detached dwelling houses on the Site.
- 4.2 The proposed house plots would be oriented on a northwest/southeast axis.
- 4.3 Whilst no details of the proposed dwelling houses which would be erected on these two plots are put forward for approval at this stage, the Proposed Site Plan which is submitted in support of this application demonstrates how two dwelling houses featuring a footprint of circa 230m<sup>2</sup> could be accommodated on each of the plots.
- 4.4 Each of the proposed plots would be accessed directly off Benarty Road, which forms the northern boundary of the Site.
- 4.5 The existing woodland, which bounds the Site to the south and west would be retained as part of the proposed development.

## 5.0 PLANNING ASSESSMENT

5.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 provides that:

**"Where in making any determination under the Planning Act, regard is to be had to the development plan, the determination shall be in accordance with the plan unless material considerations indicate otherwise".**

5.2 Section 37(2) of the Act further provides that in dealing with applications for planning permission:

**"... the Authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations."**

5.3 For the purposes of the determination of this planning application, and as is detailed within Section 3.0 above, it is considered that the provisions of Policy RD3 and The Housing in the Countryside Guide comprise the principle policy basis against which the acceptability of the proposed development falls to be assessed.

5.4 Within the policy context which is created under the terms of Policy RD3 of the adopted Local Development Plan and the in light of the matters which are set out within the Housing in the Countryside Guide, it is clear that the Council have adopted a fairly permissive approach in relation to the principle of the potential development of new housing in the countryside.

5.5 It is beyond doubt that the existing group of residential properties on Benarty Road, which lie to the immediate east of the Site, which include a number of recently constructed dwelling houses, meet the definition of a "Building Group" as set out within the Housing in the Countryside Guide.

5.6 Given the specific nature of the Site to which this proposed development relates, it is considered that support for its development as proposed, can be drawn from those aspects of Policy RD3 and the Housing in the Countryside Guide, which relate to additions to "Building Groups".

- 5.7 The Guide makes clear that additions to existing building groups, either in the form of single or multiple houses, will be permitted where such houses extend the existing group into definable sites.
- 5.8 The Site is bounded to the north by the line of Benarty Road, to the east by existing dwelling houses and to the south and west by existing mature woodland.
- 5.9 As a direct consequence of the nature of the established boundaries, which delineate the full extent of the Site, it is considered that the Site itself would meet any reasonable definition or understanding of what would constitute a "definable site" and that to this end, the development of the Site as proposed under this application would be in accordance with the terms of the Housing in the Countryside Guide.
- 5.10 This consideration leads obviously to the conclusion that the proposed development can be fully and reasonably justified against the provisions of Policy RD3 insofar as the proposed development represents and extension of an existing "building group".
- 5.11 With specific regards to the consideration of the application proposals against the requirements of those criteria (a)-(m), listed within The Housing in the Countryside Guide, it is submitted that criterion (a), (c), (f), (i), (j), (k) and (m) are of relevance to the determination of this application.
- 5.12 When the application proposals are considered against the above noted criterion, the following conclusions are drawn:
- (a) When assessed against the terms of the Council's "Guidance on the Siting and Design of Houses in Rural Areas", notwithstanding that this application seeks only to establish the principle of the erection of three dwelling houses on the Site, there is no reasonable basis upon which, within the context of the existing housing on Benarty Road (which include a number of newly constructed houses) that it could be reasonably concluded that the Site would not be capable of supporting a development that would meet in full the design requirements which are set out within this Guidance.
  - (c) The Site can be provided with a satisfactory means of both pedestrian and vehicular access via Benarty Road, over which the applicant enjoys full rights of access.

- (f) Whilst the application seeks only to establish the principle of the proposed development of the Site, it is intended that externally, each of the proposed dwelling houses will be finished in materials to match and reflect those used on the adjacent dwelling houses on Benarty Road, with it being submitted that the precise details of the proposed external finishes can be fully and reasonably controlled via conditions attached to any planning permission issued pursuant to this application.
- (i) To reflect and address the requirements of this criterion, it is intended that the design of each of the proposed dwelling house will make provision for the creation of a dedicated study room, which would meet on full the requirements of this criterion.
- (j) The proposed development is not considered too be in conflict with any other policies and proposals contained within the Plan.
- (k) The proposed development will have no adverse impact upon any identified biodiversity assets.
- (m) Whilst the application seeks only to establish the principle of the erection of two dwelling houses on the Site, there is no reasonable basis upon which it could be concluded that dwelling houses of an appropriate scale, layout and design could not be satisfactorily accommodated on the Site or that the erection of these dwelling houses could not, as is the case with the recently constructed dwelling houses to the east of the Site on Benarty Road, be suitably and successfully integrated into the wider landscape setting of the Site.

5.13 Accordingly, and in light of the matters set out above, it is submitted that the proposed development can be fully and reasonably justified against the relevant criteria set out with The Housing in the Countryside Guide.

## **6.0 CONCLUSIONS**

- 6.1 In line with the provisions of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997, the application proposals fall to be assessed against the terms of the approved development plan, so far as they are of material relevance to the determination of the application, and in the light of any other relevant material considerations.
- 6.2 For the purposes of this application, the relevant parts of the approved development plan comprise the adopted Perth & Kinross Local Development Plan.
- 6.3 With regard to the adopted Local Development Plan, the relevant provisions thereof are identified as being Policies RD3 and The Housing in the Countryside Guide.
- 6.4 These policies are assessed in detail within Section 5 above, with the overall conclusion being that the application proposals can be reasonably justified against the provisions of the adopted Local Development Plan.
- 6.5 **For the reasons set out above, it is submitted that the application proposals can be fully and reasonably justified against the provisions of the approved development plan.**
- 6.6 **No material considerations have been identified which would outweigh the acceptability, in terms of the development plan, of the application proposals.**
- 6.7 **Accordingly, it is respectfully requested that Perth & Kinross Council grant planning permission in principle pursuant to this application.**



**BLAIRFORDEL, KELTY**  
**FLOOD RISK ASSESSMENT REPORT**  
**FOR**  
**LOMOND LAND**

<b>Report No.</b>	1441-204	<b>Version:</b>	FINAL
<b>Revision:</b>	~	<b>Issue Date:</b>	28 <sup>th</sup> March 2015
<b>Author</b>	WH		

**BLAIRFORDDEL, KELTY,  
FLOOD RISK ASSESSMENT  
FOR  
LOMOND LAND**

---

**SITE SUMMARY INFORMATION**

Name of Site:	Blairfordel
Ordnance Survey Grid Reference:	NT 14707 95815
Site Address:	Blairfordel, Benarty Road, nr Kelty
Local Authority:	Perth & Kinross Council
Current Site Use:	Thin woodland with rough grasses
Proposed Site Use:	Residential Development
On site buildings:	No
Type of Investigation:	Level 3 Flood Risk Assessment



**BLAIRFORDEL, KELTY,  
FLOOD RISK ASSESSMENT  
FOR  
LOMOND LAND**

---

**TABLE OF CONTENTS**

<b><u>SECTION</u></b>	<b><u>PAGE</u></b>
<b>1 INTRODUCTION .....</b>	<b>1</b>
1.1 BACKGROUND .....	1
1.2 OBJECTIVES OF INVESTIGATION .....	1
1.3 SCOPE OF STUDY .....	1
1.4 PROPOSED SITE END-USE .....	1
1.5 LIMITATIONS OF REPORT .....	1
<b>2 SITE DETAILS.....</b>	<b>2</b>
2.1 DATA SOURCES .....	2
2.2 SITE LOCATION & DESCRIPTION.....	2
2.3 SITE NEIGHBOURS .....	2
2.4 HYDROLOGY AND DRAINAGE.....	2
<b>3 FLOOD RISK ASSESSMENT .....</b>	<b>4</b>
3.1 GENERAL.....	4
3.2 OVERLAND FLOW & LOCAL DRAINAGE .....	4
3.3 GROUNDWATER RISE .....	4
3.4 FLUVIAL FLOOD RISK.....	4
3.4.1 General.....	4
3.4.2 Structures .....	5
3.4.3 Downstream River Boundary .....	5
3.4.4 River Flow .....	5
3.4.5 Climate Change Allowance .....	6
3.4.6 Model Results under Existing Ground Conditions .....	6
<b>4 DISCUSSION AND RECOMMENDATIONS.....</b>	<b>7</b>
4.1 GENERAL.....	7
4.2 DEVELOPMENT AND POSSIBLE MITIGATION MEASURES .....	7
4.3 PHYSICAL WORKS ASSOCIATED WITH THE EXISTING WATERCOURSE.....	7
4.4 EFFECTS ON SITE NEIGHBOURS .....	7
4.5 OVERALL FLOOD RISK ASSESSMENT CONCLUSION .....	7

**BLAIRFORDEL, KELTY,  
FLOOD RISK ASSESSMENT  
FOR  
LOMOND LAND**

---

**Figure 1 - Site Location Plan**

**Figure 2 – Model Long Sections & Structure Parameters**

**Drawings            Terrenus Drawing No. 1441-204-001**

**Terrenus Drawing No. 1441-204-002**

**Terrenus Drawing No. 1441-204-003**

**Tabulated Flood Model Inputs & Results**

**Photographic Plates**

**BLAIRFORDDEL, KELTY,  
FLOOD RISK ASSESSMENT  
FOR  
LOMOND LAND**

---

**1 INTRODUCTION**

**1.1 BACKGROUND**

The development of a site in the hamlet of Blairfordel near Kelty is currently under consideration.

The Kinnaird Burn flows close to the southern site boundary with a smaller watercourse designated the Leuchars Burn flowing at a short distance to the east of the site. An outline flood risk assessment was carried out for the adjacent development in 2010.

Due to the proximity of the watercourses Terrenus Land & Water Ltd was appointed by Harley Haddow on behalf of Lomond Land to undertake a flood risk assessment of the site.

**1.2 OBJECTIVES OF INVESTIGATION**

The principal aim of the assessment is to develop an understanding of the flood risk to the site and to model the fluvial flood risk to the proposed development from the local watercourses.

**1.3 SCOPE OF STUDY**

The following tasks were undertaken during the course of this investigation:

- Collation of data including survey;
- Site walkover inspection;
- Assessment of data & fluvial model;
- Analysis of flood effects; and
- Production of an Interpretative Report.

The flood risk analysis uses modified Flood Estimation Handbook data, together with the MIKE11 (HD75+FEH) software modelling tool. This hydrodynamic software provides a fully dynamic solution for open channel flow.

**1.4 PROPOSED SITE END-USE**

It is understood that the development of the site will involve the construction of a number of residential properties with associated access road and infrastructure.

**1.5 LIMITATIONS OF REPORT**

Terrenus Land & Water Ltd. has prepared this report for the sole use of the Client, in accordance with generally accepted consulting practice and for the intended purpose as stated in the related contract agreement. No other warranty, expressed or implied, is made as to the professional advice included in this report. Should any third party wish to use or rely upon the contents of the report, written approval must be sought from Terrenus Land & Water Ltd; a charge may be levied against such approval.

To the best of our knowledge, information contained in this report is accurate at the date of issue. There may be conditions pertaining at the site not disclosed by the study, which might have a bearing on the recommendations provided if such conditions were known. We have, however, used our professional judgement in attempting to limit this during the assessment.

It is important therefore that these implications be clearly recognised when the findings of this study are being interpreted. In addition, this should be borne in mind if this report is used without further confirmatory investigation after a significant delay.

## **2 SITE DETAILS**

### **2.1 DATA SOURCES**

The following data sources were consulted during the course of the Flood Risk Assessment:

- Data provided by Client including site surveys and outline layout;
- Additional topographic survey information
- Current Maps;
- Available additional information.

### **2.2 SITE LOCATION & DESCRIPTION**

The following site description is based on a walkover inspection undertaken on the 15<sup>th</sup> March 2015. A photographic record of the visit is included in the appendix to this report together with an overview of the site in drawing 1441-204-001.

A survey for model purposes was undertaken for the site by Phoenix Surveys in March 2015 and, together with survey information supplied by the client forms the basis of the understanding of the site topography. This survey was augmented with additional available information and measurements taken during the site walkover.

The site forms an irregular shaped plot of land some 0.4Ha in area lying to the north east of Kelty close to the boundary between Perth and Kinross and Fife Councils. The Kinnaird Burn flows from west to east close the southern site boundary. This watercourse is joined from the north by the Leuchars Burn some 90m to the south east of the site. The Kinnaird Burn is a tributary of the Kelty Burn which flows into Loch Ore further to the east.

The site is generally un-bound with the northern site boundary defined by Benarty Road. The southern site boundary lies close to the Kinnaird Burn. The site falls gently from a high of about 100.0m OD near Benarty Road to a low of about 97.8m OD near the Kinnaird Burn. The landform within the site is generally flat lying with a distinct but discontinuous levee or bund noted along the banks of the Kinnaird Burn. The site is occupied by a number of mature and semi-mature trees together with rough grasses.

### **2.3 SITE NEIGHBOURS**

A small number of recently built residential properties lie immediately to the east of the site. Further properties lie to the north east of the site beyond Benarty Road. Elsewhere to the north and south of the site there are open fields.

### **2.4 HYDROLOGY AND DRAINAGE**

The Kinnaird Burn flows to the south of the site within a well formed channel. A metal pipe was noted to cross the watercourse downstream of the site. The Leuchars Burn joins the Kinnaird Burn further downstream with these watercourses being a tributary of the Kelty Burn. The Kelty Burn flows to the east and enters Loch Ore some 1000m further downstream. Portions of the Leuchars Burn appear to be canalised to the east of the site. It is further noted that the landform to the south of the Kinnaird Burn falls gently towards the Kelty Burn and away from the site suggesting that the path of this watercourse may also have been adapted in the past.

The Scottish Environment Protection Agency (SEPA) has recently updated its indicative River and Coastal Flood Map for Scotland. The new 'Flood Maps' are enhanced and show potential flooding from coastal, rivers (fluvial) and surface water (pluvial) sources. In addition the maps provide a breakdown of flood likelihood in broad agreement with the Scottish Planning Policy Risk Framework.



A review of the map suggests a risk of flooding along the line of the Kinnaird Burn with wider flooding likely as a result of the Kelty Burn. Leuchars Burn is not represented by the SEPA map fluvial element due to its small catchment size. Surface water (pluvial) flood risk is noted along the line of the Kinnaird Burn with a wider risk of flooding in the field to the south. Minor areas of surface water flood risk may be present to the east of the site around the Leuchars Burn.

SEPA makes the following statement about the Flood Map:

*"The river flood map was developed using a nationally consistent approach to producing flood hazard information, such as depth of water and speed of flow arising from river flooding. It is based on a two dimensional flood modelling method applied across Scotland to all catchments greater than 3km<sup>2</sup>. The river flood map includes hydraulic structures and defences such as bridges, culverts and flood storage areas where appropriate information was available.*

and

*The surface water flood map combines information on rainfall and sewer model outputs. It incorporates data from a national surface water study, a regional surface water study with increased resolution in selected areas and a Scottish Water sewer flooding assessment."*

The flood map should be treated with caution and SEPA makes the following general comment:

*"The flood maps are designed to provide a community level assessment of flooding and its impacts. They model flooding at a national scale. As with any approach of this scale, there are limitations and assumptions made to enable modelling and a consistent approach to be applied across Scotland. Limitations arise from the data used to create the maps, the modelling techniques applied and the ability to incorporate datasets from local studies into a national approach."*

Additional background details of the SEPA flood map can be found on the SEPA website:

[http://www.sepa.org.uk/flooding/flood\\_maps.aspx](http://www.sepa.org.uk/flooding/flood_maps.aspx)

Underground drainage within the site is not expected. Drainage from the site follows the local topography towards the Kinnaird Burn. Surface water drainage is present along Benarty Road which will collect local runoff from the road and the small element of runoff from the land to the north of the road.

### **3 FLOOD RISK ASSESSMENT**

#### **3.1 GENERAL**

Flooding occurs when the amount of water arriving on land exceeds the capacity of the land to discharge that water (by infiltration, overland flow, groundwater rise or a failed drainage system). It can occur on any level or near-level areas of land but the main concern in inland areas is with land adjacent to watercourses (fluvial flooding) and the possibility of overland flow (surface water flooding).

#### **3.2 OVERLAND FLOW & LOCAL DRAINAGE**

Within the site, local rainfall runoff via surface and ground water flow is directly to the Kinnaird Burn. Significant ponding within the site is unlikely due to the local topography. Any runoff from the land to the north of the site will follow the Benarty Road drainage system to the west and is not likely to impact the site itself.

A failure of the road drainage system may lead to increased overland flow along the road but is unlikely to affect the site. The risk of widespread overland flow affecting the site is considered to be low.

#### **3.3 GROUNDWATER RISE**

Given the local geology and landform the risk of groundwater rise in the area is considered to be insignificant.

#### **3.4 FLUVIAL FLOOD RISK**

##### **3.4.1 General**

The Kelty Burn lies at a considerably lower level than the site with wide areas of available flood plain between the site and this watercourse. The risk of flooding from this source or an impact on the Kinnaird Burn at the site is considered to be insignificant.

Due to the nature of the flood risk assessment the risk model runs along the centre line of the Kinnaird Burn from upstream of the site to beyond the confluence with the Leuchars Burn; a reach of 300m. The Leuchars Burn is included in the model forming an additional reach of 160m. This model is inclusive of the natural flood plain of the watercourse as well as any topographical features that would affect the modelling result. It is noted from the local landform that if the watercourses overtop, overland flow will preferentially pass to the south of Kinnaird Burn and to the east of Leuchars Burn. The sections of the watercourse modelled are shown on Drawing 1441-204-002 included in the Appendix.

The modelling of the watercourses, including the extent and location of the related cross sections, is relative to the key features identified during the site walkover and by the review of the available maps and survey data.

The model length was established to be long enough to avoid any adverse effects on the water flow from any significant features along the watercourse. Cross sections through the burn were obtained from the survey carried out in March 2015, from an understanding of the local area and from information collated during the site walkover. The number of cross sections utilised in the model is in relation to areas of restriction in flow and to construct a suitably representative analysis.

Information from the above sources indicates the upstream bed surveyed (at 74m chainage) to be at 97.76m O.D., while the downstream section (at chainage 300m) is recorded to be 93.97m O.D. Thus a fall of about 2.75m is anticipated over the entire reach of the modelled section resulting in a bed slope of 0.012m/m.

In order to fully analyse the water course, runs were carried out at a variety of Manning numbers, peak flow rates and downstream boundary slopes.

### 3.4.2 Structures

An important feature for the modelling of all structures with the hydrodynamic software used is that they must impose a constriction to the flow. That is, an inlet and an outlet loss must be present over the structure and the structure's geometry definition (with respect to flow-area) must be smaller than both the up and downstream cross sections for all levels defined in the structure.

Two structures associated with the Kinnaird Burn are present in the vicinity of the site. The first is the Benarty Road bridge some 200m upstream of the site. Should this structure overtop any overland flow will pass directly to the watercourse further downstream or enter the field to the south of the site. Should this structure be undersized or become blocked it will not present a risk of flooding to the site and has therefore not been included in the model.

The second structure on the Kinnaird Burn is a 500mm pipe which crosses the burn a short distance downstream of the site. Due to its proximity to the site this structure is included in the model with additional analysis of possible blockage.

A minor culvert allows the Leuchars Burn to pass below Benarty Road. Whilst this structure may be undersized any overtopping will flow directly over the road and will not impact the site itself. This structure has hence not been included in the fluvial model.

### 3.4.3 Downstream River Boundary

The location of the downstream boundary corresponds with the final cross section on the Auchengree Burn. In this case the boundary has been placed sufficiently far downstream to be remote from the site and any structures in the vicinity. The downstream boundary conditions for the site have been set in hydrodynamic mode with an open boundary. The Hydrodynamic (HD) Module has been applied to the boundary and is defined by the Time Series (TS). The Q-h relationship at the downstream boundary is computed using a Manning's value of 0.045 and a slope of 0.012.

### 3.4.4 River Flow

Rainfall records and catchment descriptors have been obtained from the Flood Estimation Handbook (FEH) CD ROM. Flow rates have been calculated using the FEH methodology and others. Relevant direct gauging station data is not available for the local watercourses. Flow rates were calculated using the following methodologies.

- FEH (2007) QMED (Index Flood) calculation;
- Improved FEH estimate of QMED (2008);
- IHR 124 calculation; and,
- FEH Rainfall Runoff method.

A summary of the possible peak design flows for the two watercourses is provided in Table 1 in the Appendix.

Taking into consideration the differing methods of flow calculation the design 0.5% probability (1 in 200 year event) peak flow for the Kinnaird Burn at the site is estimated to be in the order of 10.3m<sup>3</sup>/s. The Leuchars Burn peak flow during the same storm event is estimated to be 2.3m<sup>3</sup>/s

### 3.4.5 Climate Change Allowance

The Scottish Executive guidance 'UKCIP02 Update (2003)' suggests that peak river flows may increase by between 15% and 20% in Scotland by the mid 2080's due to global climate change. The UK Climate Projections (UKCP09) support the above percentage increase and therefore is in line with the current SEPA guidelines for the whole of Scotland. As such an additional allowance of 20% has been added to the estimated 0.5% probability flood event. This increases the design flow just downstream of the site to the following:

		1 in 200 year flow (m <sup>3</sup> /s)	1 in 200 year plus 20% flow (m <sup>3</sup> /s)
Estimated Peak Flow	Combined Kinnaird Burn & Leuchars Burn	12.6	15.1

### 3.4.6 Model Results under Existing Ground Conditions

Using standard hydrodynamic software modelling techniques for open channel flow, information between cross sections is interpolated through the Mike 11 hydrodynamic software and the watercourse flood levels calculated accordingly.

The water flow analysis assumes a generally conservative estimate of watercourse bed and banking roughness (Manning 'n' of 0.045). Further analysis of the watercourse was undertaken with a variety of roughness coefficients (Manning's 'n' of 0.040 and 0.050) and this indicates that the watercourse is not unduly sensitive to such changes. Table 2, contained within the appendix to this report, shows the variation between the different Manning's 'n' values used under existing ground conditions. Table 2 also shows the peak water levels under existing ground conditions for a variety of flood hydrographs and downstream slope values.

As with all fluvial flood models, uncertainties remain regarding the channel roughness that affects the relationship between flow rate and water level. The analysis must, therefore, be regarded as approximate.

The model indicates that the Kinnaird Burn remains within its banks during the design storm event and that the flow below the pipe crossing is not impeded. In the unlikely event that the Kinnaird Burn overtops due to a severe blockage at the pipe crossing overland flow will occur to the south and away from the site. The model also indicates that the Leuchars Burn eastern bank will overtop and surface flow will occur to the east of the site. It is noted that the site will not be affected by such an occurrence.

The surface water flow paths are shown on Drawing 1441-204-002.



## **4 DISCUSSION AND RECOMMENDATIONS**

### **4.1 GENERAL**

For new developments the acceptable risk of flooding should take into account various factors including risk to human health and the direct and indirect financial losses relating to flooding.

The assessment indicates that the risk to the site from overland flow due to direct rainfall runoff, groundwater rise and failure of existing drainage is low.

The fluvial model indicates that the Kinnaird Burn does not present a risk of flooding to the site during the design storm event and that the existing watercourse channel is sufficient to convey the peak 1 in 200 year storm event plus potential global climate change. Potential overtopping of the Leuchars Burn to the east will not adversely impact the site.

Whilst there are differences with the previous flood risk assessment carried in 2010 for the adjacent area to the east of the site the broad conclusions are similar.

### **4.2 DEVELOPMENT AND POSSIBLE MITIGATION MEASURES**

It is recommended that a final ground level of 99.0m OD or above be adopted for the proposed development with a final floor level of 99.3m OD or above. This will provide an available freeboard of over 1000mm throughout the development.

Possible limited flow from Benarty Road to the north of the site is expected and should be considered in the design of the local drainage along the entrance to the site.

### **4.3 PHYSICAL WORKS ASSOCIATED WITH THE EXISTING WATERCOURSE**

In relation to flood risk, the Water Environment (Controlled Activities) (Scotland) Regulations 2005 (CAR) may be affected by the proposed development. It is recommended that discussions with SEPA are held with respect to CAR at an early stage of the design process.

### **4.4 EFFECTS ON SITE NEIGHBOURS**

The site lies outwith the functional flood plain of the local watercourses and the proposed development will have a neutral effect on any site neighbours.

### **4.5 OVERALL FLOOD RISK ASSESSMENT CONCLUSION**

The Scottish Planning Policy notes that new developments should be free from significant flood risk from any source and that such development should not:

- materially increase the probability of flooding elsewhere;
- add to the area of land which requires protection by flood prevention measures;
- affect the ability of the functional flood plain to attenuate the effects of flooding by storing flood water;
- interfere detrimentally with the flow of water in the flood plain; or
- compromise options for future river management.

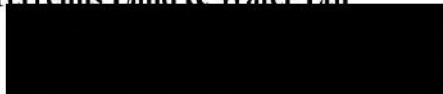
It is established that the site is currently at low to medium risk of flooding according to the SPP flood framework and that pedestrian and vehicular access will be available throughout the design storm event. It is concluded that the proposed development is feasible and in broad accordance with the general principles of the Scottish Planning Policy.

-oo000oo-

Terrenus Land & Water Ltd wishes to thank Lomond Land for the opportunity to prepare this report and trust that it meets with your requirements. However, should you wish to discuss the contents of the report then please do not hesitate to contact the undersigned.

**Signed for and on behalf of**

**Terrenus Land & Water Ltd**



**William Hume**

**Director**

**BLAIRFORDEL, KELTY,  
FLOOD RISK ASSESSMENT  
FOR  
LOMOND LAND**

---

**APPENDICES**


**BLAIRFORDEL, KELTY,  
FLOOD RISK ASSESSMENT  
FOR  
LOMOND LAND**

---

**FIGURES**

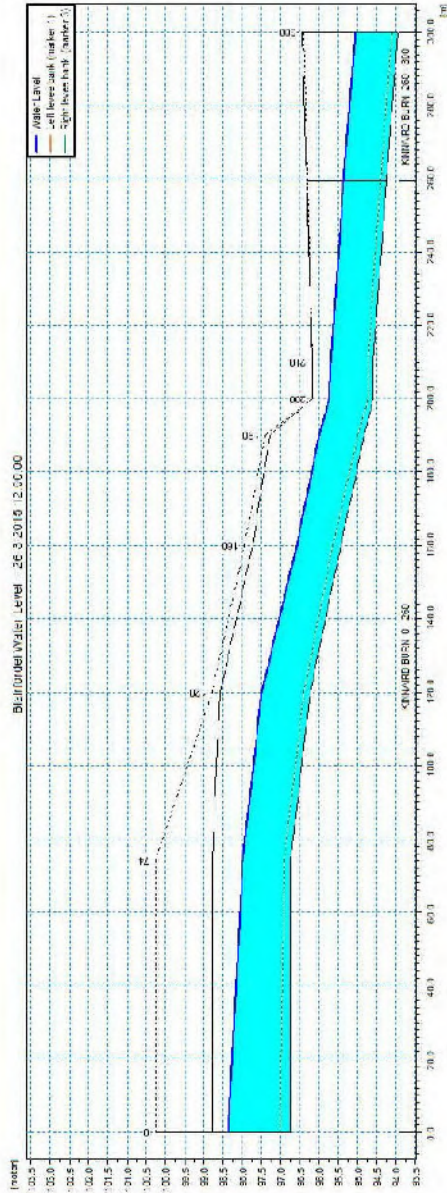


©Crown copyright. All rights reserved. Licence No. AL100035646

Client: Lomond Land	Drawing Title:  Site Location Plan	  1 Orbital Court Peel Park East Kilbride, G74 5PH Tel: 01355 279 000 Fax: 01355 263 629
Project: Blairfordel, Kelty		
Date: 15 <sup>th</sup> March 2015	Figure 1	
Grid Ref: NT 14682 95795		
SCALE: N.T.S.		



# BLAIRFORD, KELTY FLOOD RISK ASSESSMENT FOR LOMOND LAND Figure 2 – Model Long Section & Structure Parameters



Kinnaird Burn Long Section.

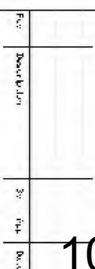


Pipe Structure Model Parameters.

**BLAIRFORDEL, KELTY,  
FLOOD RISK ASSESSMENT  
FOR  
LOMOND LAND**

---

**DRAWINGS**



1028

**Terenus Land & Water Ltd**  
1 Orbital Court, Peel Park,  
East Kilbride, G74 5PH  
Tel: 01355 279 000 / Fax: 01355 263 699

Case	Case
1	2
3	4
5	6
7	8
9	10
11	12
13	14
15	16
17	18
19	20
21	22
23	24
25	26
27	28
29	30
31	32
33	34
35	36
37	38
39	40
41	42
43	44
45	46
47	48
49	50
51	52
53	54
55	56
57	58
59	60
61	62
63	64
65	66
67	68
69	70
71	72
73	74
75	76
77	78
79	80
81	82
83	84
85	86
87	88
89	90
91	92
93	94
95	96
97	98
99	100

Barry, R. J. 1991. *Phylogenetic Analysis of Molecular Data*. New York: Academic Press.

2195 TILLY

THE OVERSEA-  
SUNGL

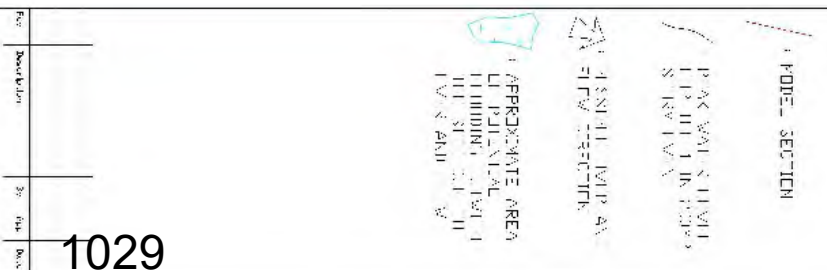
$H^{\delta}, \text{ kcal/mole}$	$\Delta F^{\ddagger}, \text{ kcal/mole}$	$k^{\ddagger}, \text{ sec}^{-1}$
---------------------------------	--	----------------------------------

2006	26/03/15	22-23-30
2005		

FINAL VS

1111





1029

**Terrenus Land & Water Ltd**  
1 Orbital Court, Peel Park,  
East Kilbride, G74 5PH  
Tel: 01355 279 000; Fax: 01355 282 689

CLAY :  
VINYL
$$F_{\text{out}} = F_{\text{in}} \cdot \frac{1}{\sqrt{1 - \beta^2}}$$

**STT**    **CONF**    **X**    **RIMD**  
**MODE=**    **EXCEPTION**

2007-04	Classical AF	Approved AFH
2006-22/03/15		

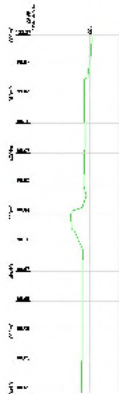
7731314

$\lambda$	$\mu$	$\nu$	$\omega$	$\tau$	$\theta$	$\phi$	$\psi$	$\chi$	$\eta$	$\xi$	$\zeta$	$\delta$	$\gamma$	$\beta$	$\alpha$
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16

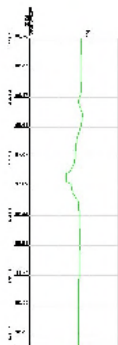
PLANVIEW

SECTION BURN

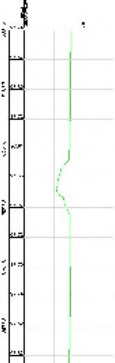
SECTION 1



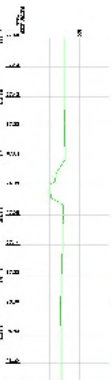
SECTION 2



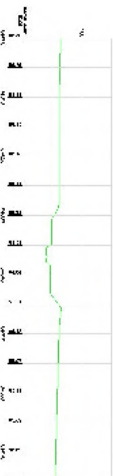
SECTION 3



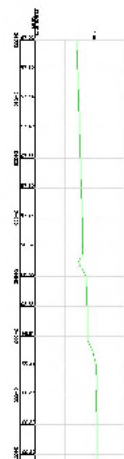
SECTION 4



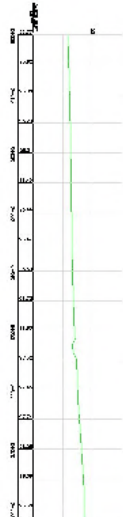
SECTION 5



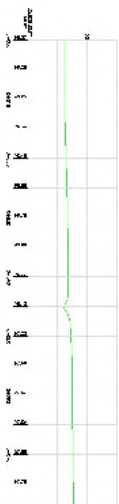
SECTION A



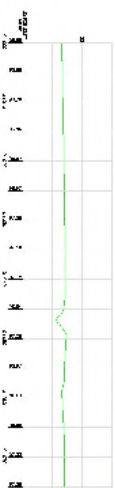
SECTION B



SECTION C



SECTION D



Prop	Prop	Prop
Prop	Prop	Prop

Terranus Land & Water Ltd  
1 Orbital Court, Peel Park,  
East Kilbride, G74 5PH  
Tel: 01855 279 000 / Fax: 01855 261 658

Drawn: [Name] / [Date]	
Project: [Name]	
B: [Name]	
Client: [Name]	
Scale: 1:1000	Drawn: [Name]
Date: 25/03/15	Check: [Name]

**BLAIRFORDEL, KELTY,  
FLOOD RISK ASSESSMENT  
FOR  
LOMOND LAND**

---

**TABULATED FLOOD MODEL INPUTS & RESULTS**

Table 1 - Summary of Peak Flow Volumes

		All flow volumes are expressed in m3/s					
		FEH QMED (using 2007 methodology)	FEH QMED (using 2008 methodology)	IHR 124 Rural (Catchments <25km2)	IHR 124 Urban (Catchments <25km2)	Rainfall Runoff Methodology (MIKE)	Estimated Peak Flow
Leuchars Burn	200 year	0.7	1.6	1.6	1.6	2.3	2.30
	200 year plus potential Global Climate Change (GCC) of 20%	0.86	1.95	1.97	1.97	2.72	2.76
	200 year	6.1	9.2	9.3	9.3	10.3	10.30
Kinnairs Burn	200 year plus potential Global Climate Change (GCC) of 20%	7.36	11.08	11.11	11.11	12.36	12.36

Note: FEH CD-ROM 3 Dataset used

Table 2 - FRA Model Outputs

		Peak Water Level (mOD) for Existing Ground Levels								Approximate Level of river bank adjacent to site (mOD)	Comments
Section number	Cross Section with chainage (m)	1 in 200 yr at Mannings of 0.040 & ds slope of 0.012	1 in 200 yr at Mannings of 0.045 & ds slope of 0.012	1 in 200 yr at Mannings of 0.050 & ds slope of 0.012	Mannings with 30% blockage at Pipe Crossing & ds slope of 0.012	1 in 200 yr plus 20% GCC at Mannings of 0.045 & ds slope of 0.012	1 in 200 yr at Mannings of 0.045 & ds slope of 0.0132	1 in 200 yr at Mannings of 0.045 & ds slope of 0.0108			
Kinnaird Burn	1a	0	98.29	98.38	98.46	98.38	98.50	98.38	98.38		
	1*	74	97.93	98.00	98.07	98.00	98.10	98.00	98.00	98.92	
	2*	120	97.45	97.50	97.56	97.50	97.60	97.50	97.50	98.74	
	3*	160	96.55	96.60	96.65	96.61	96.70	96.59	96.60	97.54	
	4*	190	95.99	96.01	96.06	96.05	96.12	96.01	96.01	97.62	
	4a	200	95.77	95.74	95.80	95.84	95.87	95.74	95.75		
	4b	210	95.67	95.71	95.76	95.71	95.82	95.71	95.71		
	5	300	95.07	95.06	95.06	95.06	95.13	95.05	95.08		
	A	0	98.10	98.13	98.16	98.13	98.19	98.13	98.13		
	B	57	97.26	97.29	97.32	97.29	97.34	97.29	97.29		
Leuchars Burn	C	100	96.83	96.85	96.88	96.85	96.89	96.85	96.85		
	D	135	96.33	96.36	96.40	96.36	96.43	96.36	96.37		
	Da	160	95.34	95.38	95.42	95.38	95.46	95.37	95.38		

Legend:

 denotes where peak water level exceeds level of river bank at site

\* Cross-sections affecting Site

**BLAIRFORDEL, KELTY,  
FLOOD RISK ASSESSMENT  
FOR  
LOMOND LAND**

---

**PHOTOGRAPHIC PLATES**



**BLAIRFORDEL, KELTY  
FLOOD RISK ASSESSMENT  
FOR  
LOMOND LAND**

---



**Plate 1 – View of Kinnaird Burn bridge over Benarty Road looking south east with site beyond.**



**Plate 2 – Kinnaird Burn looking downstream with site on left.**



**Plate 3 – The site with Kinnaird Burn on the right.**

**BLAIRFORDEL, KELTY  
FLOOD RISK ASSESSMENT  
FOR  
LOMOND LAND**

---



**Plate 4 – View along site with Kinnaird Burn on right, (note lower lying field beyond).**



**Plate 5 – Looking south from the site to the field beyond.**



**Plate 6 – Looking west towards the site with Kinnaird Burn on left.**



**BLAIRFORD, KELTY  
FLOOD RISK ASSESSMENT  
FOR  
LOMOND LAND**



**Plate 7 – Kinnaird Burn looking north from the Benarty Road Bridge.**



**Plate 8 – Looking east along Kinnaird Burn with Benarty Road on left.**



**Plate 9 – Confluence of Leuchars Burn and Kinnaird Burn looking downstream.**



**Plate 10 – Leuchars Burn looking upstream with site approximately 50m to right.**

**BLAIRFORDDEL, KELTY  
FLOOD RISK ASSESSMENT  
FOR  
LOMOND LAND**



**Plate 12 – Leuchars Burn with site about 30m on the left.**



**Plate 12 – Kinnaird Burn looking upstream, note pipe crossing.**



**Plate 13 – View along Benarty Road with site on the left.**

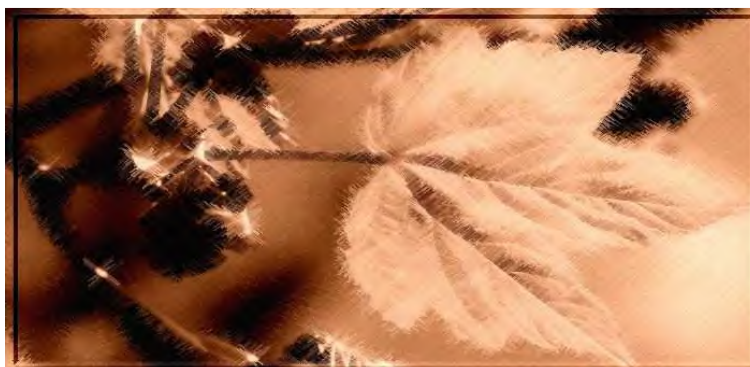


# **Report on tree condition at Blairfordel, Kelty**

**Prepared for Lomond Group**

**By Keith Logie MICFor**

**21 September 2018**



**Keith Logie MICFor BSc (Hons)  
Chartered Forester  
38/4 Temple Park Crescent  
Edinburgh  
EH11 1HU**

**DRAFT**

### 1. General introduction and summary

This tree survey has been carried out for the Lomond Group in relation to land at Blairfordel, Kelty. It relates to 40 trees and other vegetation within and around the survey boundary shown on the plans supplied. The report has been commissioned because plans are being drawn up to build two houses on the site. The report consists of: this written section; the schedule; and drawings showing tree positions.

### 2. Site description

The site is about 0.25 ha, flattish and falls gently to the burn which bounds the site to the south. To the north is a minor public road, to the east a recently built house, and to the west a strip of woodland. The site has been partly cleared, and recent planting of new trees has been done.

### 3. The Tree Survey

A total of 40 trees were recorded on the site. 30 trees have been tagged with a numbered disc at about 1.8m from ground level, so as to be visible from within the site. Tree numbers run sequentially from 1948 to 1977. Trees smaller than 10 cm DBH (diameter at breast height) were not tagged or recorded. Roadside trees have been described in general terms and were not recorded in detail except where adjacent to the site, as noted below. The staked new trees were plotted and recorded but not tagged. Fieldwork was done on 20 September 2018.

The approximate location of each tree has been plotted. Information on each numbered tree is provided in the attached Tree Survey Schedule. The position of the trees is shown on the attached drawing.

All trees within the site have been ascribed a Retention Category. In line with the recommendations contained within BS5837:2012 "Trees in relation to design, demolition and construction – Recommendations", this takes account of the health, condition and future life expectancy of the tree, as well as its amenity and landscape value. The retention category for each tree is shown in the Tree Survey Schedule which records relevant data and comments on condition.

- A** – High category: trees whose retention is most desirable
- B** – Moderate category; trees where retention is desirable
- C** – Low category; trees which could be retained
- U** – Unsuitable for retention; trees which should be removed

Recommendations are made, where appropriate, on appropriate remedial action as regards tree surgery or felling works. These are specified where there is a significant current risk to public safety or tree health and are consistent with sound arboricultural practice. All recommendations are in line with BS 3998: 2010 "Tree work recommendations."

Trees on site may be subject of a **Tree Preservation Order (TPO)** and may or may not fall within a **Conservation Area**. This latter aspect has not been checked with the local planning authority. Work must not be carried out to protected trees without the prior permission of the Council.

The felling of more than 5 cubic metres of timber will require a **felling license** from Forestry Commission Scotland unless the felling forms part of the granted Planning Permission.

#### 4. Survey results and discussion

40 trees within and close to the site were plotted and assessed in detail. Details of the trees are shown in the Schedule below. Note that the Schedule is a summary of the data gathered and assessments made.

Their **BS 5837 retention categories** were as follows:

Category A	2
Category B	6
Category C	30
Category U	2

In terms of their **condition**, they are as follows:

Good	18
Fair	18
Poor	2
Dying	1
Dead	1

The **species** mix is as follows, (approx %):

Sycamore	10	25%
Silver Birch	8	20%
Elm	5	12.5%
Field Maple	4	10%
Norway Maple	4	10%
Oak – pedunculate	3	7.5%
Hawthorn	2	5%
Alder – Common	1	2.5%
Ash	1	2.5%
Goat Willow	1	2.5%
Rowan	1	2.5%

**Discussion** – In general terms, the tree cover on the site consists of a fringe of woodland running roughly east –west towards the south of the site. This woodland strip merges with the woodland lying to the west and forms a screen to the site as viewed from the south. The strip has been strengthened by recent planting of standard trees, together with some conifers and shrubs, which should thicken in future years. The planting - of field maple, Norway maple and silver birch - has been done with good quality stock and has survived well through a very dry summer.

The woodland strip is dominated by birch and sycamore and although some of these are not especially good trees they should all be retained except where noted below and are useful woodland components. There are also three oaks and although two are suppressed, one is a good mature specimen and all should be retained. Some small elms were found to be infected by Dutch elm disease which should be removed.

The large sycamore towards the middle of the site is in a prominent position, and should be retained. It is easily over 100 years old and though not very tall is in good condition and could be expected to live at least another 40 years. The plan shows where protective fencing should be erected in order to protect it during construction.

One isolated hawthorn bush (tree 1977) is to be removed to allow development to proceed. It is small in size and would not be a significant loss.

Trees lying off the site to the west and north of the road opposite the site will not be affected and do not require special protection.

The minor road leading eastwards to the site from Blairfordel Farm is shown within the red line. It is lined with trees, mainly elm, with some ash and goat willow. These are probably all naturally regenerated from seed or by suckering. These trees should not be affected by construction work or in the course of access by vehicles of normal width and do not require special protection.

Summary details of each tree surveyed are contained in the Schedule below.

## **5. Constraints posed by existing trees - considerations**

When trees are to be retained because they are of higher quality and/or importance, the impact of proposed designs must be assessed against the biological requirements of the tree, taking into account the need to protect tree roots and all other relevant factors.

Trees can be badly damaged or killed by construction operations, and particular care is required to protect them from damage. The ability of trees to recover from damage to roots is often very limited. Root systems can be damaged by ground excavations, soil compaction, contamination or spillages of e.g. diesel or cement, and changes in soil moisture content (both drying and waterlogging).

The drawing below shows a Root Protection Area (RPA) for each tree, shown as a hatched circle, which shows the area near to the trees where activity needs to be carefully controlled during construction if the tree is to be retained. In addition, there are a variety of physical factors that could each impact on root growth and the ability of individual trees to tolerate changes in rooting environment. The drawing also shows a Construction Exclusion Zone (CEZ), bounded by a red line, which indicates the position of protective fencing, specification for which is given below.

## **6. Tree protection plan**

Where trees are recommended for retention they must be protected by barriers and/or ground protection prior to commencement of any development works, including demolition. There

should be no movement of machinery, stockpiling of materials, or changes in existing ground levels within the RPA of trees to be retained throughout the duration of the construction works. This is to be achieved by creating a Construction Exclusion Zone as shown on the plan.

**Barrier specification.** This specification applies to all tree protection fences referred to in this report. Fencing to consist of 2m high welded mesh panels (Heras or similar) on rubber or concrete feet joined with a minimum of two anti-tamper couplings. The distance between the couplings should be at least 1m and should be uniform throughout the fence line. The panels should be supported on the inner side by stabiliser struts, which should be anchored at ground level by a block tray or suitable stake. All-weather notices should be affixed to the fence with the wording "Construction exclusion zone – no access." The fence is to be erected along the red line shown on the plan.

#### STANDARD CONDITIONS RELATING TO TREE SURVEY INFORMATION

1. Unless otherwise stated in the report, inspection has been carried in accordance with Visual Tree Assessment (VTA) Stage 1.
2. The survey has been carried out in accordance with the recommendations of BS5837:2012 "Trees in relation to design, demolition and construction – Recommendations",
3. Recommendations for tree works assume that they will be carried out in accordance with BS 3998: 2010 "Tree work recommendations."
4. Unless otherwise stated, tree surveys are undertaken from ground level using established visual assessment methodology. The inspection is designed to determine the following:
  - a. The presence of fungal disease in the root, stem, or branch structure that may give rise to a risk of structural failure of part or all of the tree;
  - b. The presence of structural defects, such as root heave, cavities, weak forks, hazard beams, included bark, cracks, and the like, that may give rise to a risk of structural failure of part or all of the tree;
  - c. The presence of soil disturbance, excavations, infilling, compaction, or other changes in the surrounding environment, such as adjacent tree removal or erection of new structures, that may give rise to a risk of structural failure of part or all of the tree;
  - d. The presence of any of the above or another factor not specifically referred to, which may give rise to a decline or death of the tree.
5. Where further investigation is recommended, either by climbing, the use of specialised decay detection equipment or exposure of roots, this is identified in the report.
6. The findings and recommendations contained within this report are valid for a period of twelve months. Trees are living organisms subject to change and it is strongly recommended that they are inspected at regular intervals for reasons of safety.
7. The recommendations relate to the site as it exists at present, and to the current level and pattern of usage it currently enjoys. The degree of risk and hazard may alter if the site is developed or significantly changed, and as such will require regular re-inspection and re-appraisal.

8. Whilst every effort has been made to detect defects within the trees inspected, no guarantee can be given as to the absolute safety or otherwise of any individual tree. Extreme climatic conditions can cause damage to apparently healthy trees. In particular caution must be exercised if inferring or assuming matters relating to tree roots in the case where they cannot be visually assessed, as is normal and likely. It should be assumed that underground roots cannot be seen unless otherwise stated.

9. This report in no way constitutes a professional opinion on the integrity or status of buildings. Its primary purpose is to report on the status of trees. The status of built structures, if in doubt, should be reviewed by a suitably qualified person.

10. This report has been prepared for the sole use of the Lomond Group and their appointed agents. Any third party referring to this report or relying on information contained within it does so entirely at their own risk.

#### Explanation of terms used in the schedule

<b>Tag no.</b>	Identification number of tree
<b>Species</b>	Common name of species.
<b>DBH</b>	Trunk diameter measured at 1.5m.
<b>Crown</b>	Radial tree crown spread in metres.
<b>Ht</b>	Height of tree in metres.
<b>Age</b>	Age class category. <b>Y</b> Young, <b>E-M</b> Early Mature, <b>M</b> Mature, <b>M-A</b> Advanced mature, <b>Vet</b> Veteran.
<b>Stems</b>	Single stemmed or multi-stemmed
<b>Condition</b>	Condition category ( <b>Good</b> , <b>Fair</b> , <b>Poor</b> , or <b>Dead</b> ).
<b>SULE</b>	The tree's safe useful life expectancy, estimated in years.
<b>BS Cat</b>	BS 5837 Retention category ( <b>A</b> , <b>B</b> , <b>C</b> or <b>U</b> – see explanation above)
<b>Comments</b>	General comments on tree health, condition and form, highlighting any defects or areas of concern and any <b>recommendations</b> .

#### Tree condition categories

<b>Good</b>	(1) Healthy trees with no major defects (2) Trees with a considerable life expectancy (3) Trees of good shape and form
<b>Fair</b>	(1) Healthy trees with small or easily remedied defects (2) Trees with a shorter life expectancy (3) Trees of reasonable shape and form
<b>Poor</b>	(1) Trees with significant structural defects and/or decay (2) Trees of low vigour and under stress (3) Trees with a limited life expectancy (4) Trees of inferior shape and form
<b>Dead</b>	(1) Dead, dying and dangerous trees (2) Trees of very low vigour and with a severely limited life expectancy (3) Trees with serious structural defects and/or decay (4) Trees of exceptionally poor shape and form.



## Schedule

Tag no	Species	DBH	Canopy	Height	BSCat	Condition	Age	Stems	SULE	Comments	Recommendations
1948	Sycamore	0.45	3	12	C1	Fair	M	M	10 to 20	Newish manhole near base. Included bark, compression fork.	
1949	Sycamore	0.35	4	11	C1	Fair	E-M	1	10 to 20	Included bark, compression fork. Canopy 1-sided. Stumps near base.	
1950	Sycamore	0.35	5	10	C2	Fair	M	M	10 to 20	Included bark, compression fork. 3 stems 35 30 20. By burn	
1954	Sycamore	0.4	3	10	C2	Fair	M	1	10 to 20	Included bark, compression fork.	
1951	Oak-pedunculate	0.25	6	7	C2	Fair	E-M	1	10 to 20	Suppressed tree	
1952	Oak-pedunculate	0.75	5	12	A1	Fair	M	1	>40	Major dead wood (>50mm dia).	Complete dead-wooding.
1953	Sycamore	0.3	3	9	C2	Fair	E-M	1	10 to 20	Stem lean. Canopy suppressed.	
1955	Sycamore	0.2	2	9	C2	Fair	E-M	1	10 to 20	Stem wound, exposed timber remains sound. Narrow crown	
1956	Rowan	0.15	3	7	C2	Good	M	M	10 to 20		
1957	Birch-silver	0.25	1	12	B2	Good	M	M	20 to 40	Canopy suppressed.	
1958	Oak-pedunculate	0.15	4	6	C2	Poor	E-M	1	10 to 20	Suppressed tree	
1959	Birch-silver	0.35	2	12	B2	Good	M	M	20 to 40	Minor dead wood (<50mm dia).	
1960	Birch-silver	0.3	3	14	B2	Fair	M	M	20 to 40	Branch stubs from past pruning/storm damage.	Remove dead branch.
1961	Sycamore	0.95	7	15	A1	Good	M-A	1	>40	Branch stubs from past pruning/storm damage. Major dead wood (>50mm dia).	Crown clean, remove dead wood, weak, crossing branches and debris.
1962	Birch-silver	0.25	3	11	B2	Fair	M	1	10 to 20	Dead branch growing from base	Remove dead branch.
1963	Birch-silver	0.25	2	9	C2	Fair	M	1	10 to 20	Minor dead wood (<50mm dia).	Crown clean, remove dead wood, weak, crossing branches and debris.

Tag no	Species	DBH	Canopy	Height	BSCat	Condition	Age	Stems	SULE	Comments	Recommendations
1964	Sycamore	0.2	2	8	C2	Fair	E-M	1	10 to 20	Branch stubs from past pruning/storm damage.	
1965	Sycamore	0.35	3	10	B2	Fair	M	1	20 to 40	Included bark, weak fork in main scaffold limb.	
1966	Sycamore	0.35	3	10	C2	Fair	M	1	10 to 20	Included bark, compression fork.	
1967	Birch-silver	0.15	2	6	C2	Good	E-M	1	10 to 20	Growing from an old stump	
1968	Elm	0.2	3	5	C2	Fair	E-M	M	10 to 20	Elm regen	
1969	Elm	0.2	3	8	U	Dying	E-M	M	0	Probable Dutch elm disease	Fell.
1970	Elm	0.2	3	7	U	Dead	E-M	M	0	Probable Dutch elm disease	Fell.
1971	Elm	0.2	4	8	C2	Fair	E-M	M	<10	Not showing signs of Dutch elm disease	
1972	Hawthorn	0.25	4	6	C3	Poor	M	M	<10	Significant dieback, stag-headed.	
1973	Alder-common	0.45	7	10	B2	Good	M-A	M	20 to 40	Minor dead wood (<50mm dia).	
1974	Willow-goat	0.35	6	9	C1	Good	M	1	10 to 20	At roadside	
1975	Ash	0.35	5	11	C2	Good	M	M	10 to 20	At roadside	
1976	Elm	0.3	5	9	C2	Fair	M	M	10 to 20	At roadside	
1977	Hawthorn	0.35	4	5	C1	Fair	M	1	10 to 20	Minor crown dieback.	
No tag	Maple-Norway	0.1	1	<5	C2	Good	Y	1	>40	New planting	
No tag	Maple-field	0.1	1	<5	C2	Good	Y	1	>40	New planting	
No tag	Maple-Norway	0.1	1	<5	C2	Good	Y	1	>40	New planting	
No tag	Maple-field	0.1	1	<5	C2	Good	Y	1	>40	New planting	
No tag	Maple-Norway	0.1	1	<5	C2	Good	Y	1	>40	New planting	
No tag	Maple-field	0.1	1	<5	C2	Good	Y	1	>40	New planting	
No tag	Birch-silver	0.1	1	<5	C2	Good	Y	1	>40	New planting	
No tag	Birch-silver	0.1	1	<5	C2	Good	Y	1	>40	New planting	
No tag	Maple-Norway	0.1	1	<5	C2	Good	Y	1	>40	New planting	
No tag	Maple-field	0.1	1	<5	C2	Good	Y	1	>40	New planting	

# Keith Logie MICFor

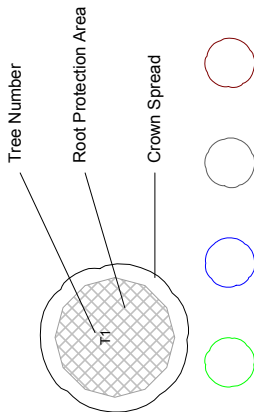
Chartered Forester  
e: xestobium62@yahoo.co.uk

## Blairfordel Tree Survey

SCALE :	DATE :
1 : 700 @ A4	9/21/2018
MAP FILENAME :	

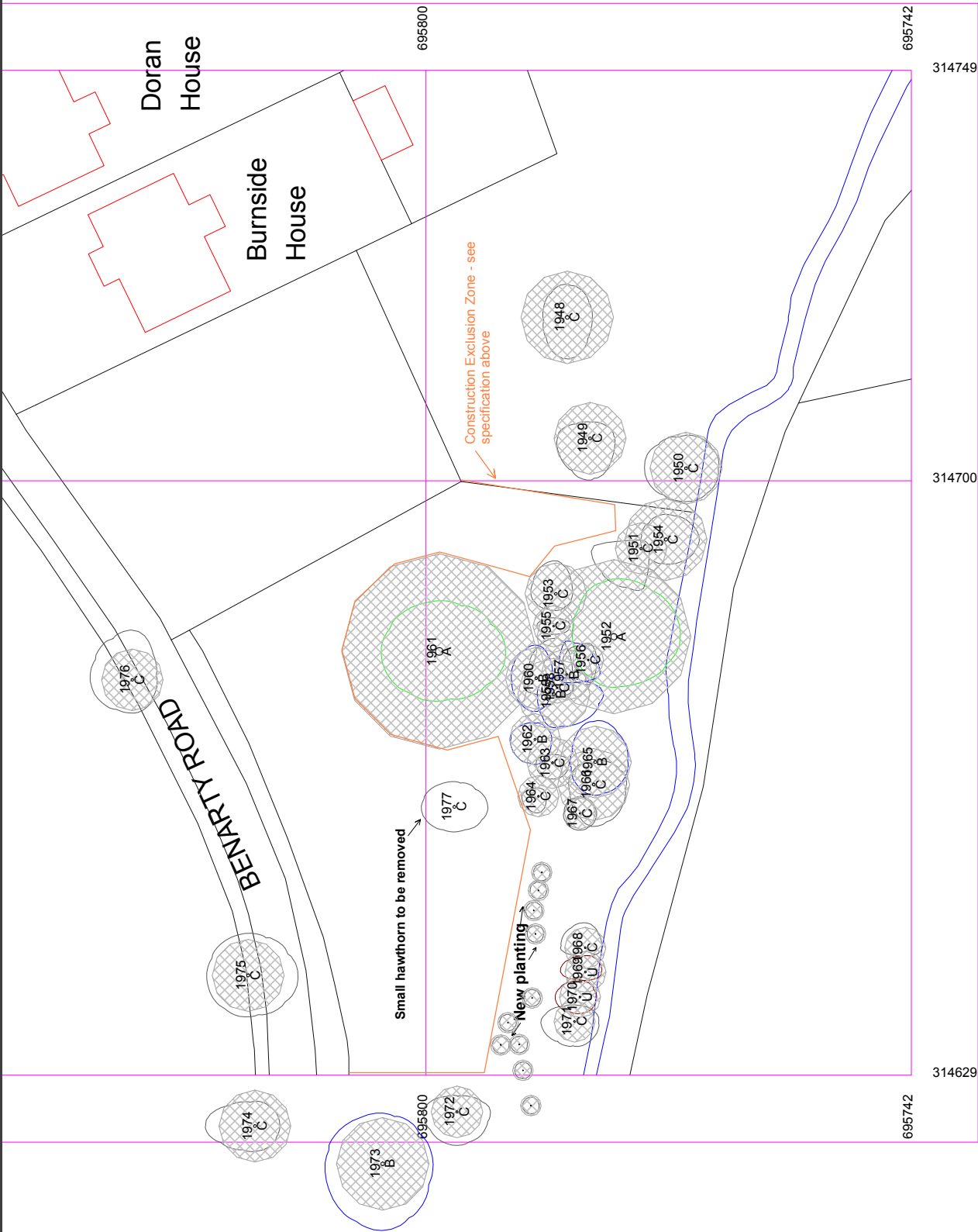


Map data shown may contain Ordnance Survey ® products supplied by  
Pear Technology Services Ltd; Email: info@peartechnology.co.uk  
© Crown Copyright and Ordnance Survey Licence 100023148  
Ordnance Survey ® licence number 100023148

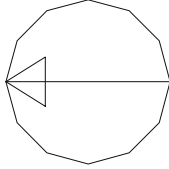


Category 'A'    Category 'B'    Category 'C'    Category 'U'

1047



Serial number: 147240  
© Crown copyright and database right 2018  
Ordnance Survey licence 100048957  
Reproduction in whole or in part is prohibited  
without the prior permission of Ordnance Survey









## REPORT OF HANDLING

### DELEGATED REPORT

Ref No	18/01176/IPL	
Ward No	P8- Kinross-shire	
Due Determination Date	03.09.2018	
Case Officer	Andy Baxter	
Report Issued by		Date
Countersigned by		Date

**PROPOSAL:** Residential Development (in principle)

**LOCATION:** Land 60 Metres South West Of Burnside House, Benarty Road, Kelty

**SUMMARY:**

This report recommends **refusal** of a planning in principle application for a residential development near Kelty on Benarty Road, 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:** 3 August 2018

**SITE PHOTOGRAPH**





## BACKGROUND AND DESCRIPTION OF PROPOSAL

This planning application seeks to secure a planning in principle consent for a residential development on a rural site along Benarty Road, near Kelty.

An indicative number of two residential units have been shown by the applicant.

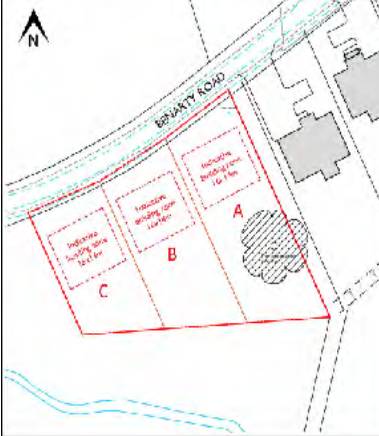
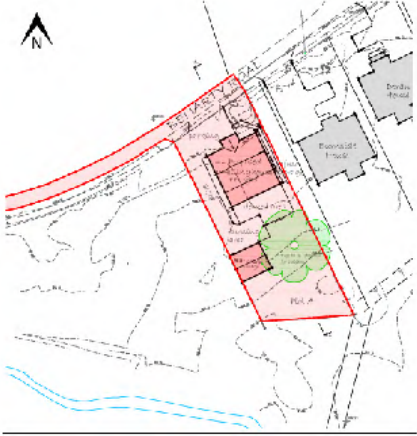

The site is currently an area of unkempt land which has a scattering of trees along its southern boundary, and also to the west. To the east of the site is a recently constructed dwelling and to the north is Benarty Road, which is a private road.

## SITE HISTORY

The site has a long history of previous planning applications.

In 2015, a planning in principle application for a residential development (15/00577/IPL) on a similar site which included an area to the east was refused planning consent, and a subsequent review of the refusal to the Council's Local Review Body was dismissed. The plans submitted as part of application 15/00577/IPL showed an indicative number of three residential units.

Following that refusal, a further planning application (16/00001/FLL) seeking detailed planning permission for the erection of a dwelling on the eastern part of the site was refused at officer level, but was approved by the Council's Local Review Body. That permission was subsequently amended via a change of house type application (17/00262/FLL) and has now been built out.

		
<p><i>Refused</i> (15/00577/IPL)</p>	<p><i>Approved (via LRB) / Built</i> (16/00001/FLL/17/00262/FLL)</p>	<p><i>Proposed</i> (18/01176/FLL)</p>



## **PRE-APPLICATION CONSULTATION**

None undertaken.

## **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.

Of specific relevance to this planning application is,

### **The Scottish Planning Policy 2014**

The Scottish Planning Policy (SPP) was published on June 23 2014. It sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:

- the preparation of development plans;
- the design of development, from initial concept through to delivery; and
- the determination of planning applications and appeals.

Of relevance to this application are,

- Paragraphs 74 – 83, which relates to Promoting Rural Development
- Paragraphs 109 – 134, which relates to Enabling Delivery of New Homes

## **DEVELOPMENT PLAN**

The Development Plan for the area comprises the TAYplan Strategic Development Plan 2016-2036 and the Perth and Kinross Local Development Plan 2014.

### **TAYplan Strategic Development Plan 2016 – 2036 - Approved October 2017**

Whilst there are no specific policies or strategies directly relevant to this proposal the overall vision of the TAYplan should be noted. The vision states *“By 2036 the TAYplan area will be sustainable, more attractive, competitive*

*and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice where more people choose to live, work, study and visit, and where businesses choose to invest and create jobs.”*

## **Perth and Kinross Local Development Plan 2014 – Adopted February 2014**

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

The site lies within the landward area of the Local Development Plan, where the following policies would be applicable to a residential development,

### **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 PM3 - Infrastructure Contributions**

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

### **Policy RD3 - Housing in the Countryside**

The development of single houses or groups of houses which fall within the six identified categories will be supported. This policy does not apply in the Green Belt and is limited within the Lunan Valley Catchment Area.

### **Policy NE2B – Trees**

Tree surveys, undertaken by a competent person, should accompany all applications for planning permission where there are existing trees on a site.

## **OTHER COUNCIL POLICIES**

### **Housing in the Countryside Guide 2012**

This policy is the most recent expression of Council Policy towards new residential development within the landward area and offers support for new housing in certain instances. One of the acceptable criteria is new development which extends existing building groups into definable sites.

### **Developer Contributions and Affordable Housing 2016**

This document sets out the Council's policy on Developer Contributions and Affordable Housing.

## **EXTERNAL CONSULTATION RESPONSES**

**The Coal Authority** has commented on the proposal in terms of the ground conditions, and indicated that in the event of an approval conditions should be attached to any permissions.

**Scottish Water** have commented on the proposal and raised no objections.

## **INTERNAL COUNCIL COMMENTS**

**Development Negotiations Officer** has commented on the proposal and indicated that in the event of any approval being forthcoming, a standard condition relating to Primary Education contributions should be attached to any permission.

**Transport Planning** have commented on the proposal and raised no objection to the proposal in terms of access or parking related matters.

**Structures & Flooding** have commented on the proposal and reviewed the submitted flood risk assessment (FRA). After reviewing the FRA, they have no objection to the proposal in terms of flood risk.

**Environmental Health** were consulted in relation to contaminated land but have opted not to make any specific comment.

## **REPRESENTATIONS**

One letter of support has been received stating that the approval of this planning application would result in a positive impact on the local environment.

## ADDITIONAL INFORMATION

Environmental Impact Assessment (EIA)	Not Required
Screening Opinion	Not Required
EIA Report	Not Required
Appropriate Assessment	Not Required
Design Statement or Design and Access Statement	Submitted
Report on Impact or Potential Impact	Coal Report Flood Risk Assessment

## 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 2016 and the adopted Perth and Kinross Local Development Plan 2014.

In terms of other considerations, the site's planning history is a material consideration as is the requirements of the Council's other approved policies in relation to HITCG and Developer Contributions.

### Policy Appraisal

In terms of land use policy issues, as was the case with the previous planning applications the key policies are contained within the Local Development Plan.

Within that plan, the site is located within the landward area where *Policies RD3 and PM1A* are directly applicable to all new residential proposals in the open countryside. *Policy RD3* refers specifically to the Council's Housing in the Countryside Policy and interlinks with the associated SPG, the Housing in the Countryside Guide 2012.

Both *Policy RD3* of the Local Development Plan and associated SPG offer support for new housing which extends existing building groups into definable sites when the extension of the existing building group takes place into a definable site which has a good landscape framework which is capable of successfully absorbing the development propose, and can be done so without compromising the character or amenity of the existing building group.

*Policy PM1A* of the Local Development Plan is also relevant to new proposals, and this policy seeks to ensure that all new developments across the landward area do not have an adverse impact on the local environment

For reasons stated below, I consider the proposal to contrary to these policies.

### **Land Use Acceptability**

In terms of land use acceptability, as was the case for the previous planning applications considered by the Council, the key consideration for this proposal is whether or not the erection of a new dwelling on this site would be consistent with the requirements of the Council's Housing in the Countryside Policies, as contained with *Policy RD3* of the Local Development Plan and the associated supplementary guidance 2012.

Within these policies, support is offered for new houses which extend existing building groups into definable sites formed by existing topography and / or well established landscape features which will provide a suitable setting for the development proposed. The HITC policies also state that all proposals must respect the character, layout and building pattern of the group and demonstrate that a high standard of residential amenity can be achieved for the existing and proposed house(s).

Within the area, there have been a number of recent developments (as well as older, existing properties) which now means that there is a clear existing building group of dwellings.

To this end, the key test of the acceptability of this proposal is whether or not the site is suitable for an extension (of that existing group) and whether or not the extension would have an adverse impact on the character or amenity of the existing group.

I shall address these issues in turn.

Notwithstanding the decision of the Council (via the LRB) in relation to planning application 16/00001/FLL and enlargement of the site to the south, it remains my view that the sites natural, existing landscape to the west in particular, and to the south is not sufficient enough to constitute a defined site.

Whilst there are some trees along these boundaries, the random nature of these trees is such that they do not provide a natural definable site which is capable of absorbing the development which is proposed.

In terms of the second issue, whether or not the development of this would have an adverse impact on the character or amenity of the existing group, the existing pattern of development within this area is clearly based on development on either side of the road.

Again, notwithstanding the decision of the Council (via the LRB) in relation to planning application 16/00001/FLL, it remains my view that any further development in the area subject of planning application would essentially

create an extended run of ribbon development, which in turn would have an adverse impact on the character and amenity of the group.

To this end, I consider the proposal to be contrary to the Council's Housing in the Countryside Policies.

### **Visual Amenity, Design and Layout**

As this is a planning in principle application, there are no specific designs or layout to consider at this stage.

### **Residential Amenity**

In terms of impact on existing residential amenity are a number of windows on the existing property to the east, facing west towards the site. Any residential development on this site would therefore need to take the existing windows into account.

In terms of being able to provide a suitable level of residential amenity for future occupiers, I have no concerns at this stage.

### **Roads and Access**

In terms of road and access related issues, the proposal raises no issues.

The local road network is capable to accommodating the development proposed. In terms of the individual accesses and parking provision for the proposed dwellings, this will be further accessed once a detailed submission is lodged.

### **Drainage and Flooding**

In terms of drainage issues, the site lies outwith a public sewered area so a private system would be required and I have no objection to this.

In terms of flooding issues, my colleagues in the Council's Flooding Team have reviewed the FRA and have no objection to the proposal from a flood risk point of view.

### **Impact on Trees**

There are a number of trees located along the southern part of the site.

A tree survey has not been submitted, and no details of whether or not these trees are to remain have been submitted as part of the planning application.

The proposal is therefore contrary to *Policy NE2B* of the Local Development Plan which states that Tree surveys, undertaken by a competent person, should accompany all applications for planning permission where there are existing trees on a site.

### **Impact on Local Wildlife**

There are no known protected species on the site. In the event that any approval is forthcoming, standard conditions / advisory notes in relation to wildlife should be considered.

### **Impact on Watercourse**

There is a water course to close to the southern boundary of the site.

In the event of any approval being forthcoming, a condition which requires a Construction and Environmental Management Plan should be attached to any permission.

### **Conservation Considerations**

The proposal does not affect any listed building or Conservation Area.

### **Developer Contributions**

#### Affordable Housing

As this proposal is for a site which is not capable of accommodating 5 or more residential dwellings, there is no requirement for any affordable housing provision.

#### Primary Education

In the event of an approval being forthcoming, a standard condition in relation to Primary Education should be attached to any permission.

#### Transport Infrastructure

The site lies outwith the catchment area for Transport Infrastructure contributions.

#### A9 Junction Improvements

The site lies outwith the catchment area for A9 Junction Improvement contributions.

## **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 considered to be contrary to the adopted Local Development Plan 2014.

I have taken account of material considerations and find none that would justify overriding the adopted Development Plan, and on that basis the application is recommended 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 planning application because of the following reasons,**

- 1 By virtue of the sites lack of a suitable landscape containment, the proposal fails to accord with the requirements of Policy RD3 of Perth and Kinross Council's adopted Local Development Plan 2014 and Perth and Kinross Council's Housing in the Countryside Guide 2012, both of which require all new developments that extend an existing building group to take place in a definable site formed by existing topography and or well established landscape features which would provide a suitable setting.
- 2 As the proposal would not respect the existing building pattern of the area, the proposal is contrary to the requirements of Policy RD3 of Perth and Kinross Council's adopted Local Development Plan 2014



and Perth and Kinross Council's Housing in the Countryside Guide 2012, both of which require all new developments which extend an existing building group to respect the character, layout and building pattern of the existing group.

- 3 No tree survey has been submitted as part of the planning submission. There are trees on the planning application which are potentially affected by the development. To this end, the planning submission is contrary to Policy NE2B of Perth and Kinross Council's adopted Local Development Plan which states that Tree surveys, undertaken by a competent person, should accompany all applications for planning permission where there are existing trees on a site.

### **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 (refusal recommended).

### **Procedural Notes**

None (refusal recommended).

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

18/01176/1  
18/01176/2

**Date of Report - 15 August 2018**



## PERTH AND KINROSS COUNCIL

Lomond Group (Scotland) Ltd c/o Andrew Bennie Planning Ltd Andrew Bennie 3 Abbots Court Dullatur G68 0AP	Pullar House 35 Kinnoull Street PERTH PH1 5GD
	Date 15th August 2018

### TOWN AND COUNTRY PLANNING (SCOTLAND) ACT

Application Number: **18/01176/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 4th July 2018 for permission for **Residential Development (in principle) Land 60 Metres South West Of Burnside House Benarty Road Kelty** for the reasons undernoted.

Interim Development Quality Manager

### Reasons for Refusal

- 1 By virtue of the sites lack of a suitable landscape containment, the proposal fails to accord with the requirements of Policy RD3 of Perth and Kinross Council's adopted Local Development Plan 2014 and Perth and Kinross Council's Housing in the Countryside Guide 2012, both of which require all new developments that extend an existing building group to take place in a definable site formed by existing topography and or well established landscape features which would provide a suitable setting.
- 2 As the proposal would not respect the existing building pattern of the area, the proposal is contrary to the requirements of Policy RD3 of Perth and Kinross Council's adopted Local Development Plan 2014 and Perth and Kinross Council's Housing in the Countryside Guide 2012, both of which require all new developments which extend an existing building group to respect the character, layout and building pattern of the existing group.

- 3 No tree survey has been submitted as part of the planning submission. There are trees on the planning application which are potentially affected by the development. To this end, the planning submission is contrary to Policy NE2B of Perth and Kinross Council's adopted Local Development Plan which states that Tree surveys, undertaken by a competent person, should accompany all applications for planning permission where there are existing trees on a site.

### **Justification**

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

### **Notes**

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**

18/01176/1

18/01176/2

<p><b>TCP/11/16(556) – 18/01176/IPL – Residential Development (in principle) on land 60 metres south west of Burnside House, Benarty Road, Kelty</b></p>
--

**PLANNING DECISION NOTICE** *(included in  
applicant's submission, see pages 1051-1061)*

**REPORT OF HANDLING** *(included in applicant's  
submission, see pages 1063-1064)*

**REFERENCE DOCUMENTS** *(included in applicant's  
submission, see pages 995-1009)*



**TCP/11/16(556) – 18/01176/IPL – Residential Development  
(in principle) on land 60 metres south west of Burnside  
House, Benarty Road, Kelty**

## **REPRESENTATIONS**





10<sup>th</sup> July 2018

Perth & Kinross Council  
Pullar House 35 Kinnoull Street  
Perth  
PH1 5GD



Development Operations  
The Bridge  
Buchanan Gate Business Park  
Cumbernauld Road  
Stepps  
Glasgow  
G33 6FB

Development Operations  
Freephone Number - 0800 3890379  
E-Mail - [DevelopmentOperations@scottishwater.co.uk](mailto:DevelopmentOperations@scottishwater.co.uk)  
[www.scottishwater.co.uk](http://www.scottishwater.co.uk)

Dear Local Planner

**KY4 Kelty Benarty Rd 60M SW Burnside House**  
**PLANNING APPLICATION NUMBER: 18/01176/IPL**  
**OUR REFERENCE: 763563**  
**PROPOSAL: Residential Development (in principle)**

**Please quote our reference in all future correspondence**

Scottish Water has no objection to this planning application; however, the applicant should be aware that this does not confirm that the proposed development can currently be serviced and would advise the following:

**Water**

- There is currently sufficient capacity in the Glendevon Water Treatment Works. However, please note that further investigations may be required to be carried out once a formal application has been submitted to us.

**Foul**

- There is currently sufficient capacity in the Levenmouth Waste Water Treatment Works. However, please note that further investigations may be required to be carried out once a formal application has been submitted to us.

**The applicant should be aware that we are unable to reserve capacity at our water and/or waste water treatment works for their proposed development. Once a formal connection application is submitted to Scottish Water after full planning permission has been granted, we will review the availability of capacity at that time and advise the applicant accordingly.**

## **Surface Water**

For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will not normally accept any surface water connections into our combined sewer system.

There may be limited exceptional circumstances where we would allow such a connection for brownfield sites only, however this will require significant justification from the customer taking account of various factors including legal, physical, and technical challenges.

In order to avoid costs and delays where a surface water discharge to our combined sewer system is anticipated, the developer should contact Scottish Water at the earliest opportunity with strong evidence to support the intended drainage plan prior to making a connection request. We will assess this evidence in a robust manner and provide a decision that reflects the best option from environmental and customer perspectives.

## **General notes:**

- **Scottish Water asset plans can be obtained from our appointed asset plan providers:**

**Site Investigation Services (UK) Ltd**

**Tel: 0333 123 1223**

**Email: [sw@sisplan.co.uk](mailto:sw@sisplan.co.uk)**

**[www.sisplan.co.uk](http://www.sisplan.co.uk)**

- Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements to be installed, subject to compliance with Water Byelaws. If the developer wishes to enquire about Scottish Water's procedure for checking the water pressure in the area then they should write to the Customer Connections department at the above address.
- If the connection to the public sewer and/or water main requires to be laid through land out-with public ownership, the developer must provide evidence of formal approval from the affected landowner(s) by way of a deed of servitude.
- Scottish Water may only vest new water or waste water infrastructure which is to be laid through land out with public ownership where a Deed of Servitude has been obtained in our favour by the developer.

- The developer should also be aware that Scottish Water requires land title to the area of land where a pumping station and/or SUDS proposed to vest in Scottish Water is constructed.
- **Please find all of our application forms on our website at the following link**  
<https://www.scottishwater.co.uk/business/connections/connecting-your-property/new-development-process-and-applications-forms>

### **Next Steps:**

- **Single Property/Less than 10 dwellings**

For developments of less than 10 domestic dwellings (or non-domestic equivalent) we will require a formal technical application to be submitted directly to Scottish Water or via the chosen Licensed Provider if non domestic, once full planning permission has been granted. Please note in some instances we will require a Pre-Development Enquiry Form to be submitted (for example rural location which are deemed to have a significant impact on our infrastructure) however we will make you aware of this if required.

- **10 or more domestic dwellings:**

For developments of 10 or more domestic dwellings (or non-domestic equivalent) we require a Pre-Development Enquiry (PDE) Form to be submitted directly to Scottish Water prior to any formal Technical Application being submitted. This will allow us to fully appraise the proposals.

Where it is confirmed through the PDE process that mitigation works are necessary to support a development, the cost of these works is to be met by the developer, which Scottish Water can contribute towards through Reasonable Cost Contribution regulations.

- **Non Domestic/Commercial Property:**

Since the introduction of the Water Services (Scotland) Act 2005 in April 2008 the water industry in Scotland has opened up to market competition for non-domestic customers. All Non-domestic Household customers now require a Licensed Provider to act on their behalf for new water and waste water connections. Further details can be obtained at [www.scotlandontap.gov.uk](http://www.scotlandontap.gov.uk)

- **Trade Effluent Discharge from Non Dom Property:**

Certain discharges from non-domestic premises may constitute a trade effluent in terms of the Sewerage (Scotland) Act 1968. Trade effluent arises from activities including; manufacturing, production and engineering; vehicle, plant and equipment washing, waste and leachate management. It covers both large and small premises, including activities such as car washing and launderettes. Activities not covered include hotels, caravan sites or restaurants.

If you are in any doubt as to whether or not the discharge from your premises is likely to be considered to be trade effluent, please contact us on 0800 778 0778 or email [TEQ@scottishwater.co.uk](mailto:TEQ@scottishwater.co.uk) using the subject "Is this Trade Effluent?". Discharges that are deemed to be trade effluent need to apply separately for permission to discharge to the sewerage system. The forms and application guidance notes can be found using the following link <https://www.scottishwater.co.uk/business/our-services/compliance/trade-effluent/trade-effluent-documents/trade-effluent-notice-form-h>

Trade effluent must never be discharged into surface water drainage systems as these are solely for draining rainfall run off.

For food services establishments, Scottish Water recommends a suitably sized grease trap is fitted within the food preparation areas so the development complies with Standard 3.7 a) of the Building Standards Technical Handbook and for best management and housekeeping practices to be followed which prevent food waste, fat oil and grease from being disposed into sinks and drains.

The Waste (Scotland) Regulations which require all non-rural food businesses, producing more than 50kg of food waste per week, to segregate that waste for separate collection. The regulations also ban the use of food waste disposal units that dispose of food waste to the public sewer. Further information can be found at [www.resourceefficientscotland.com](http://www.resourceefficientscotland.com)

If the applicant requires any further assistance or information, please contact our Development Operations Central Support Team on 0800 389 0379 or at [planningconsultations@scottishwater.co.uk](mailto:planningconsultations@scottishwater.co.uk).

Yours sincerely

**Angela Allison**

[Angela.Allison@scottishwater.co.uk](mailto:Angela.Allison@scottishwater.co.uk)

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

<b>Planning Application ref.</b>	18/01176/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 [REDACTED]
<b>Description of Proposal</b>	Residential Development (in principle)		
<b>Address of site</b>	Land 60 Metres South West Of Burnside House, Benarty Road, Kelty		
<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 Cleish Primary School.</p>		
<b>Recommended planning condition(s)</b>	<p><b>Primary Education</b></p> <p><b>CO01</b> The development shall be in accordance with the requirements of Perth &amp; Kinross Council's Developer Contributions and Affordable Housing Supplementary Guidance 2016 in line with Policy PM3: Infrastructure Contributions of the Perth &amp; Kinross Local Development Plan 2014 with particular regard to primary education infrastructure or such replacement Guidance and Policy which may replace these.</p> <p><b>RCO00</b> Reason – To ensure that the development approved makes a contribution towards increasing primary school provision, in accordance with Development Plan Policy and Supplementary Guidance.</p>		
<b>Recommended informative(s) for applicant</b>	N/A		
<b>Date comments returned</b>	13 July 2018		



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

<b>Planning Application ref.</b>	18/01176/IPL	<b>Comments provided by</b>	Leigh Martin
<b>Service/Section</b>	HES/Flooding	<b>Contact Details</b>	FloodingDevelopmentControl@pkc.gov.uk
<b>Description of Proposal</b>	Residential Development (in principle).		
<b>Address of site</b>	Land 60 Metres South West Of Burnside House Benarty Road Kelty.		
<b>Comments on the proposal</b>	<p>No objection.</p> <p>The supplied Flood Risk Assessment shows that under current conditions the Kinnaird Burn will not break its bank on the north side, into the site, but will stay in channel or flow into the field on the south side of the watercourse.</p>		
<b>Recommended planning condition(s)</b>	N/A		
<b>Recommended informative(s) for applicant</b>	PKC Flooding and Flood Risk Guidance Document (June 2014)		
<b>Date comments returned</b>	20/07/18		





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

<b>Planning Application ref.</b>	18/01176/IPL	<b>Comments provided by</b>	Mike Lee Transport Planning Officer
<b>Service/Section</b>	Transport Planning	<b>Contact Details</b>	[REDACTED] [REDACTED]
<b>Description of Proposal</b>	Residential Development (in principle)		
<b>Address of site</b>	Land 60 Metres South West Of Burnside House Benarty Road Kelty		
<b>Comments on the proposal</b>	Insofar as the Roads matters are concerned I have no objections to this proposal.		
<b>Recommended planning condition(s)</b>			
<b>Recommended informative(s) for applicant</b>			
<b>Date comments returned</b>	27/07/18		



# Comments for Planning Application 18/01176/IPL

## Application Summary

Application Number: 18/01176/IPL

Address: Land 60 Metres South West Of Burnside House Benarty Road Kelty

Proposal: Residential Development (in principle)

Case Officer: Andrew Baxter

## Customer Details

Name: Mr John Thomson

Address: [REDACTED]

## Comment Details

Commenter Type: Neighbour

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

- Enhances Character of Area
- Supports Economic Development

Comment: Dear Sir/Madam,

I wanted to comment on the associated planning application and give it my full support. I farm the land around this small development and the area going into Lochore Meadows Park. With this being the entrance into the Meadows I feel that it should look neat and tidy which at the moment it most definitely does not as at present it is very unsightly and does nothing to compliment the area. Completing this small development with two more houses will improve the entrance to the park and generally make the area more appealing. Two houses will fit in well with the stunning homes that have already been built in this cluster and at the same time complete the development. Developing this area will fit in with the natural boundaries of the site between the road, the stream and the trees.

As I mentioned, I would lend my full support to developing this site.

Regards

J Thomson





The Coal  
Authority



INVESTOR IN PEOPLE



RTPI

Learning Partner

200 Lichfield Lane  
Berry Hill  
Mansfield  
Nottinghamshire  
NG18 4RG

Tel: 01623 637 119 (Planning Enquiries)

Email: [planningconsultation@coal.gov.uk](mailto:planningconsultation@coal.gov.uk)

Web: [www.gov.uk/coalauthority](http://www.gov.uk/coalauthority)

For the Attention of: Mr A Baxter – Case Officer  
Perth and Kinross Council

**[By Email: [developmentmanagement@pkc.gov.uk](mailto:developmentmanagement@pkc.gov.uk)]**

14 August 2018

Dear Mr Baxter

**PLANNING APPLICATION: 18/01176/IPL**

**Residential development (in principle); Land 60 Metres South West Of Burnside House, Benarty Road, Kelty, KY4 0HR – Re-consultation**

Thank you for your notification of 2 August 2018 seeking the further views of The Coal Authority on the above planning application.

The Coal Authority is a non-departmental public body sponsored by the Department of Business, Energy & Industrial Strategy. As a statutory consultee, The Coal Authority has a duty to respond to planning applications and development plans in order to protect the public and the environment in mining areas.

**The Coal Authority Response: Material Consideration**

I have reviewed the proposals and confirm that the application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.

The Coal Authority records indicate that the site is in an area of recorded and likely unrecorded coal mine workings at shallow depth.

I have now had an opportunity to review the Coal Mining Risk Assessment, dated August 2015 and prepared by Geovia. This report has been informed by a range of sources of information.

Although we note that the report was prepared for a slightly smaller site than the current planning application site boundary we consider that its content and conclusions are still

relevant. Having reviewed the available coal mining and geological information the report concludes that intrusive site investigations should be carried out in order to establish the exact situation in respect of coal mining legacy issues. The Coal Authority considers that due consideration should also be afforded to the potential risk posed by mine gas to the proposed development.

The intrusive site investigations should be designed by a competent person and should ensure that they are adequate to properly assess the ground conditions on the site in order to establish the exact situation in respect of coal mining legacy and the potential risks posed to the development by past coal mining activity. The nature and extent of the intrusive site investigations should be agreed with the Permitting Section of the Coal Authority as part of the permissions process. The findings of the intrusive site investigations should inform any remedial measures which may be required.

#### The Coal Authority Recommendation to the LPA

The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment Report; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site.

In the event that the site investigations confirm the need for remedial works to treat the areas of shallow mine workings to ensure the safety and stability of the proposed development, this should also be conditioned to ensure that any remedial works identified by the site investigation are undertaken prior to commencement of the development.

A condition should therefore require prior to the commencement of development:

- \* The undertaking of a scheme of intrusive site investigations which is adequate to properly assess the ground conditions and the potential risks posed to the development by past coal mining activity;
- \* The submission of a report of findings arising from the intrusive site investigations, including details of any remedial works necessary for approval; and
- \* Implementation of those remedial works.

The Coal Authority therefore has **no objection** to the proposed development **subject to the imposition of a condition or conditions to secure the above**.

Please do not hesitate to contact me if you would like to discuss this matter further.

Yours sincerely

*Melanie Lindsley*

**Melanie Lindsley** BA (Hons), DipEH, DipURP, MA, PGCertUD, PGCertSP, MRTPI  
**Development Team Leader**

## General Information for the Applicant

Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. In the event that you are proposing to undertake such work in the Forest of Dean local authority area our permission may not be required; it is recommended that you check with us prior to commencing any works. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at:

<https://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property>

## Disclaimer

The above consultation response is provided by The Coal Authority as a Statutory Consultee and is based upon the latest available data on the date of the response, and electronic consultation records held by The Coal Authority since 1 April 2013. The comments made are also based upon only the information provided to The Coal Authority by the Local Planning Authority and/or has been published on the Council's website for consultation purposes in relation to this specific planning application. The views and conclusions contained in this response may be subject to review and amendment by The Coal Authority if additional or new data/information (such as a revised Coal Mining Risk Assessment) is provided by the Local Planning Authority or the Applicant for consultation purposes.

*In formulating this response The Coal Authority has taken full account of the professional conclusions reached by the competent person who has prepared the Coal Mining Risk Assessment or other similar report. In the event that any future claim for liability arises in relation to this development The Coal Authority will take full account of the views, conclusions and mitigation previously expressed by the professional advisers for this development in relation to ground conditions and the acceptability of development.*





**TCP/11/16(556) – 18/01176/IPL – Residential Development  
(in principle) on land 60 metres south west of Burnside  
House, Benarty Road, Kelty**

## **FURTHER INFORMATION**



**From:** Andy Baxter  
**Sent:** 25 January 2019 07:43  
**To:** CHX Planning Local Review Body - Generic Email Account  
**Subject:** Additional information - TCP/11/16 (556)

Dear LRB,

**Town & Country Planning (Scotland) Act 1997**  
**The Town & Country Planning (Schemes of Delegation & Local Review Procedure)**  
**(Scotland) Regulations 2013**  
**Application Ref: 18/01176/IPL – Residential Development (in principle) on land 60 metres south west of Burnside House, Benarty Road, Kelty – Lomond Group (Scotland) Ltd**

I refer to the above, and apologise for the delay in getting back to you.

To answer the questions in turn,

ii) The tree survey submitted shows a number of trees within the site, and some which could be affected by any development on the site. The survey appears to cover all the relevant trees, and the LRB should consider the impact of development within the site on tree numbered 1961 in particular. In terms of the reason for refusal, the reason was largely related to the lack of information on trees - so in the event of any re-submission being accompanied by attached tree survey, the same reason would not likely be attached to any refusal (if a refusal was the eventual outcome).

iii) The Council's Report of Handing, and LRB review decision (for 16/00001/FLL) ([see attached](#))

iv) The Council requested further details in relation to the Condition 10 from the new occupiers of the dwelling. As far as I know, details have not been formally submitted to the Council, and certainly, as you can see from the site pictures, minimum landscaping / planting along the west has been delivered. It is the case that the occupiers of the dwelling to the east of the site do not own the site to the west, so their ability to comply with Condition 10 is restricted.

Hope this assists,

**Andy Baxter**  
**Planning Officer (Local Developments)**  
**Development Management**  
**Planning & Development**

Perth & Kinross Council  
Housing & Environment  
Pullar House  
35 Kinnoull Street  
Perth  
PH1 5GD





# REPORT OF HANDLING

## DELEGATED REPORT

Ref No	16/00001/FLL	
Ward No	N8- Kinross-shire	
Due Determination Date	26.03.2016	
Case Officer	Andy Baxter	
Report Issued by		Date
Countersigned by		Date

**PROPOSAL:** Erection of a dwellinghouse and detached garage

**LOCATION:** Land 40 Metres North West Of Burnside House, Benarty Road, Kelty

### SUMMARY:

This report recommends **refusal of** a detailed planning application for the erection of single dwelling on a site which is located along Benarty Road, Kelty as the development is not considered to comply with the relevant provisions of the Development Plan and there are no material considerations apparent which outweigh the Development Plan.

**DATE OF SITE VISIT:** 26 February 2016

### SITE PHOTOGRAPHS



## **BACKGROUND AND DESCRIPTION OF PROPOSAL**

This planning application seeks to obtain detailed planning consent for the erection of a two storey dwelling on a site which is along Benarty Road, Kelty. The site lies adjacent to a run of recently built dwellings, with the closest dwelling being a large dwelling which essentially offers living accommodation over two full levels.

The site at present is disturbed ground which has been used as a site compound for the recently constructed dwellings to the east. To the south of the site runs a small burn and a scattering of scrub trees, whilst to the north runs the public road. Within the site to the south is an existing tree which is proposed to be retained as part of the proposals.

The new dwelling will be located slightly further forward of the adjacent dwelling. Vehicular access to the dwelling would be via a new access point which will join the private access of Benarty Road. The existing private access is partly surfaced, and already serves a number of residential properties.

## **SITE HISTORY**

A planning in principle application for the creation of three residential plots on an area of land which covers this plot and two other potential housing plots (15/00577/IPL) is currently under determination now also being recommended for refusal.

## **PRE-APPLICATION CONSULTATION**

Pre-application advice was offered to the applicant in relation to this submission, and also the application for the larger site.

## **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.

Of specific relevance to this planning application is,

### **The Scottish Planning Policy 2014**

The Scottish Planning Policy (SPP) was published in June 2014, and it sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:

- the preparation of development plans;
- the design of development, from initial concept through to delivery; and
- the determination of planning applications and appeals.

Of relevance to this application are,

- Paragraphs 74 – 83, which relates to Promoting Rural Development
- Paragraphs 109 – 134, which relates to Enabling Delivery of New Homes

## **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 the Tay Plan 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 application site lies within the landward area, where the following policies are applicable,

#### **Policy RD3 - Housing in the Countryside**

The development of single houses or groups of houses which fall within the six identified categories will be supported. This policy does not apply in the Green Belt and is limited within the Lunan Valley Catchment Area.

#### **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 PM3 - Infrastructure Contributions**

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

#### **Policy 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 EP3B - Water, Environment and Drainage**

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

### **Policy EP3C - Water, Environment and Drainage**

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

## **OTHER COUNCIL POLICIES**

### **Housing in the Countryside Guide 2012**

This policy is the most recent expression of Council Policy towards new residential development within the landward area and offers support for new housing in certain instances. One of the acceptable criteria is new development which extends existing building groups into definable sites.

### **Developer Contributions 2014**

This policy seeks to secure both A9 junction contributions and education contributions in certain circumstances. As the site benefited from a detailed planning consent (when this application was made, there is no requirement for an education contribution. This Supplementary Guidance should be read in conjunction with Local Development Plan *Policy PM3: Infrastructure Contributions and Developer Contributions Supplementary Guidance*.

### **Developer Contributions, Transport Infrastructure 2014**

This following Supplementary Guidance is about facilitating development. It sets out the basis on which the Council will seek contributions from developments in and around Perth towards the cost of delivering the transport infrastructure improvements which are required for the release of all development sites and to support the growth of Perth and Kinross. This Supplementary Guidance should be read in conjunction with Local Development Plan *Policy PM3: Infrastructure Contributions and Developer Contributions Supplementary Guidance*.

## **EXTERNAL CONSULTATION RESPONSES**

**The Coal Authority** has confirmed that subject to conditions, they have no objection to the planning application.



**Scottish Water** have been consulted on the planning application but made no comment.

## **INTERNAL COUNCIL COMMENTS**

**Transport Planning** have commented on the planning application and raised no objections.

**Contributions Officer** has indicated that a Primary Education contribution is required as the local primary school is operating at over its 80% capacity.

**Environmental Health** have confirmed (verbally) that the Council's standard 4 part condition contaminated land condition should be attached to any permission.

## **REPRESENTATIONS**

Two letters of representations have been received from interested parties.

Both of these representations do not raise any issues with the principle of this planning application in terms of the HITCG, the proposed design or issues concerning loss of privacy or overlooking.

The sole issue raises by within the letters of representation relate to the condition of the access private access road.

This issue is addressed in the main section of the report.

## **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	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.

In terms of other considerations, the requirements of the Council's other approved policies in relation to HITCG and Developer Contributions are all material contributions.

### **Policy Appraisal**

In terms of land use policy issues, the key policies are contained within the Local Development Plan. Within that plan, the site is located within the landward area where *Policies RD3 and PM1A* are directly applicable to all new residential proposals in the open countryside. *Policy RD3* refers specifically to the Council's Housing in the Countryside Policy and interlinks with the associated SPG, the Housing in the Countryside Guide 2012.

Both *Policy RD3* of the Local Development Plan and the associated SPG offer support for new housing which extends existing building groups when the extension of the group takes place into a definable site which has a good landscape framework which is capable of successfully absorbing the development proposed, and can be done so without compromising the character or amenity of the existing building group.

*Policy PM1A* of the Local Development Plan is also relevant to new proposals, and this policy seeks to ensure that all new developments across the landward area do not have an adverse impact on the local environment

For reasons stated below, I consider the proposal to be consistent with the aforementioned policies.

### **Land Use Acceptability**

In terms of land use acceptability, the key consideration for this proposal is whether or not the erection of a new dwelling on this site would be consistent with the requirements of the Council's Housing in the Countryside Policies, as contained with *Policy RD3* of the Local Development Plan and the associated supplementary guidance 2012.

Within these policies, support is offered for new houses which extend existing building groups into definable sites formed by existing topography and / or well established landscape features which will provide a suitable setting for the development proposed. The policies also state that all proposals must respect the character, layout and building pattern of the group and demonstrate that a high standard of residential amenity can be achieved for the existing and proposed house(s).

Within the area, there have been a number of recent developments (as well as some older, existing properties) which now means that there is a clear existing building group of dwellings which are all accessed via the private Benarty Road. To this end, the key test of the acceptability of this proposal is whether or not the site is suitable for an extension (of that existing group) in terms of its landscape framework, and whether or not the extension would have an adverse impact on the character or amenity of the existing group.

I shall address these issues in turn.

The site lies adjacent to an existing run of dwellings which follow the line of Benarty Road.

The western boundary of the site is not defined and simply merges into a larger area – giving it an extremely open feel. To the south, the landscape framework is weak and does not offer any degree of natural containment. The Council considered the possibility of requiring structural landscaping to the west of the site, on land outwith the control of the applicant – however creating a landscape framework is not considered acceptable under the terms of the Council's Housing in the Countryside Policies.

It is also the case that the approval of this planning application might result in further (detailed) applications being lodged at a later date and that the approval of this planning application (with landscape containment which is manufactured) could set a dangerous precedent for further planning applications to the west within a larger site that doesn't have any degree of landscape containment.

I'm also conscious of the fact that the visual appearance of the site (subject of this planning application) at the moment has been *manufactured* to some degree by its use as a site compound for previous developments within the area and I'm not convinced that the proposed site would be an acceptable rural brownfield development.

To this end, the proposal is contrary to the Council's Housing in the Countryside Policies.

### **Residential Amenity**

In terms of the impact on existing residential amenity, the closest interaction is with the adjacent dwelling to the east, the occupiers of which have raised no opposition to the proposed house type or in the location proposed. There are some windows at first floor level on the gable of the existing dwelling facing the proposed plot, however these windows (*as per the floor plan lodged under 11/01683/FLL*) all serving bathrooms. The windows proposed at first floor level on the proposed dwelling serve two bedrooms (secondary windows) and a bathroom. There is a bit of distance between gable to gable (approx. 9m), and based on the nature of the windows on the existing dwelling I would have no concerns regarding window to window interaction at first floor level. At ground floor level, there is no window to window interaction as there aren't any existing windows on the neighbour's property at ground level. In any event, the existing screen fence would offer some degree of privacy to the occupiers of the existing dwelling between the boundaries.

In terms of the position to the rear of the dwellings, as with most two storey dwellings there would be some overlooking to the rear garden of each property from one another from first floor level. Both the existing dwelling and the proposed dwelling have large bedroom windows at first floor level, and it would be unavoidable to stop some overlooking occurring.

However, the siting of the proposed dwelling slightly forward of its neighbour would offer some degree of privacy as it would make the angle of viewing (towards the neighbour's garden) slightly more acute. In terms of screening at ground level, the existing fence which runs along the boundary will cover a degree of screening between the two and if the parties wished to increase this to larger fencing and or landscaping they would be able to do so at a later date. I note that a deck area is proposed to the rear of the new dwelling, and whilst I have no objection to this, in the event of any approval being forthcoming, conditions relating to the proposed boundary screening of the deck (via fencing) would be required so that the proposal does not affect the amenity of the neighbour. On the submitted plans, only the side of the deck is screened, so further clarification of this, in combination with the general boundary treatments would require to be sought via suspensive conditions.

In all, I do not consider the residential amenity of the neighbour to be adversely affected by this proposal and again, I note that no concern has been raised from the affected neighbour.

In terms of the residential amenity which would be associated with the new dwelling, I also have no concerns. As the plot has been pushed forward (to protect the neighbour), all the private amenity space is to the rear of the plot. The usable area is slightly disjointed by the presence of an existing tree (which is to be retained), however around the tree, and taking into account a proposed deck area, there is sufficient usable amenity space for the size of dwelling proposed.

To this end, I have no issues concerning residential amenity, either existing or proposed.

### **Visual Amenity, Design and Layout**

In terms of the design of the proposed dwelling, I have no concerns.

The proposal proposes living accommodation over two full levels which is slightly different than the adjacent dwelling. However, whilst the adjacent dwelling has incorporated dormers onto their design it is far more akin in scale and mass to a typical two storey dwelling. The submitted FFL of the proposed dwelling and those of the built neighbour are comparable, which will result in a dwelling which is marginally higher (to the ridge) than the neighbour.

The comparison ridge lines of the proposed (8.7m) are directly comparable to the neighbour (8.5m) and the small difference would be negligible on the size of dwelling proposed. As the proposal is a full two storey with no dormers, there would be a slight difference in the appearance between the roof to wall ratios of the proposed dwelling and the neighbour, however there isn't any general uniformity in the area with a range of house types and scales being present.

In terms of the position of the dwelling on the plot, the dwelling has been sited slightly forward of the line of the adjacent neighbour. However, there is a staggered building line in the area and I do not consider the forward location of the dwelling to cause any degree of concern.

To this end, I consider the overall design and location the proposed dwelling to be acceptable.

### **Roads and Access**

In terms of access related issues, the site is served by an existing private access which is surfaced, but with some damage done to its surface. It is noted that within the letters of representations, both the interested parties have raised some concerns regarding the state of the road and the probability that it could worsen with further construction. As this development is for the erection of a single dwelling, I do not consider it would be reasonable to ask the applicant to improve the surface of the private access which already serves approx. 11 dwellings. It is also unlikely that the construction traffic associated with one dwelling would in itself have an adverse impact on the condition of the road surface. It is also noted that my colleagues in Transport Planning have not asked for any proposed upgrades of the private access.

### **Impact on trees**

Some trees have already been removed along the site's frontage, however this was undertaken some time ago and would not ordinarily have required any planning permissions or consent as those trees were not protected. In terms of existing trees which are directly affected by the proposal, only one tree is located within the site with several others immediately outwith. The location of this tree is such that it would not be comprised by the proposed development. However, in the event of any approval, a condition should be placed on any permission which requires the tree to be retained and also protected during the course of construction to the standards required by the British Standards for trees on construction sites.

### **Contaminated Land Issues**

Due to the site's previous uses, there is the potential for land to have contaminants in it which require remedial action. To this end, in the event of any approval, a standard condition in relation to contaminated land should be attached to any consent.

### **Drainage and Flooding**

The site lies outwith a sewered area, so foul drainage would be via a private system which would need to accord with both SEPA's and the technical standards. In terms of flooding issues, whilst there is a watercourse which runs along the rear of the site, my colleagues in the flooding team have raised no concerns.

### **Protected Species**

There are no known protected species affected by this proposal. The site has largely been cleared of ground based vegetation, and has been previously used as a site compound for the adjacent site. An informative note should be attached to any permission which draws the applicant's attention to his / her responsibilities under the wildlife acts.

## **Coal Mining**

The site is located within an area where there has been known coal lining activity. The Coal Authority have commented on the planning application and indicated that that subject to standard conditions and notes being attached to any consent, they have no objections to the proposal.

## **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 considered to be contrary to the adopted Local Development Plan 2014 and the HITCG 2012. 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.

## **DEVELOPER CONTRIBUTIONS**

### **Transport Contributions**

The site lies outwith the catchment area for Developer Contributions in relation to Transport Contributions.

### **Primary Education**

The local primary school is operating at over 80% of its capacity, and to this end a Developer Contribution in relation to Primary Education is required as part of this development.

### **Affordable Housing**

None required.

## **APPLICATION PROCESSING TIME**

The recommendation for this application has not been made within the statutory determination period.

## **LEGAL AGREEMENTS**

None required due to the recommendation of refusal.

## **DIRECTION BY SCOTTISH MINISTERS**

None applicable to this proposal.

## **RECOMMENDATION**

By virtue of the sites lack of a suitable landscape containment, the proposal fails to accord with the requirements of Policy RD3 of Perth and Kinross Council's Local Development Plan 2014 and Perth and Kinross Council's Housing in the Countryside Guide 2012, both of which require all new developments that extend an existing building group to take place in a definable site formed by existing topography and or well established landscape features which would provide a suitable setting.

### **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**

None

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

16/00001/1

16/00001/2

16/00001/3

**Date of Report 29.03.2016**





## **REVIEW DECISION NOTICE**

---

Decision by Perth and Kinross Local Review Body (the PKLRB)

Site Address: Land 40 metres north west of Burnside House, Benarty Road, Kelty

Application for Review by Mr J Green against decision by an appointed officer of Perth and Kinross Council.

Application Ref: 16/00001/FLL

Application Drawings: 16/00001/1 16/00001/2 16/00001/3

**Date of Review Decision Notice – 4 October 2016**

---

### **Decision**

The PKLRB overturned the decision to refuse planning permission for the reasons given below and allowed the review, subject to the imposition of appropriate conditions.

#### **1 Introduction**

1.1 The above application for review was considered by the PKLRB at a meeting held on 28 June 2016. The Review Body comprised Councillor M Lyle, Councillor I Campbell and Councillor D Cuthbert.

1.2 The following persons were also present at the meeting:  
M Easton, Legal Adviser, D Harrison, Planning Adviser and H Rheinallt, Committee Officer.

Also attending:

D Williams (Corporate and Democratic Services); C Brien (the Environment Service); members of the public, including applicants/agents.

#### **2 Proposal**

2.1 The proposal is for the erection of a dwellinghouse and detached garage on land 40 metres north west of Burnside House, Benarty Road, Kelty. The application was refused consent in terms of a decision letter dated 30 March 2016.

#### **3 Preliminaries**

3.1 The PKLRB was provided with copies of the following documents:

- (i) the drawings specified above;
- (ii) the Appointed Officer's Report of Handling;

- (iii) the refusal notice dated 30 March 2016;
  - (iv) the Notice of Review and supporting documents.
- 3.2 The Planning Adviser described the proposals, the locality of the site, explained the reasons for refusal, and the grounds for the Notice of Review.
- 3.3 The PKLRB was shown projected photographs taken by the Planning Adviser, who had visited the site. These showed the application site from various angles.
- 3.4 Having regard to the material before them, the PKLRB resolved that the Review of the decision to refuse could be determined without further procedure.

#### **4 Findings and Conclusions**

- 4.1 The PKLRB, by unanimous decision, rejected the appointed officer's reasons for refusal and concluded that the proposal is in accordance with Policy RD3 the Perth and Kinross Development Plan 2014, in that the landscape framework is considered to be sufficiently robust to accommodate one additional house as an extension to the building Group at this location.
- 4.2 Having regard to the Development Plan and other material considerations set out in the Report of Handling and other papers before it, the PKLRB determined to uphold the application and grant planning permission subject to the following conditions:

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

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

- (2) The existing tree within the site shall be retained. Prior to the commencement of any works on site, Protection measures strictly in accordance with BS 5837 2012: Trees in Relation to Design, Demolition and Construction shall be implemented. The Protection measures, once in place, shall remain in place for the duration of construction unless otherwise agreed in writing by the Council as Planning Authority.

*Reason – In order to protect the existing tree, which forms part of the landscape framework, from unnecessary removal.*

- (3) Prior to the commencement of any works on site, a scheme outlining the proposed intrusive site investigations shall be submitted for approval in writing by the Council as Planning Authority, in consultation with the Coal Authority. The approved scheme shall be implemented in full, and a report of the findings from the intrusive investigations and

any proposed remedial works shall then be submitted as soon as reasonably possible. Any remedial works shall thereafter be carried out in full, and verification shall be lodged with the Council prior to any works commencing for the erection of the proposed dwelling, all to the satisfaction of the Council as Planning Authority.

*Reason – In order to ensure the risk from former uses is minimized.*

- (4) Prior to the commencement of works on site, an evaluation for the potential of the site to be affected by contamination by a previous use shall be undertaken and as a minimum, a Preliminary Risk Assessment (Phase 1 Desk Study) will be submitted for consideration by the Council as Planning Authority. If, after the preliminary risk assessment identifies the need for further assessment, an intrusive investigation shall be undertaken to identify;
- (i) the nature, extent and type(s) of contamination on the site
  - (ii) measures to treat/remove contamination to ensure the site is fit for the use proposed
  - (iii) measures to deal with contamination during construction works
  - (iv) condition of the site on completion of decontamination measures.

Prior to the occupation of the dwelling, the agreed measures to decontaminate the site shall be fully implemented as approved by the Council as Planning Authority. Validation that the scheme has been fully implemented must also be submitted to the Council as Planning Authority prior the occupation of the house.

*Reason – In the interest of protecting the residential amenity of the proposed house.*

- (5) Prior to the commencement of any works on site, details of any proposed site compounds and temporary buildings/structures associated with the construction phases shall be submitted to, and approved in writing by, the Council as Planning Authority. The approved details shall thereafter be implemented as per the approved plans, to the satisfaction of the Council as Planning Authority.

*Reason – In the interest of proper site management.*

- (6) Prior to the occupation of the dwelling, the new vehicular access onto the private road shall be formed (and thereafter retained) in accordance with specification Type B, Fig 5.6 access detail to the satisfaction of the Council as Planning Authority.

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

- (7) Prior to the occupation of the dwelling, turning facilities shall be provided (and thereafter retained) within the site to enable all vehicles to enter and leave in a forward gear, to the satisfaction of the Council as Planning Authority.

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

- (8) Prior to the occupation of the dwelling, a minimum of 2 No. car parking spaces shall be provided (and thereafter retained) within the site, all to the satisfaction of the Council as Planning Authority.

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

- (9) Prior to the commencement of any works on site, precise details of all new boundary treatments and the means of enclosure of the proposed decked area shall be submitted to, and approved in writing by, the Council as Planning Authority. The approved details shall be implemented in full prior to the occupation of the dwelling, to the satisfaction of the Council as Planning Authority.

*Reason – In the interest of protecting existing residential amenity.*

- (10) Prior to the commencement of any works on site, a detailed landscaping land (including a planting specification, maintenance regime and timescale for implementation), which shows structural landscaping to the west of the site shall be submitted to, and approved in writing by the Council as Planning Authority. The approved details shall thereafter be implemented within the agreed timescales and thereafter maintained in perpetuity, all to the satisfaction of the Council as Planning Authority.

*Reason – In the interest of protecting the visual amenity of the area and to reinforce the landscape framework for the proposed house and adjoining building group.*

- (11) Prior to the commencement of any works on site, precise details of the proposed surface water and foul drainage shall be submitted to, and approved in writing by, the Council as Planning Authority. The approved details shall thereafter be implemented in full, as the development progresses.

*Reason – In order to ensure that the site is adequately drained.*

- (12) The finished floor level of the dwelling and associated garden ground must take into account floodrisk. The final levels of both, must be submitted to the Council as Planning Authority prior to works commencing and thereafter implemented in full, to the satisfaction of the Council as Planning Authority.

*Reason – In order to ensure that flood risk is minimised.*

- (13) Prior to the commencement of the development hereby approved, details of the location and measures proposed for the safeguarding and continued operation, or replacement, of any septic tanks and soakaways, private water sources, private water supply storage facilities and/or private water supply pipes serving properties in the vicinity, sited within and running through the application site, shall be submitted to, and approved in writing by, the Council as Planning Authority. The subsequently agreed protective or replacement measures shall be put in place prior to the commencement of the development being brought into use and shall thereafter be so maintained insofar as it relates to the development hereby approved.

*Reason – In order to ensure that private infrastructure is protected.*

**Gillian Taylor**  
**Clerk to the Local Review Body**

### **Informatives**

1. This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. *(See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).*
2. Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
3. As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
4. The site lies outwith the publicly sewered areas and consequently drainage investigations have not been fully undertaken.
5. Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have

serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. In the event that you are proposing to undertake such work in the Forest of Dean local authority area our permission may not be required; it is recommended that you check with us prior to commencing any works. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at:

[www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property](http://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property)

6. No works shall be carried out until such time as a building warrant has been granted.

## CHX Planning Local Review Body - Generic Email Account

---

**From:** Andrew Bennie [REDACTED]  
**Sent:** 04 February 2019 14:17  
**To:** CHX Planning Local Review Body - Generic Email Account  
**Subject:** Re: TCP/11/16(556)

**Importance:** High

Dear Audrey

I refer to the above and to your e-mail and attachments of 29th January 2019 concerning the same and am pleased to set out below, my further response on the matters which have been raised by the Council in reply to the questions raised by the LRB when this Request to Review was first considered by them.

1: First of all, it is noted that in light of the information which is set out within the submitted tree survey, the explanation for the absence of the same within the information which was originally submitted in support of this application having been set out within the Statement in Support of this Request to Review, the Council have confirmed that this reason for the refusal of the application would not feature in any refusal of a re-submission of the application, should this be the decision taken.

As it is clear that the terms of this survey are satisfactory and as it is open to the Local Review Body to grant planning permission pursuant to this application through this Request to Review, the matter of how any re-submitted application may be dealt with is of strictly limited relevance to the determination of this Request to Review.

With specific regards to tree number 1961, as detailed within the submitted tree survey, it is highlighted that the tree in question will be retained and suitable protected as part of the proposed development, with the required protective measures being detailed clearly within the terms of the tree survey.

With the exception of tree number 1977, which is identified as being an isolated hawthorn bush, no other trees will be affected by the proposed development.

2: This point is noted with not further comment being offered.

3: The Council is correct to identify the fact that due to land ownership constraints, there is limited opportunity for the owner of the property to the immediate east side of the site which is the subject of this Request to Review, to carry out any significant landscaping in connection with the terms of Condition 10 of planning permission reference 16/00001/FLL.

This point having been noted, it is highlighted that the land to which planning permission 16/00001/FLL relates does not form part of this site to which this Request to Review relates and that the Appellants in this case have no control over the site covered by said planning permission.

Members of the Local Review Body should however note that in the period which has followed on from this Request to Review having first been considered by them, the Appellant has been able to secure control over an additional area of land lying which lies to the west side of the site to which the Request to Review relates and that as such, should the Local Review Body consider it to be necessary and/or appropriate, additional tree planting works could be carried out within this area as a means of further re-inforcing the existing woodland that provides a clear and defensible boundary along the southern and western sides of the site.

It is considered that a suitably worded planning condition could be used to control this potential aspect of the proposed development.

I trust that you find the above to be in order and I look forward to hearing from you further as regards the ongoing consideration of this Request to Review.

With best wishes.

Andrew Bennie, BA (Hons), MRTPI  
Director

