

**LRB-2020-01 – 19/01249/FLL – Erection of a dwellinghouse,
land 15 metres north of Leapark, Kenmore Street,
Aberfeldy**

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**LRB-2020-01 – 19/01249/FLL – Erection of a dwellinghouse,
land 15 metres north of Leapark, Kenmore Street,
Aberfeldy**

**PAPERS SUBMITTED
BY THE
APPLICANT**

NOTICE OF REVIEW

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

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2008

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

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

Use **BLOCK CAPITALS** if completing in manuscript

Applicant(s)

Name

Address

Contact Telephone 1
Contact Telephone 2
Fax No

E-mail*

Agent (if any)

Name

Address

Contact Telephone 1
Contact Telephone 2
Fax No

E-mail*

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

* Do you agree to correspondence regarding your review being sent by e-mail? Yes No

Planning authority

Planning authority's application reference number

Site address

Description of proposed development

Date of application

Date of decision (if any)

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

Nature of application

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

Reasons for seeking review

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

Review procedure

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

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

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

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

Site inspection

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

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

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

Statement

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

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

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

ATTACHED REVIEW SUBMISSION DOCUMENT

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

Yes No

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

List of documents and evidence

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

SUPPORTING STATEMENT FOR REVIEW.
REPORT OF HANDOVER.
DECISION NOTICE
PLANNING APPLICATION SUBMISSION DRAWINGS + SUPPORTING STATEMENT.

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

Checklist

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

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

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

Declaration

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

Signed 

Date 26 JANUARY 2020.

Response to the Planning Officer's Comments and Conclusions within the Report of Handling

Erection of a Dwellinghouse

Land 15 Metres North of Lea Park, Kenmore Street, Aberfeldy

Ref: 19/01249/FLL

Date of decision issue: 10 October 2019

The Appeal Committee are requested to consider the following submission in the round and to make a decision in favour of the development of the Lea Park site.

The appeal is in the format of extracts from the Planning Officer's Report of Handling and responses illustrating that the considerations and conclusions within the Report of Handling are fundamentally unsound.

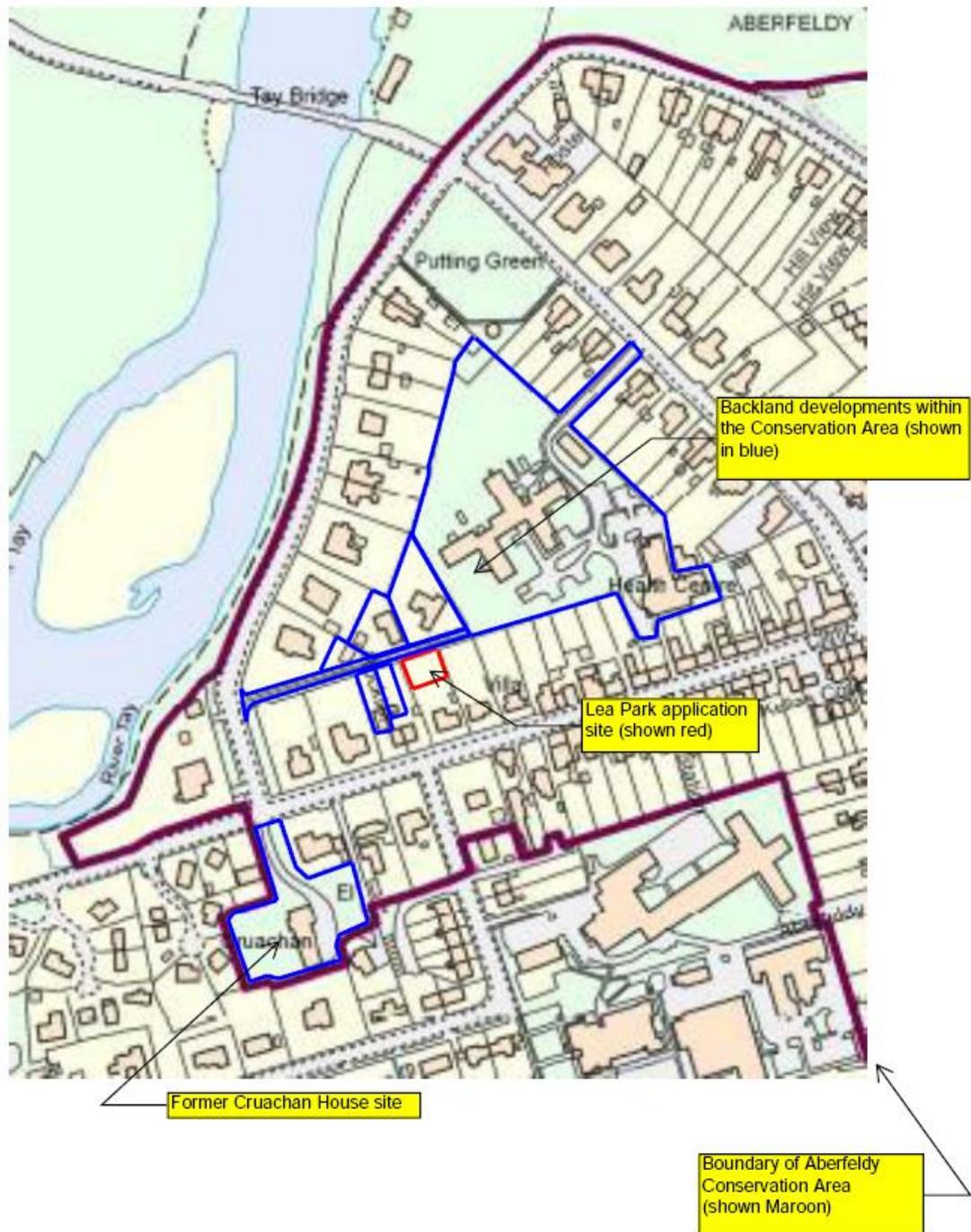
Report extracts in black italic type, appellant's comments in dark blue standard type.

Design and Layout

The design of the proposed house is quite bland and of no particular architectural merit. Given that the plot is located within a Conservation Area a higher standard of design would normally be sought in order to reflect the character of the area which is predominantly made up of attractive stone built houses rather than suburban style bungalows with large conservatories.

The site is indeed located within the Aberfeldy Conservation Area. The Conservation Area is formed, for the most part, by Victorian style villas located along the major road frontages. These roadways have produced large spaces behind the house plots that have over years been developed by the erection of buildings of various styles - contemporary to the period in which they were built. (The diagram below is part of the Conservation Area and forms the westernmost part of it where the application site of Lea Park, Kenmore Street, is located.)

The map highlights in blue the location of areas of ground within the boundaries of the Conservation Area where this development has happened, and in red the location of the application site.



The Conservation Area is therefore made up of a style predominant to the street frontages and a different style within the areas of ground located behind. These styles have been permitted over many years and do not detract from the general appearance of the Conservation Area. They do not detract from it due to their location. They do not form part of the main streetscape and cannot be seen from the main roadways.

Examples of these include:

Dalweem - Medical Centre and Care Home



Avarua – private dwellinghouse



Taransay – private dwellinghouse



The Coach House – private house



Craigendarroch Cottage



Rockhill Cottage



House on Plot 4, Former 'Cruachan' site, Kenmore Road



It is noted in the applicants relatively basic design statement that the house has been design to reflect the character of the more modern houses built to the north of the lane but I do not consider that these using these houses as a reference is necessarily good practice as these 1980/90's style properties also don't reflect the architectural character of the wider area and in my view do not provide a very good blueprint to copy.

It is established by the presence of these more recent developments that a variation from the streetscape style of Victorian villa architecture has been found to be acceptable within particular locations within the Conservation Area, and indeed continues to be so as is demonstrated by the recent erection of a dwelling house on the site of the former 'Cruachan' building on southern Kenmore Road.

It is demonstrated through example that the domestic buildings erected within the Conservation Area away from the main roadway streetscapes of Victorian villa style houses has been largely modern and contemporary in style. To reflect this pattern and for consistency, a similar style was adopted for the application site. It is inconsistent to permit recent planning consents for modern style houses within parts of the Conservation Area and to then to change this approach.

The addition of the large conservatory on the rear of the property is also not entirely attractive and detracts from the character of the Conservation Area.

The proposed conservatory forming part of the application is located to the rear garden area of the house and would be hard to view from either Kenmore Street or the private access lane to the site. It would therefore have very little, if any impact on the character of the Conservation Area.

Development has been allowed as extensions to existing houses within this area as demonstrated by the addition of a porch to the Taransay dwelling house shown below. This extension fronts the private access road, uses materials and a style unsympathetic to the Conservation Area. It is however appropriate to the house and is acceptable due to the site location being behind the main roadways and streetscape that form the Conservation Area.

It is accepted that a Planning Officer may have well held and intentioned beliefs but history cannot be undone to make these a consistently applied philosophy within a location.



In terms of layout, whilst the site will take its access from the lane to the rear of the site it is still considered to be a form of backland development which erodes the character of the area and, if approved, could lead to other similar proposals in the area.

The term back land suggests a development within the rear of a property or site. This definition applies to the development site, however backland also suggests that access to the site is made from the main plot frontage. Such an arrangement of increased vehicle and pedestrian access from the main roadways would detract from the character of the Conservation Area however, in this instance, the development site is accessed by way of a private access road that serves the rear of the property.

This private road also serves 3 existing properties as their main and only access namely, The Coach House, Taransay, and Avarua. Lea Park presently uses this road as a main vehicle access to a private garage.

The development of backland sites within the Conservation Area is therefore restricted due to the availability of private roadway access to potential plots to the rear of houses and as such would not therefore allow a general precedent to be set.

Residential Amenity

Any development should be provided with a level of garden ground which reflects the established character and density of the area and reflects the scale of the property. As a general rule the Council's maximum building to plot ratio is 25% in order to prevent overdevelopment and ensure the proposed house has a reasonable amount of private amenity space.

It is accepted that the Council's maximum house area footprint to building plot ratio of 25% is a general rule and gives a good basis for an allowance of a reasonable amount of amenity ground. The application plot area is 471m², the house footprint is 120m² giving a $120/471 \times 100 = \underline{25\%}$.

The optional conservatory on the rear of the property would increase the building footprint to 138m² giving a ratio of 29% with the conservatory. It is considered that the conservatory is an optional feature of the house associated with the garden amenity space.

In addition, there is a minimum standard of 9 metres between windows and mutual boundaries and 18 metres between windows.

There are many instances of this standard not being applied. Modern developments such as the new Bertha Park housing development have garden rooms located within 9 metres of mutual boundaries and within 18 metres between such windows. In such circumstance, 1.8m high timber fencing has been included within the developments in order to provide the required screening and privacy.

For example, the proximity of the Conservatory erected to the rear of Hartley is within 9m of the mutual boundary with Lea Park and within 18m of the conservatory that is present on the rear of Lea Park itself, as shown below.



The application proposals for the Lea Park development include for such screening to the conservatory and this should be considered appropriate and an improvement on existing examples between the villa properties.

In this instance the proposed development, including the garage, has a build to plot ratio of 34% which is well in excess of the Council's normal standards.

The Council's guidance checklist for the requirement of garages to have planning consent states:

Will the area of ground covered by development within the front or rear (including side) curtilage of the house (excluding the original house and any hard surface or decking) would exceed 50% of the area of the front or rear curtilage respectively (again excluding the ground area of the original house and any hard surface or decking)?

If the answer to this is NO then planning consent is not required.

The area of the existing garage footprint is 29m². The area of the plot curtilage excluding the proposed house, hard surfacing and decking is 243m². The garage provision is well within the acceptable criteria for permitted development without planning consent.

The rear of the conservatory is also just 3.5 metres from the mutual boundary with Leapark and it would be just 10.5 metres from the existing conservatory on the rear of Leapark.

The application proposals for Lea Park include for privacy screening and this should be considered appropriate.

Furthermore, even if the rear conservatory was removed the proposed house itself is only 8 metres from the rear boundary and just 15 metres from the rear of Leapark. As such, the proposed house would be uncomfortably close to the rear of the existing house at Leapark creating issues in relation to overlooking.

The layout of the existing Victorian villas within the Conservation area have many instances of windows in side elevations looking directly towards

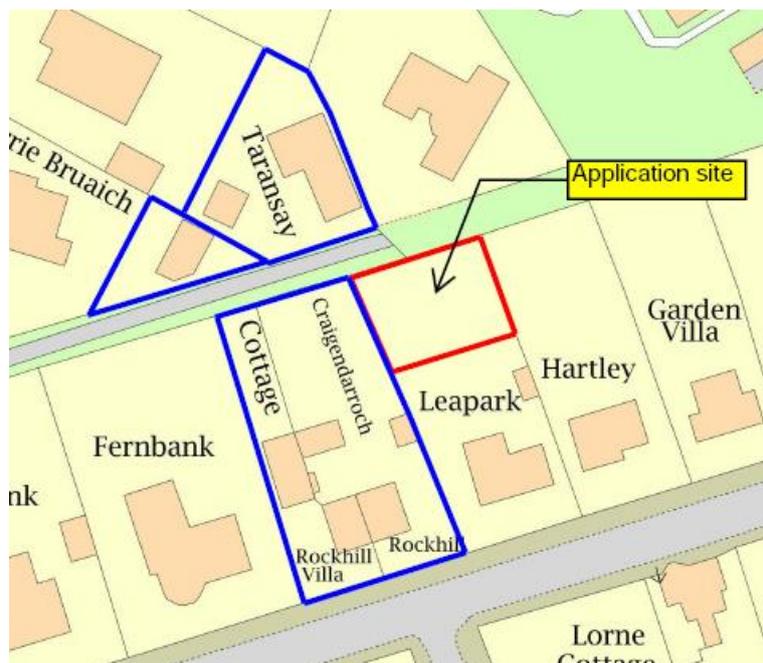
neighbouring properties within this distance. Generally screening in the form of fencing or planting has been formed to overcome this issue if found to be a problem.

Whilst agreeing that an 18m distance between windows is a good standard, it should be taken into account that the proposed new house is single storey with room in the roof accommodation. Outlook from pitched roof windows is generally much more restricted than from the vertical window arrangement found in a 2 storey house. The issue of overlooking will not apply from the new house to the existing houses given that screen fencing is proposed to provide privacy at ground floor level.

In addition to the above, the subdivision of the existing plot removes a significant proportion of the existing properties rear garden space, equating to approximately 45% of the existing plot. Whilst it is acknowledged that the existing plot is on paper relatively substantial, its size is reflective of not only the stature of the existing Victorian villa but also that of the immediate area which predominantly features large traditional properties within spacious plots.

Attention should be given to the fact that the neighbouring (west) plot to the Lea Park house is of a similar size to the present Lea Park plot. On this neighbouring plot are 4 properties comprising 2 semi-detached Victorian style houses named Rockhill and Rockhill Villa, along with 2 other properties named Craigendaroch Cottage and Rockhill Cottage. Each of these properties have plots sizes less than that proposed for the application site.

Furthermore, the plot sizes for the existing houses at Taransay and the Coach House are of similar size or smaller.



The proposed subdivision will completely remove the main area of private amenity space leaving small area of rear amenity space which will be quite heavily compromised by the levels of overshadowing from Leapark the due to its northern aspect.

The plot size remaining for the Lea Park house is 578m² giving a house to plot ratio of 22%. This is substantially more than the amenity space associated with the villas at Rockhill and Rockhill Villa, and comparable to plot sizes and ratios approved for house build sites at the former Cruachan House within the Conservation Area boundaries.

Another concern relates to the neighbouring rear garden of the property at Hartley which is immediately to the east. It is noted that concerns have been expressed regarding overlooking and whilst this is not as significant as the issues in respect to Leapark, the proposed conservatory would only be approximately 8.5 metres from the boundary to the east which albeit more marginal, still falls below the Council's normal limit of 9 metres.

The application house proposals do not have any windows within the gable elevation facing the garden at Hartley. Screen privacy fencing will be erected along the length of the division boundary in order to overcome any possibility of overlooking and loss of amenity to the garden ground of Hartley.

Perhaps of more concern is the potential overshadowing which would likely impact the neighbouring garden to east during the evening when the sun sets in the west. At the moment, asides from some shrubs and a low fence, the neighbouring garden enjoys uninterrupted sun but the erection of the proposed house will cast a shadow during the evening which will impact on the amenity of the neighbouring resident.

As such it is considered that the proposals fail to comply with the requirements of Policy RD1 and Policy PM1A & B of the LDP.

Analysis of the sun generated shadow of the proposed house (Google shadow calculator) indicates that during mid-summer the shadow generated by the building will partially track across the neighbouring garden from 1pm onwards when the shadow first touches the plot boundary. By 5pm the shadow length generated by the pitched roof will extend into the garden by a maximum of 8m in the northernmost part of the garden only and at right angles to the plot boundary. By sunset at 10pm the shadow will have tracked round a further 90 degrees and have completely left the neighbour's garden.

The ridge height of the application house is 6.6m, is comparable to that of neighbouring properties as shown below, and similar in height to the mature trees found in the gardens of the properties.



Conservation Considerations

The site falls within the Conservation Area where all development must preserve or enhance its character or appearance and the design, materials, scale and siting of new development should be appropriate to its appearance, character and setting.

In this instance it is considered that the principle of subdividing the plot is not acceptable as it would erode the special character of this particular area of the Conservation Area.

As outlined above, this area of Aberfeldy features large attractive Victoria villas set within relatively spacious plots. The development of the rear garden area would remove a substantial area of the rear garden area and completely alter the character and appearance of the existing dwelling at Leapark.

It would also set an undesirable precedent for further unwelcome backland developments and plot subdivisions which would further erode the character of the Conservation Area. As such the proposals fail to comply with the requirements of Policy HE3A of the LDP.

The evidence provided in respect to the Planning Officer's statements as given before answer the points raised in this section, however further comment must be given in regard to the approach taken to the significant development site on the land previously occupied by the Cruachan House building. This site lies directly off Kenmore Street, forms a development site behind the villa frontage line of the substantial houses on this street and many parallels can be drawn between this development and that of the application site at Lea Park.

The following is an extract from the Report of Handling relating to the approval decision given to the Cruachan site application and relates to plot sizes and building ratios. (Underlining applied by the author of this appeal report)

**Extract from the Committee Report of handling relating to Planning Application for the erection of 5no. dwellinghouses and garage on Site of Former Cruachan House Residential Home, Kenmore Street, Aberfeldy
Ref 17/02161/FLL
Application Granted – 12 April 2018**

‘Layout

The proposed layout is similar in overall terms to the extant consent although some plots have been increased in size (1 and 4) and some have decreased in size (2 and 3). The plot ratios proposed on the site remain consistent with those in the surrounding area which vary from approximately 14% to 28% in terms of built footprint to plot size. The plot ratios of the proposal vary from plot to plot with plots 1, 4 and 5 being the largest. Plot 2 and 3 are the smaller plots. The same is the case in the consented 2010 layout. Plot 2 has a site area of 384sqm and the house and garage equate to a footprint of 98sqm resulting in a build to plot ratio of 25%. Plot 3 has a site area of 444sqm and the house and garage equate to a footprint of 78sqm resulting in a plot ratio of 17.5%. Whilst the build to plot ratio of plot 2 is relatively high it is not uncommon in the surrounding area. Policy RD1 requires new development to respect the character and density levels in the surrounding area and the layout and resultant build to plot ratios are considered to successfully achieve this. The proposed layout therefore accords with policy RD1 of the LDP.’

The application of this approach to the Cruachan House site has implications for the treatment of the Lea Park site in terms of the use of backland sites as appropriate for development within a Conservation Area, the use of modern dwellinghouse architectural design styles, sizing of building plot and housing densities.

The Appeal Committee are requested to consider the above evidence in the round and to make a decision in favour of the development of the Lea Park site.

Douglas Beckett – Architect

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PERTH AND KINROSS COUNCIL

Mr And Mrs Robert Morris
c/o DS Beckett - Architect
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Pullar House
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PERTH
PH1 5GD

Date 10th October 2019

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT

Application Number: **19/01249/FLL**

I am directed by the Planning Authority under the Town and Country Planning (Scotland) Acts currently in force, to refuse your application registered on 12th August 2019 for permission for **Erection of a dwellinghouse Land 15 Metres North Of Leapark Kenmore Street Aberfeldy** for the reasons undernoted.

Head of Planning and Development

Reasons for Refusal

1. The proposal is contrary to Policy HE3A 'Conservations Areas' of the adopted Perth and Kinross Local Development Plan 2014 as the proposed development would not preserve or enhance the character or appearance of the Conservation Area and would set an unwelcome precedent for further similar developments.
2. The proposal is contrary to Policy PM1 'Placemaking' of the adopted Perth and Kinross Local Development Plan 2014 as the proposed development would not contribute positively to the quality of the surrounding area in terms of character or amenity.
3. The proposal is contrary to Policy RD1 'Residential Areas' of the adopted Perth and Kinross Local Development Plan 2014 as the proposed development represents overdevelopment of the site which would have a detrimental impact on the amenity of the existing neighbouring properties at Leapark and Hartley. The proposals would also not respect or improve the character or environment of the area.

Justification

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

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

Plan Reference

19/01249/1

19/01249/2

19/01249/3

19/01249/4

19/01249/5

19/01249/6

REPORT OF HANDLING

DELEGATED REPORT

Ref No	19/01249/FLL	
Ward No	P4- Highland	
Due Determination Date	11.10.2019	
Report Issued by		Date
Countersigned by		Date

PROPOSAL: Erection of a dwellinghouse

LOCATION: Land 15 Metres North Of Leapark Kenmore Street
Aberfeldy

SUMMARY:

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

DATE OF SITE VISIT: 23 August 2019

SITE PHOTOGRAPHS





BACKGROUND AND DESCRIPTION OF PROPOSAL

This application relates to the rear garden of Leapark which is an attractive unlisted Victorian villa on Kenmore Street located within Aberfeldy Conservation Area. Full planning permission is being sought for the subdivision of the existing plot and erection of a detached two storey dwelling with upper floor accommodation contained entirely within the roof. The

proposed house is of a relatively bland appearance with a large conservatory on the rear. Finishing materials are detailed as white drydash, slate roof, grey timber windows and black rain water goods.

There is an existing single garage on the site which will be retained as part of the development and access will be taken from the private lane to the north of the site.

Planning permission in principle (or Outline as it was previously known) for the erection of a dwellinghouse on the same site was refused in October 2000 (Ref: 00/01406/OUT). The reasons for refusal were given as:

- Impact on the character and amenity of the existing residential properties.
- Change the character of this established residential area.
- Set an unwelcome precedent for backland development which is not considered desirable at this location.

SITE HISTORY

00/01406/OUT Outline application for dwelling house at 25 October 2000
Application Refused

16/00408/FLL Installation of solar panels 16 May 2016 Application Approved

PRE-APPLICATION CONSULTATION

Pre application Reference: 19/00145/PREAPP

NATIONAL POLICY AND GUIDANCE

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

DEVELOPMENT PLAN

The Development Plan for the area comprises the TAYplan Strategic Development Plan 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 principal policies are, in summary:

Policy PM1A - Placemaking

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

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 RD1 - Residential Areas

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

Policy HE3A - Conservation Areas

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

Policy 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 - Surface Water Drainage

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

Proposed Perth and Kinross Local Development Plan 2 (LDP2)

The Proposed LDP2 2017 represents Perth & Kinross Council's settled view in relation to land use planning and is a material consideration in determining planning applications. The Proposed LDP2 is considered consistent with the Strategic Development Plan (TAYplan) and Scottish Planning Policy (SPP) 2014. It is now the subject of an Examination Report (published 11 July 2019). This includes the Reporter's consideration of issues and recommended modifications to the Plan, which are largely binding on the Council. It is therefore anticipated that they will become part of the adopted Plan; however, this is subject to formal confirmation. The Council is progressing the Proposed Plan (as so modified) towards adoption which will require approval by the Council and thereafter submission to the Scottish Ministers. It is expected that LDP2 will be adopted by 31 October 2019. The Proposed LDP2, its policies and proposals are referred to within this report where they are material to the recommendation or decision.

OTHER POLICIES

Developer Contributions and Affordable Housing Guide (2016)

CONSULTATION RESPONSES

External:

Scottish Water
No objection

Internal:

Biodiversity/Tree Officer

The proposed development is located 140m from swift records and could positively contribute towards swift conservation by incorporating two swift bricks or nest boxes into the new dwelling house.

Transport Planning
No objection

Development Negotiations Officer
 Education & Children's Services have no capacity concerns in this catchment area at this time. No contributions required.

REPRESENTATIONS

The following points were raised in the 1 representation received:

- Unwelcome precedent for backland development
- Inappropriate design
- Visual impact
- Overlooking
- Overshadowing
- Overdevelopment
- Previous outline application refused for same site
- Loss of view
- Impact on property value

The last two points relating to loss of view and impact on property value are not material planning considerations. The remaining points are addressed in the report below.

ADDITIONAL INFORMATION RECEIVED:

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	Design Statement submitted
Report on Impact or Potential Impact eg Flood Risk Assessment	Not Required

APPRAISAL

Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for the area comprises the approved TAYplan 2016 and the adopted Perth and Kinross Local Development Plan 2014.

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

Policy Appraisal

Policies RD1 'Residential Areas', PM1A & B 'Placemaking' and Policy HE3A 'Conservation Areas' of the Perth and Kinross Local Development Plan are directly applicable in this instance.

Policy RD1 outlines that the Council will seek to retain small areas of private and public open space where they are of recreational or amenity value. It also outlines that the Council will be generally supportive of developments within residential areas that are compatible with the amenity and character of the area and will improve the character and environment of the area or village.

Policy PM1A & B of the Local Development Plan seeks to ensure that all developments contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place.

Policy HE3A outlines that all development within a Conservation Area must preserve or enhance its character or appearance and that the design, materials, scale and siting of new development within a conservation area should be appropriate to its appearance, character and setting.

It is considered that in this instance the proposals fail meet with the requirements of the above aforementioned policies. As discussed in the following report, the proposals would introduce a form of backland development which would impact on the character and setting of the Conservation Area and set an unwelcome precedent for further similar proposals in the area. The proposals also constitute overdevelopment of the plot which would not only impact on the amenity of the existing property at Leapark but also provide insufficient private amenity space for the occupants of the proposed house.

Design and Layout

The design of the proposed house is quite bland and of no particular architectural merit. Given that the plot is located within a Conservation Area a higher standard of design would normally be sought in order to reflect the character of the area which is predominantly made up of attractive stone built houses rather than suburban style bungalows with large conservatories. It is noted in the applicants relatively basic design statement that the house has been design to reflect the character of the more modern houses built to the north of the lane but I do not consider that these using these houses as a reference is necessarily good practice as these 1980/90's style properties also don't reflect the architectural character of the wider area and in my view do not provide a very good blueprint to copy. The addition of the large conservatory on the rear of the property is also not entirely attractive and detracts from the character of the Conservation Area.

In terms of layout, whilst the site will take its access from the lane to the rear of the site it is still considered to be a form of backland development which erodes the character of the area and, if approved, could lead to other similar

proposals in the area. In addition the scale and position of the proposed house also raises a number of concerns in relation to the amenity of both the neighbouring properties and that of the proposed house. This is discussed in more detail below.

Residential Amenity

Any development should be provided with a level of garden ground which reflects the established character and density of the area and reflects the scale of the property. As a general rule the Council's maximum building to plot ratio is 25% in order to prevent overdevelopment and ensure the proposed house has a reasonable amount of private amenity space. In addition, there is a minimum standard of 9 metres between windows and mutual boundaries and 18 metres between windows.

In this instance the proposed development, including the garage, has a build to plot ratio of 34% which is well in excess of the Council's normal standards. The rear of the conservatory is also just 3.5 metres from the mutual boundary with Leapark and it would be just 10.5 metres from the existing conservatory on the rear of Leapark. Furthermore, even if the rear conservatory was removed the proposed house itself is only 8 metres from the rear boundary and just 15 metres from the rear of Leapark. As such, the proposed house would be uncomfortably close to the rear of the existing house at Leapark creating issues in relation to overlooking.

In addition to the above, the subdivision of the existing plot removes a significant proportion of the existing properties rear garden space, equating to approximately 45% of the existing plot. Whilst it is acknowledged that the existing plot is on paper relatively substantial, its size is reflective of not only the stature of the existing Victorian villa but also that of the immediate area which predominantly features large traditional properties within spacious plots. The proposed subdivision will completely remove the main area of private amenity space leaving small area of rear amenity space which will be quite heavily compromised by the levels of overshadowing from Leapark due to its northern aspect.

Another concern relates to the neighbouring rear garden of the property at Hartley which is immediately to the east. It is noted that concerns have been expressed regarding overlooking and whilst this is not as significant as the issues in respect to Leapark, the proposed conservatory would only be approximately 8.5 metres from the boundary to the east which albeit more marginal, still falls below the Council's normal limit of 9 metres. Perhaps of more concern is the potential overshadowing which would likely impact the neighbouring garden to east during the evening when the sun sets in the west. At the moment, besides from some shrubs and a low fence, the neighbouring garden enjoys uninterrupted sun but the erection of the proposed house will cast a shadow during the evening which will impact on the amenity of the neighbouring resident.

As such it is considered that the proposals fail to comply with the requirements of Policy RD1 and Policy PM1A & B of the LDP.

Conservation Considerations

The site falls within the Conservation Area where all development must preserve or enhance its character or appearance and the design, materials, scale and siting of new development should be appropriate to its appearance, character and setting. In this instance it is considered that the principle of subdividing the plot is not acceptable as it would erode the special character of this particular area of the Conservation Area. As outlined above, this area of Aberfeldy features large attractive Victoria villas set within relatively spacious plots. The development of the rear garden area would remove a substantial area of the rear garden area and completely alter the character and appearance of the existing dwelling at Leapark. It would also set an undesirable precedent for further unwelcome backland developments and plot subdivisions which would further erode the character of the Conservation Area.

As such the proposals fail to comply with the requirements of Policy HE3A of the LDP.

Roads and Access

The proposed means of access and parking arrangements within the site have been assessed by the Transport Planner and he has raised no objection to the proposals. As such there are no concerns in respect to roads or access matters.

Drainage and Flooding

There are no known issues in relation to flooding and drainage on the site. SEPA's flood maps also do not indicate that the site is at risk to flooding. The applicant has indicated that foul drainage will be discharged to the public sewer and that there will be arrangements for surface water drainage within the site. This would be acceptable in principle and meet with the requirements of both Policy EP3B and EP3C but the position of the soakaway indicated on the site layout appears to be very close to the neighbouring boundary and it is understood that the minimum setback for Building Standards is 5 metres. This is symptomatic of the constrained nature of the site but is a matter that would be assessed separately under any Building Warrant.

Developer Contributions

Education & Children's Services have no capacity concerns in this catchment area at this time. As such no contributions are required in this instance.

Economic Impact

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

Conclusion

In conclusion, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, the proposal does not comply with the approved TAYplan 2012 and the adopted Local Development Plan 2014, specifically in regards to *Policy PM1A & B 'Placemaking'*, *Policy RD1 'Residential Areas'* and *Policy HE3A 'Conservation Areas'*. I have taken account of material considerations and find none that would justify overriding the adopted Development Plan. On that basis the application is recommended for refusal.

APPLICATION PROCESSING TIME

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

LEGAL AGREEMENTS

None required.

DIRECTION BY SCOTTISH MINISTERS

None applicable to this proposal.

RECOMMENDATION

Refuse the application

Conditions and Reasons for Recommendation

The proposal is contrary to Policy HE3A 'Conservations Areas' of the adopted Perth and Kinross Local Development Plan 2014 as the proposed development would not preserve or enhance the character or appearance of the Conservation Area and would set an unwelcome precedent for further similar developments.

The proposal is contrary to Policy PM1 'Placemaking' of the adopted Perth and Kinross Local Development Plan 2014 as the proposed development would not contribute positively to the quality of the surrounding area in terms of character or amenity.

The proposal is contrary to Policy RD1 'Residential Areas' of the adopted Perth and Kinross Local Development Plan 2014 as the proposed development represents overdevelopment of the site which would have a detrimental impact on the amenity of the existing neighbouring properties at

Leapark and Hartley. The proposals would also not respect or improve the character or environment of the area.

Justification

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

Informatives

None

Procedural Notes

Not Applicable.

PLANS AND DOCUMENTS RELATING TO THIS DECISION

19/01249/1

19/01249/2

19/01249/3

19/01249/4

19/01249/5

19/01249/6

Date of Report

08/10/2019

**LEA PARK, KENMORE STREET,
ABERDEEN, PERIS 82L**



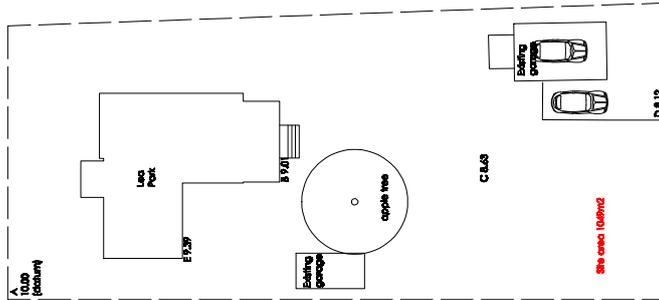
**SITE LOCATION PLAN - WITH
ACCESS ROAD WITHIN SITE
CONTAINED SHOWN
SCALE 1:2500**



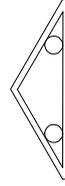
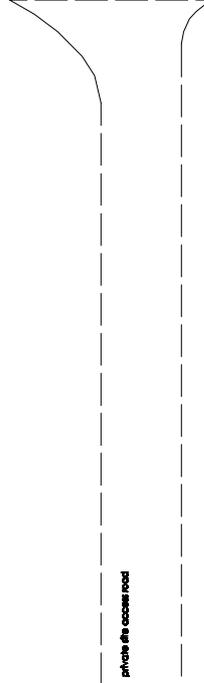
**EXISTING SITE LAYOUT PLAN -
WITH EXISTING LEVELS SHOWN
SCALE 1:2000**



KENMORE STREET



RAVEN BUSHWAY



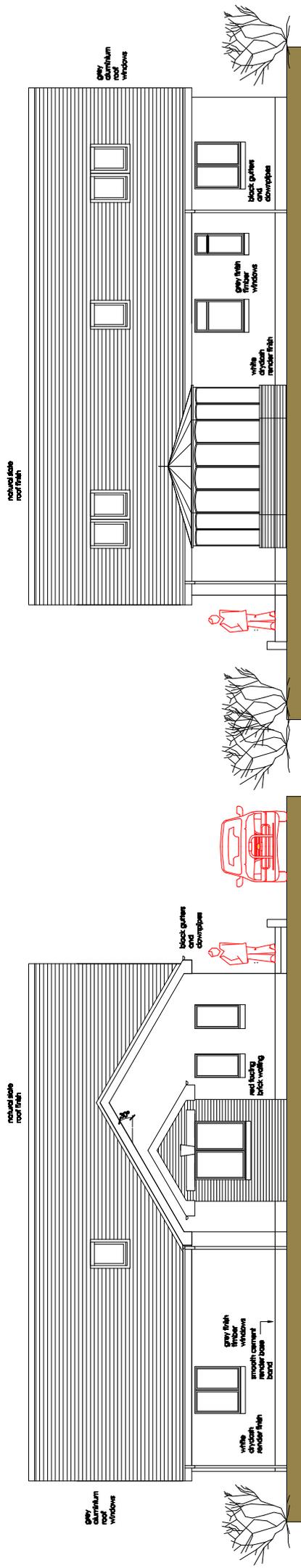
DR BRUCE WATSON
ARCHITECT
101 No Balauch, Four Ridge, 100mm
PH 524
071641528

Client:
Leis Park Development, Kenmore
Street, Aberdeen

Project:
Existing Site Plan

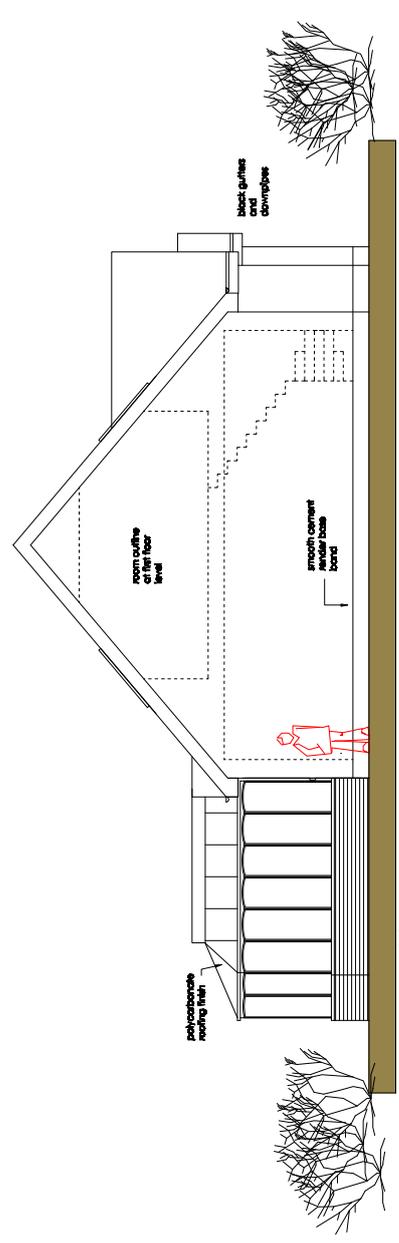
Number:

Date: 07/08/2019
Scale: 1:200 & 1:2500
Project No: 80047/01a

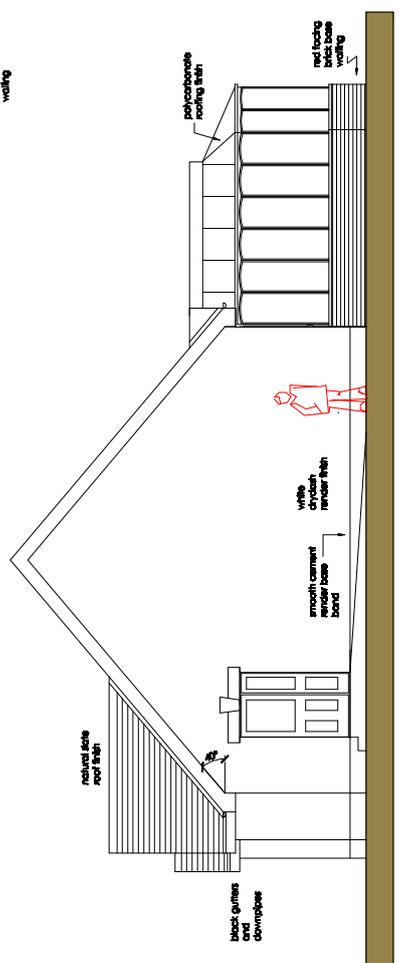


NORTH ELEVATION
1:50 SCALE

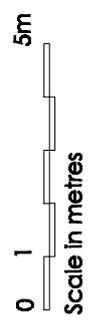
SOUTH ELEVATION
1:50 SCALE



EAST ELEVATION
1:50 SCALE



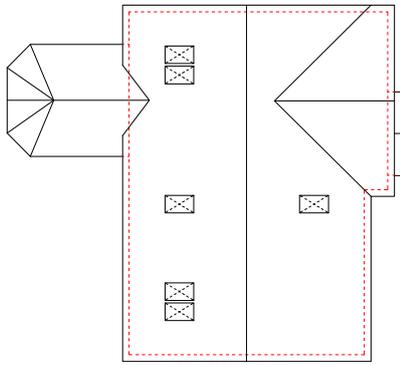
WEST ELEVATION
1:50 SCALE



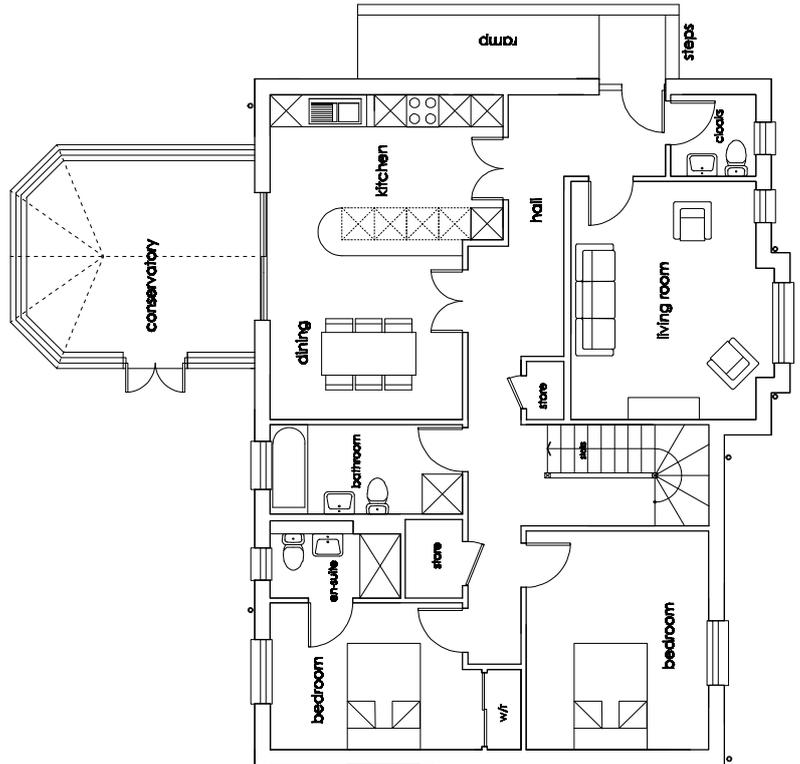
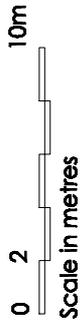
DR BUCKLEY ARCHITECT
151-153 Victoria Road
120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200

Project: Lec Park Development, Kenmore Street, Aberfeldy
Stage: New House Proposal - Elevations
Date: 07/08/2012

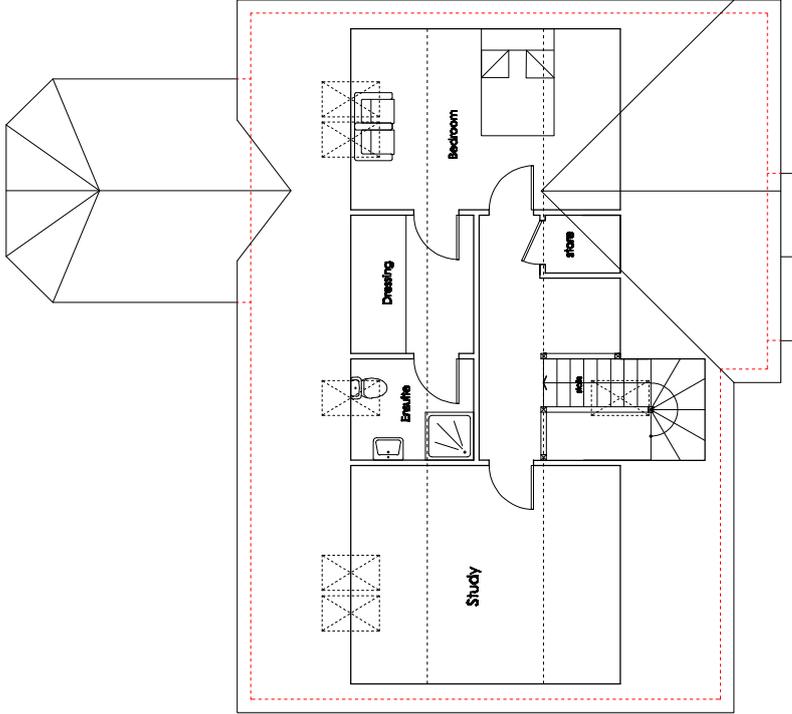
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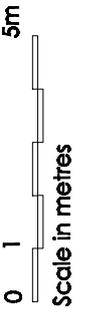
**ROOF FLOOR PLAN
1:100 SCALE**



**GROUND FLOOR PLAN
1:50 SCALE**



**FIRST FLOOR PLAN
1:50 SCALE**



**DM BUCKLETT
ARCHITECT**
15th-16th Floors, Park Bridge
120, Cannon Street, London, EC4A 3DF
PH: 020 7460 1122
07788 861122

client
Lec Park Development,
Kenmore Street, Aberfeldy

drawing
New House Proposal -
Floor & Roof Plans

sheet no. 001/07/22

revision

DATE	1:50 & 1:100
22.07.19	1:50 & 1:100
22.07.19	1:50 & 1:100
20.07.19	1:50 & 1:100
20.07.19	1:50 & 1:100

New Dwellinghouse at Lea Park, Kenmore Street, Aberfeldy, PH15 2BL

Supporting Design Statement

Background

The applicants are a retire couple residing at Lea Park, Kenmore Street, Aberfeldy.

They have lived there for the past 19 years or so and find that they now require a smaller, more modern house to suit their physical needs and lifestyle. They find the location of their existing house very convenient for access to Aberfeldy town centre and its amenities and allows them the social contact and support that they require. Accordingly, they do not wish to leave this area and the neighbourhood.

Application proposal

This application proposal is for a detached dwellinghouse within an area of garden ground belonging to the applicants and forming part of the Lea Park dwellinghouse garden ground.

There is a vehicle access to an existing garage from a private road (to which Lea Park has legal title access), as well as an established vehicle driveway access from the main Kenmore Street roadway. This would permit the Lea Park dwellinghouse to have established vehicle access to the main road as well as the new development having its own established access over the private track from Taybridge Drive. This access track already supplies vehicle and pedestrian access to relatively new housing developments to the north side of the track.

Building design

The building design is that of a modest one and a half story dwellinghouse in order to be sympathetic to the other dwellings located on the North side of the access track roadway leading from Taybridge Drive and the site area.

The house size has been designed to allow for adequate amenity space surrounding the house and with a rear south facing conservatory for the benefit of the applicants during periods when they cannot access the garden area.

The external finishes are those to be found within the general Conservation Area of the Aberfeldy town centre area so as to compliment the local environment.



ORDNANCE SURVEY
NATIONAL GRID REFERENCE

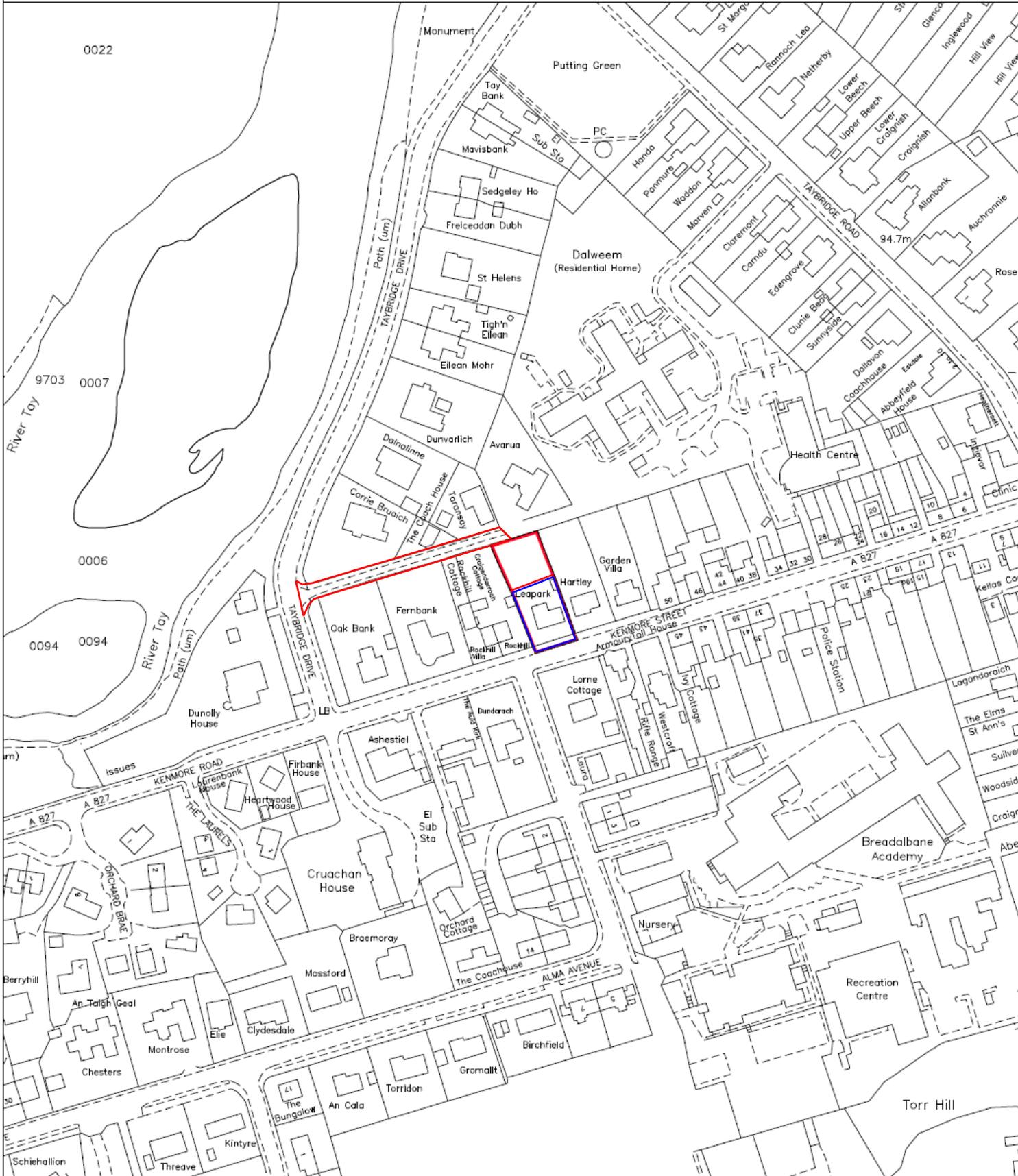
140m

NN8448 NN8548 NN8449 NN8549

Survey Scale

1/2500

CROWN COPYRIGHT © – This copy has been produced from the ROS Digital Mapping System on 26/01/2011 and was made with the authority of Ordnance Survey pursuant to Section 47 of the Copyright, Designs and Patents Act 1988. Unless that act provides a relevant exception to copyright, the copy must not be copied without the prior permission of the copyright owner.



LRB-2020-01 – 19/01249/FLL – Erection of a dwellinghouse,
land 15 metres north of Leapark, Kenmore Street,
Aberfeldy

PLANNING DECISION NOTICE *(included in
applicant's submission, pages 27-28)*

REPORT OF HANDLING *(included in applicant's
submission, pages 29-39)*

REFERENCE DOCUMENTS *(included in applicant's
submission, pages 41-46)*

**LRB-2020-01 – 19/01249/FLL – Erection of a dwellinghouse,
land 15 metres north of Leapark, Kenmore Street,
Aberfeldy**

REPRESENTATIONS

15th August 2019

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
www.scottishwater.co.uk

Dear Local Planner

PH15 Aberfeldy Leapark Kenmore St Land 15 M North
PLANNING APPLICATION NUMBER: 19/01249/FLL
OUR REFERENCE: 781233
PROPOSAL: Erection of a dwellinghouse

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 Killiecrankie 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 Aberfeldy 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** 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 taking account of various factors including legal, physical, and technical challenges. However it may still be deemed that a combined connection will not be accepted. Greenfield sites will not be considered and a connection to the combined network will be refused.

In order to avoid costs and delays where a surface water discharge to our combined sewer system is proposed, 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

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-and-Developers/Connecting-to-Our-Network>**

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

- **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 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

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

Yours sincerely

Angela Allison



Comments to the Development Quality Manager on a Planning Application

Planning Application ref.	19/01249/FLL	Comments provided by	Euan McLaughlin
Service/Section	Strategy & Policy	Contact Details	Development Negotiations Officer: Euan McLaughlin [REDACTED] [REDACTED]
Description of Proposal	Erection of a dwellinghouse		
Address of site	Land 15 Metres North Of Leapark, Kenmore Street, Aberfeldy		
Comments on the proposal	<p>NB: Should the planning application be successful and such permission not be implemented within the time scale allowed and the applicant subsequently requests to renew the original permission a reassessment may be carried out in relation to the Council's policies and mitigation rates pertaining at the time.</p> <p>THE FOLLOWING REPORT, SHOULD THE APPLICATION BE SUCCESSFUL IN GAINING PLANNING APPROVAL, <u>MAY</u> FORM THE BASIS OF A SECTION 75 PLANNING AGREEMENT WHICH MUST BE AGREED AND SIGNED PRIOR TO THE COUNCIL ISSUING A PLANNING CONSENT NOTICE.</p> <p>Primary Education</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 at over 80% and is likely to be operating following completion of the proposed development, extant planning permissions and Local Development Plan allocations, at or above 100% of total capacity.</p> <p>This proposal is within the catchment of Breadalbane Primary School.</p> <p>Education & Children's Services have no capacity concerns in this catchment area at this time.</p>		
Recommended planning condition(s)	<p>Summary of Requirements</p> <p>Education: £0</p> <p><u>Total: £0</u></p>		
Recommended informative(s) for applicant			
Date comments returned	30 August 2019		

Planning application Reference 19/01249/FLL

Aim of petition of objection – To refuse planning permission for the above application, erection of a dwelling house on land 15 metres north of Lea Park, Kenmore Street, Aberfeldy, Perthshire PH15 2BL

Objection made by Mr C Macaskill and Mrs T Macaskill, [REDACTED]

Petition co-ordinator is Mr C Macaskill, [REDACTED]

Reasons for objection

Supporting design statement:

Background

Inaccuracy - The applicants have only been resident in Lea Park since November 2010. Less than 9 years and not for 19 years as stated.

Applicants are currently in Lea Park which is a 3 bedroom, 2 bathroom with conservatory over 2 levels and are planning a new 3 bedroom, 2 bathroom with conservatory over 2 levels in their back garden. Both buildings have a very similar footprint and both have stairs leading to an upper storey – hardly a downsizing initiative for a couple in their eighties.

The couple have stated that they do not wish to leave the area or neighbourhood however major housing developments of affordable housing have been built and are continuing to be built in the town of Aberfeldy plus a number of dwelling houses and flats are currently being offered for sale in and around the town centre therefore there is no need or reason for development of new housing in back gardens. This could set an unwelcome precedent for backland development.

Application proposal

Innaccuracies - Paragraph 2 “There is vehicle access to an existing garage from a private road (to which Lea Park has legal title access)”. In the same paragraph this road is later confusingly referred to as a private track on 2 occasions. It is in fact an unadopted 2 car width road up to and beyond Lea Park garage.

Paragraph 2 last sentence “...and pedestrian access to relatively new housing developments to the North side of the track”. These “developments” have been in existence for a minimum of 30 years.

Planning application Reference 19/01249/FLL

Aim of petition of objection – To refuse planning permission for the above application, erection of a dwelling house on land 15 metres north of Lea Park, Kenmore Street, Aberfeldy, Perthshire PH15 2BL

Objection made by Mr C Macaskill and Mrs T Macaskill, [REDACTED]

Petition co-ordinator is Mr C Macaskill, [REDACTED]

Building design

Paragraph 1 "... sympathetic to other dwellings located on the North side of the access track roadway" - these houses on the North side are separated from the new build by some 13 metres approximately (including the private roadway) and are visually obscured by mature trees and hedges

However no sympathetic consideration has been afforded to our dwelling house and garden at [REDACTED] to this proposed new build. From what we can ascertain from the outline plans it appears to be separated by only [REDACTED] or slightly less from our existing garden fence.

The sheer size, height and mass of this proposed new dwelling house will have a visually overbearing impact, unacceptable loss of our privacy and drastic reduction of afternoon sunlight to our mature and productive garden, including greenhouse and mature borders These were planted as borders requiring high hours of sunlight to the plants and which have matured as such. Currently what separates the two gardens is only the original 2ft high wire and post fence and a 4 ft wire mesh dog fence which allows for the above.

We would also wish to point out that the views which we have enjoyed for 21 years of the hills and mountains to the West (including Ben Lawers) will be totally obscured, instead we will be looking at an approximately 11 metre wide by 6.5 metre high wall and this does not include the conservatory.

Not only will this new build [REDACTED] be aesthetically unpleasant, it will undoubtedly in the future become a constant eyesore for us and have a negative impact on the value of our property.

Planning application Reference 19/01249/FLL

Aim of petition of objection – To refuse planning permission for the above application, erection of a dwelling house on land 15 metres north of Lea Park, Kenmore Street, Aberfeldy, Perthshire PH15 2BL

Objection made by Mr C Macaskill and Mrs T Macaskill, [REDACTED]
[REDACTED]

Petition co-ordinator is Mr C Macaskill, [REDACTED]

Miscellaneous

Finally and most importantly we would like to bring to your attention the fact that the proposed new build is wholly outwith the building line of all other properties on the North side of Kenmore St and could potentially lead to over development of this residential area.

A previous outline application for a dwelling house in the same garden was refused on 8th September 2000 by Perth & Kinross council on the following grounds:

1. The Proposal is contrary to Policy 58 Residential and Compatible Uses of the Finalized Highland Area Local Plan 1999 in that a house at this location will have a detrimental effect on the character and amenity of the existing residential properties.
2. The Proposal is contrary to Policy 4.5.4 Residential and Compatible uses of the Aberfeldy Area Local Plan (1993) in that it will change the character of this established residential area.
3. The granting of consent is liable to set an unwelcome precedent for backland development which is not considered desirable at this location.

Therefore a precedent has already been established by Perth & Kinross Council that backland development is **not** desirable at this location. We sincerely hope that this precedent will be upheld.

Comments to the Development Quality Manager on a Planning Application

Planning Application ref.	19/01249/FLL	Comments provided by	Joanna Dick Tree and Biodiversity Officer
Service/Section	Strategy and Policy	Contact Details	Phone 75377 Email biodiversity@pkc.gov.uk
Description of Proposal	Erection of a dwelling house		
Address of site	Land 15 Metres North Of Leapark, Kenmore Street, Aberfeldy.		
Comments on the proposal	<p>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.</p> <p><u>Breeding Birds</u> Swifts are a Tayside Local Biodiversity Action Plan and Scottish Government priority species, protected under the Environmental Liability Directive and as an amber rated species, are noted on the Scottish Biodiversity List as in decline with Conservation Action required.</p> <p>This proposed development is located 140m from swift records and could positively contribute towards swift conservation by incorporating two swift bricks or nest boxes into the new dwelling house.</p>		
Recommended planning condition(s)	<ul style="list-style-type: none"> • NE03 Prior to the commencement of development hereby approved, details of the location and specification of the swift brick(s) or swift nest box(s) shall be submitted for the further written agreement of the Council as Planning Authority. Thereafter, the swift brick(s) or swift nest box(s) shall be installed in accordance with the agreed details prior to the occupation of the relevant residential unit. 		
Recommended informative(s) for applicant			
Date comments returned	3 September 2019		

Comments to the Development Quality Manager on a Planning Application

Planning Application ref.	19/01249/FLL	Comments provided by	Andrew de Jongh Technician – Transport Planning
Service/Section	Transport Planning	Contact Details	TransportPlanning@pkc.gov.uk
Description of Proposal	Erection of a dwellinghouse		
Address of site	Land 15 Metres North Of Leapark, Kenmore Street, Aberfeldy		
Comments on the proposal	Insofar as the Roads matters are concerned I have no objections to this proposal.		
Recommended planning condition(s)			
Recommended informative(s) for applicant			
Date comments returned	03/09/2019		

Erection of a Dwellinghouse
Land 15 Metres North of Lea Park, Kenmore Street, Aberfeldy.
Ref:19/01249/FLL
Date of decision issue: 10 October 2019.

Further representation in relation to the review of the original decision 1 February 2020.

Our comments on following sections of the Review are given below.

Council planning officer and Lea Park agent comments in blue. Our comments in black.

Notice of Review Document

Page 2 Site Inspection

Question 1 – “Can the site be viewed entirely from public land?” Agent has ticked yes box however he contradicts himself later in his document. Please refer to “Notice of Review” later in this document for clarification.

Page 3 Para 4

The “No” box has been ticked indicating no new evidence is being presented which was not included in the original application; no explanation is given for this. We believe that photos and statements regarding the buildings of Dalweem, Cruachan, Craigendarroch, Rockhill Cottage, and Bertha Park in Perth are new evidence and question if they should be allowed in this review.

Response to the Planning Officer’s Comments and Conclusions within the report of handling document.

Page 1 Design and Layout

Strongly disagree with the agent’s assessment and photographic evidence of recent builds within the conservation area.

In the agent's map shown on Page 2 (Westernmost part of the Conservation area) there are at least 70 original houses in the Red part of the Conservation area and the agent has made reference to what he considers to be examples of “Backland developments” and outlined them in the blue area. In our opinion the area outlined in blue by the agent contains only two houses which are relevant examples of backland development. Reasons are as follows:

Dalweem opened in 1984 is a purpose built care home and medical facility. It was erected on Council Land and is not a domestic build on backland. We therefore fail to see it’s relevance.

Coachhouse – Corrie Bruach, a large domestic dwellinghouse on the corner of Taybridge Drive was built in 1888. The Coachhouse was built at the same time in 1888 as the original coach house to this dwelling. It was subsequently converted to a domestic dwellinghouse.

Craigendarroch and Rockhill Cottage – Both of these were built in 1888 as the stables and staff quarters to the large detached house at the front – Rockhill. This house was subsequently divided into two semi detached houses in the 1900s i.e. Rockhill Villa and Rockhill.

Cruachan – Originally a hotel and later a residential care home, Cruachan was demolished in 2008 and has since been brownfield land and a stand-alone site.

In our opinion none of the above builds are examples of backland development and should therefore be disregarded.

Consequently the only examples of backland development, i.e. new builds in rear of gardens which could relate to the Lea Park build are Taransay and Avarua which were built in approximately 1990 and are not in keeping with any other builds in the Conservation area.

Subsequently Perth & Kinross Council introduced policies (1993 and 1999) to prevent further such over developments and misuse of garden space. These policies were updated and so reinforced in (2014).

The map provided by the agent does however quite clearly demonstrate how the proposed new dwelling house north of Lea Park is completely outwith the building line of the houses on the North side of Kenmore St. A point to note also is that the postal addresses of both Taransay and Avarua are Tayside drive and not Kenmore St. All other houses on the map have a quite clear building line and no backland development is shown anywhere.

In contrast the red outline on the map of the proposed new dwelling house is a perfect example of backland development which is unnecessary and undesirable in a Conservation area when there are so many houses of varying sizes and prices currently for sale (Taransay itself was only sold in June 2019 and replicated the type of house that Mr and Mrs Morris were and are still seeking to build).

Page 7 Reference to Taransay porch.

In our opinion the extension (in the form of a porch) to an existing building (Taransay) has no relevance in trying to justify the backland development of a new dwelling house north of Lea Park.

We also refer back to Page 2 Site Inspection – See below

Notice of Review Document Question 1 – “Can the site be viewed entirely from public land?”

Agent has ticked yes box; he then contradicts himself on Page 7 by stating “the proposed conservatory forming part of the application is located to the rear garden area of the house and would be hard to view from either Kenmore St or the private access lane to the site”. This is somewhat debatable however what can be quite clearly seen from the unadopted land to the north of the site is the whole of the house. This land is a walk through for many people and cars can be driven, without restriction, as far as Hartley so any new build would detract from the character of the area.

We would also argue that if you look down the existing drive of Lea Park from Kenmore St you can currently see to the bottom of the garden. Even with a screening fence (a not particularly attractive feature) an element of the conservatory and a large proportion of the house would be visible to the general public.

Page 8 Agent's reply to a precedent being set for backland development.

The Agent's argument "*The development of backland sites within the Conservation Area is therefore restricted due to the availability of private roadway access to potential plots to the rear of houses and as such would not allow a general precedent to be set*" is absurd and invalid.

The track at the rear of Lea Park is not a private road but unadopted land, therefore there is no restricted access either vehicular or pedestrian to it. Consequently Oakbank, Fernbank, Rockhill Cottage or Hartley could all apply to build in their gardens once a precedent has been set. Indeed all houses in the Conservation area with shared driveways could also apply to build or those with sufficient land surrounding the house could apply for a shared driveway access to a backland development.

Page 8 Residential amenity

As we are not qualified to check and confirm specific dimensions of the new build and respective amenity grounds in the Architect's plans we will leave the verification of the Agent's specific calculations to those in the Council better able to decide.

Our general view however is that just by looking at the map of Lea Park it will be left with amenity grounds which are not commensurate with the size and quality of character of this house. The proposed new build also appears to have very limited amenity grounds at all.

Page 8 Agents response to "In addition there is a minimum standard of 9 metres between windows etc."

In justification for breaching this standard the Agent gives an example of **MODERN** developments such as Bertha Park in Perth – *seriously* – what has an urban modern development have in common with Victorian style houses built between 1888 and 1935 (Hartley) in a rural conservation area.

Page 10 Agent's response to "In addition to the above the sub division of the existing plot removes a significant proportion etc"

Agent's reference to the neighbouring plot of 4 properties to the west of Lea Park (Rockhill, Rockhill Villa, Rockhill Cottage and Craigendarroch is irrelevant as previously explained, **these were all established in 1888.**

The other two examples outlined in blue:

Coachhouse – again built in 1888 as part of Corrie Bruaich so again irrelevant.

Taransay – we would argue that from a layman's point of view and the very basic outline the agent has drawn Taransay would appear to have equal if not more amenity ground than the proposed new build north of Lea Park and most certainly the amenity ground of Dalnalinnie completely dwarfs the amenity ground that Lea Park would end up with.

Interestingly in the map on page 2 of the review Avarua is outlined in blue however on the close up map on page 10 it is no longer outlined in blue. Is this because the amenity ground around Avarua and Dunvarlich, the original house, negates the agent's argument completely.

Page 11 Para 1. Agent's references to plot sizes "The plot size remaining for the Lea Park house" etc.

Once more the plots of Rockhill and associated buildings are irrelevant as they were established in 1888. We also strongly question that the ratios of Lea Park and its new build are in any way comparable to the new build at Cruachan. As previously stated Cruachan was a brownfield site with no bearing on the above.

Para 2. Overlooking and shadowing.

On our garden boundary between Hartley and Lea Park we have an established border with mature garden plants, small trees, and large shrubs with a small 2 foot high original wire and post fence. As far as we can ascertain from the plans the proposed new build will have a gable end wall which is at least 6.5 metres (approx 18 ft) at its apex and 10 metres in length and a conservatory which is over 4 metres high and 5 metres in length just 3 metres in from our garden boundary. The proposed new fence, the full length of the boundary, has to be at least 2 metres high in order to prevent any overlooking from the conservatory.

More importantly however the combination of a large gable end with a high fence (aesthetically grotesque to us) would plunge what is a now a mature border, planted predominantly to sun, into deep shade (cast by building and fence) and at least half the garden including a recently laid lawn into the same shade. Consequently the amenity of the large garden which we have nurtured and enjoyed for the past 22 years would be drastically diminished.

Conveniently the agent has selected (via Google!) Midsummer's day (the longest day of the year when the sun is at its zenith) to give an indication of the hours of sunlight that we could expect to enjoy. No mention is made of the other 364 days of the year especially in Spring and Autumn when both light levels and the sun are a lot lower and plants/grass require as much natural light as possible for growth and later in the year for maturing and harvesting vegetables/fruit.

Again we absolutely fail to see the relevance of the photo the agent has attached as these properties are well to the **North** of Lea Park and Hartley and therefore obviously have no impact on overshadowing of our garden. However the photo of the gable end of Taransay (taken from at least 40 metres distant) gives us a graphic indication of the sheer size and scale of the gable end that the agent is proposing to erect 3 metres in from our boundary with Lea Park.

Page 12 and 13 Conservation considerations and layout.

The agent states that many parallels can be drawn between the Cruachan development and his application for Lea Park.

We reiterate yet again that Cruachan was a brownfield site and not a backland development in a rear garden. The picture submitted of the Cruachan build is of a large dwelling house erected in a style similar to the larger Victorian houses in Kenmore St and many of the builds at the adjacent Beeches. There is absolutely no comparison between the Cruachan site build and Lea Park in architectural design. As a point of note the postal address of No.4 at the Cruachan site was registered as Kenmore Road and not Kenmore St.

Conclusion.

Perth & Kinross Council set a precedent in 2000 when they refused the planning application for a dwelling house in the rear garden of Lea Park on three grounds, all of which contravened Council policies (dated 1993 and 1999).

This precedent was reinforced in October 2019 when they again refused planning permission for a dwelling house on the same site again on three grounds due to contravention of updated Council policies (dated 2014)

In our opinion it is wholly inconceivable that at this review the above two decisions could be overturned considering the Council's policies and the Agent's flimsy and in many instances inaccurate submissions

If Perth & Kinross Council reverse their original decisions then this will undoubtedly open the way to further backland developments in the conservation areas of Aberfeldy.

In a year when Scotland is hosting the climate change conference it is so important that we should all be striving to preserve and nurture our open spaces, gardens and wildlife habitat and not destroy them for the sake of building unnecessary houses in our rear gardens.

**Response to the Interested Party's submission to the Clerk to the Local Review Body
Erection of a Dwellinghouse
Land 15 Metres North of Lea Park, Kenmore Street, Aberfeldy
Ref: 19/01249/FLL
Date of decision issue: 10 October 2019**

The following is a response to the submission by an interested party as referred to in the Clerk to the Local Review Body letter of 13 February 2020 (with attachment).

The response is in the format of extracts from the Interested Party's submission and comments relating to the relevance or otherwise of such comments in the context of the appeal against the refusal of planning consent for the development of the Lea Park site.

Interested Party's submission extracts in black italic type, agent's response in dark blue standard type.

Notice of Review Document

Page 2 Site Inspection Question 1 – "Can the site be viewed entirely from public land?" Agent has ticked yes box however he contradicts himself later in his document. Please refer to "Notice of Review" later in this document for clarification.

This section of the Notice of Review application relates to Site inspection and is in the context of (1) Can the site be viewed entirely from public land? And (2) Is it possible for the site to be accessed safely, and without barriers to entry?

The site forms part of the rear garden area of the Lea Park dwellinghouse with open and safe approach from the rear access road. Therefore the given response of Yes to both questions is correct.

For the sake of clarity and continuity, I will refer now to the Interested Party's comments under the Notice of Review given later in their submission:

We also refer back to Page 2 Site Inspection – See below

Notice of Review Document Question 1 – "Can the site be viewed entirely from public land?"

Agent has ticked yes box; he then contradicts himself on Page 7 by stating "the proposed conservatory forming part of the application is located to the rear garden area of the house and would be hard to view from either Kenmore St or the private access lane to the site". This is somewhat debatable however what can be quite clearly seen from the unadopted land to the north of the site is the whole of the house. This land is a walk through for many people and cars can be driven, without restriction, as far as Hartley so any new build would detract from the character of the area.

We would also argue that if you look down the existing drive of Lea Park from Kenmore St you can currently see to the bottom of the garden. Even with a screening fence (a not particularly attractive feature) an element of the conservatory and a large proportion of the house would be visible to the general public.

The Interested Party has confused two separate issues in their response.

Firstly, the answer to Site Inspection relates to accessibility to the site, as it is at present, by the Local Review Body. This is totally different to the issues raised on page 7 of the appeal statement that relates to the proposed conservatory to the new dwellinghouse.

The wording in the Appeal Statement states that it would be 'hard to view from either Kenmore Street or the private access lane to the site'. Given that the Interested Party states: *We would also argue that if you look down the existing drive of Lea Park from Kenmore St you can currently see to the bottom of the garden. Even with a screening fence (a not particularly attractive feature) an element of the conservatory and a large proportion of the house would be visible to the general public.*

The point is conceded by the Interested Party that you would need to look down the drive of Lea Park (presently a 4m wide driveway with a timber garage at the bottom of it) to see the bottom of the garden. At best this gives a glimpse of the lower section of the garden area and proves that it would be hard to see from Kenmore Street. Given that the (relatively small) conservatory would be located completely to the southern elevation of the dwellinghouse and the access lane/road is to the north, then to view the conservatory from the access lane would be extremely difficult if not impossible.

The following photograph and site plan extract refer:



Lea Park driveway from Kenmore Street

Page 3 Para 4 *The “No” box has been ticked indicating no new evidence is being presented which was not included in the original application; no explanation is given for this. We believe that photos and statements regarding the buildings of Dalweem, Cruachan, Craigendarroch, Rockhill Cottage, and Bertha Park in Perth are new evidence and question if they should be allowed in this review.*

The Notice of Review Statement document is requested as part of the review so that all matters that the appellant considers relevant are taken into account when determining the review. The Review Statement clearly stated: ‘The appeal is in the format of extracts from the Planning Officer’s Report of Handling and responses illustrating that the considerations and conclusions within the Report of Handling are fundamentally unsound.’

The Review Statement did not provide any further matters which were not before the appointed officer relating to the application proposals as submitted at the time of the planning application, therefore the No box was ticked correctly. The Notice of Review was made on the basis of challenging the Planning Officer’s reasoning for the decision.

Response to the Planning Officer’s Comments and Conclusions within the report of handling document.

Page 1 Design and Layout Strongly disagree with the agent’s assessment and photographic evidence of recent builds within the conservation area.

In the agent's map shown on Page 2 (Westernmost part of the Conservation area) there are at least 70 original houses in the Red part of the Conservation area and the agent has made reference to what he considers to be examples of “Backland developments” and outlined them in the blue area. In our opinion the area outlined in blue by the agent contains only two houses which are relevant examples of backland development. Reasons are as follows:

Dalweem opened in 1984 is a purpose built care home and medical facility. It was erected on Council Land and is not a domestic build on backland. We therefore fail to see it’s relevance.

Coachhouse – Corrie Bruach, a large domestic dwellinghouse on the corner of Taybridge Drive was built in 1888. The Coachhouse was built at the same time in 1888 as the original coach house to this dwelling. It was subsequently converted to a domestic dwellinghouse.

Craigendarroch and Rockhill Cottage – Both of these were built in 1888 as the stables and staff quarters to the large detached house at the front – Rockhill. This house was subsequently divided into two semi detached houses in the 1900s i.e. Rockhill Villa and Rockhill.

Cruachan – Originally a hotel and later a residential care home, Cruachan was demolished in 2008 and has since been brownfield land and a stand-alone site.

In our opinion none of the above builds are examples of backland development and should therefore be disregarded.

Consequently the only examples of backland development, i.e. new builds in rear of gardens which could relate to the Lea Park build are Taransay and Avarua which were built in approximately 1990 and are not in keeping with any other builds in the Conservation area.

The Interested Party requests that the references to Dalweem, Coachhouse, Craigendarroch and Rockhill Cottage, and Cruachan should be disregarded as examples of backland development. However no definition is given by the Interested Party of the term backland.

The following are some examples of the definition of backland development:

Development of 'landlocked' sites behind existing buildings, such as rear gardens and private open space, usually within predominantly residential areas. Such sites often have no street frontages. (planningportal.co.uk)

Backland development is a term used for land which may not be visible from the usual roadways, such as behind a row of houses. Backland sites are usually a section of garden with road access at the rear or side of a property, or a plot of land in-between gardens with communal or a private access alley. (urbanistarchitecture .co.uk)

This section of the Appeal Statement took issue with the Planning Officer's comments and conclusions regarding the Design and Layout of the proposed dwellinghouse. Critical to this analysis is the recognition of the location of the plot, and the style of previous developments permitted in the locality. In this case, backland developments as defined above.

The examples given in the Appeal Statement correctly referred to developments within an established Conservation Area but falling under the term of a backland site. These established developments confirm that varying styles of design and layout have been deemed acceptable within a Conservation Area but located behind street frontages in backland sites.

Page 7 Reference to Taransay porch.

In our opinion the extension (in the form of a porch) to an existing building (Taransay) has no relevance in trying to justify the backland development of a new dwelling house north of Lea Park.

It is noted that this statement by the Interested Party is an opinion, but without any reasons given for this view.

Nevertheless, it stands as an example of a development granted consent and located within the centre of a Conservation Area backland site.



Taransay Porch

Page 8 Agent’s reply to a precedent being set for backland development.

The Agent’s argument “The development of backland sites within the Conservation Area is therefore restricted due to the availability of private roadway access to potential plots to the rear of houses and as such would not allow a general precedent to be set” is absurd and invalid.

The track at the rear of Lea Park is not a private road but unadopted land, therefore there is no restricted access either vehicular or pedestrian to it. Consequently Oakbank, Fernbank, Rockhill Cottage or Hartley could all apply to build in their gardens once a precedent has been set.

The Interested Party claims that the track at the rear of Lea Park is not a private road but un-adopted land and that there is no restricted access to it. This is incorrect. The following is an extract from the Title for Lea Park that notes the servitude right of access for pedestrians and vehicles.

Any application for development by others over this access roadway area would need to demonstrate a similar right of access for pedestrians and vehicles.

Section A

PTH3860

Property

Date of first registration	10-02-2000
Date title sheet updated to	24-08-2012
Date land certificate updated to	26-01-2011
Hectarage Code	0
Interest	PROPRIETOR
Map Reference	NN8548
Cadastral Unit	PTH3860
Sasine Search	44371
Property address	LEA PARK KENMORE STREET, ABERFELDY PH152BL
Description	Subjects LEA PARK, KENMORE STREET, ABERFELDY PH15 2BL edged red on the Title Plan. Together with a heritable and irredeemable servitude right of pedestrian and vehicular access by the access road leading to the northern boundary of the subjects from Taybridge Drive, Aberfeldy.
Notes	1. The minerals are excepted. The conditions under which the minerals are held are set out in the Feu Charter in Entry 1 of the Burdens Section.

This is a Copy which reflects the position at the date the Title Sheet was last updated.

© Crown copyright 2019

Page 8 Residential amenity

As we are not qualified to check and confirm specific dimensions of the new build and respective amenity grounds in the Architect's plans we will leave the verification of the Agent's specific calculations to those in the Council better able to decide.

Our general view however is that just by looking at the map of Lea Park it will be left with amenity grounds which are not commensurate with the size and quality of character of this house. The proposed new build also appears to have very limited amenity grounds at all.

Further to the submission of the planning application, and its subsequent refusal, Perth and Kinross Council approved Supplementary Guidance to the Local Development Plan (2) at their Strategic Policy and Resources Committee on 29 January 2020 and this represents the Council's settled view. The Placemaking Guide section of the guidance states the following on page 21:

Private Garden Spaces

All new houses should benefit from private garden space, for drying clothes, accommodating pets, children's play, quiet enjoyment, etc. Front gardens do not constitute private garden space. Private spaces require to be sized appropriate to the property they serve, proportionate to the size and layout of the building. Appropriate screening with hedges, walls or fencing may be necessary to ensure that the garden space is not overlooked from surrounding houses or gardens. Private spaces must be designed so that residents have a reasonable amount of sun/daylight. They should not be closely bounded by high walls or buildings.

As a rule, it is good practice to provide a minimum of 60 square metres for private space for a 1-2 bedrooomed house and 80 square metres for 3+ bedrooms. Each dwelling should have a minimum garden depth of 9

There is now no minimum stated size for a plot of ground for a single dwellinghouse, either in Policy documents or Guides issued by Perth and Kinross Council. Instead, there is now a Guide to the minimum requirement for Private Space.

The area of garden amenity ground (private space) behind the front elevation of the proposed dwellinghouse is in excess of 208m², well over the minimum recommendation now given in the recently approved guidance to the Local Development Plan by Perth and Kinross Council.

Page 8 Agents response to “In addition there is a minimum standard of 9 metres between windows etc.”

In justification for breaching this standard the Agent gives an example of MODERN developments such as Bertha Park in Perth – seriously – what has an urban modern development have in common with Victorian style houses built between 1888 and 1935 (Hartley) in a rural conservation area.

In relation to this section of the Appeal Statement, the Interested Party has omitted to refer to the Conservatory at the rear of Hartley that has been erected directly facing the Lea Park conservatory.

Given the Interested Party’s statement in relation to:

Para 2. Overlooking and shadowing.

On our garden boundary between Hartley and Lea Park we have an established border with mature garden plants,

It is assumed that the Interested Party resides at Hartley.

It clearly breaches both of these Perth and Kinross Council’s guideline standards for proximity to mutual boundaries and distance between windows, and is attached to an existing dwellinghouse within a Conservation Area.

The issue that should be considered is that the proximity of conservatories can be managed by appropriate screening, not the prohibition of the erection of conservatories.



Hartley conservatory

Lea Park conservatory

Page 10 Agent’s response to “In addition to the above the sub division of the existing plot removes a significant proportion etc”

Agent’s reference to the neighbouring plot of 4 properties to the west of Lea Park (Rockhill, Rockhill Villa, Rockhill Cottage and Craigendarroch is irrelevant as previously explained, these were all established in 1888.

The Interested Party’s reference to the establishment of properties in 1888 is irrelevant as the use of the plots now - for the current purpose of dwellings and the size of their related amenity ground - is the central issue.

In regard to the Private Space that would remain within the Lea Park plot (behind the building line) this would equate to 222m² or thereby, well in excess of the Council guidelines for such. The remaining plot for Lea Park would be substantially larger than the plots that exist for the neighbouring houses at Rockhill and Rockhill Villa.

Furthermore, the applicant has consulted with estate agents regarding the potential sale of Lea Park and has been informed from 2 separate sources that buyers today are looking for reduced garden ground due to lifestyle and maintenance issues, thus indicating that a reduction in the size of the garden ground to Lea Park would be beneficial in terms of appeal to purchasers.

The other two examples outlined in blue:

Coachhouse – again built in 1888 as part of Corrie Bruaich so again irrelevant.

Taransay – we would argue that from a layman’s point of view and the very basic outline the agent has drawn Taransay would appear to have equal if not more amenity ground than the proposed new build north of Lea Park and most certainly the amenity ground of Dalnalinnie completely dwarfs the amenity ground that Lea Park would end up with.

Interestingly in the map on page 2 of the review Avarua is outlined in blue however on the close up map on page 10 it is no longer outlined in blue. Is this because the amenity ground around Avarua and Dunvarlich, the original house, negates the agent’s argument completely.

The reply to the Interested Party’s comments as given in the previous matter also apply to this statement. The central issue is that the conclusion arrived at by the Planning Officer in relation to plot size is flawed in regard to assessing what is adequate amenity space (Private Space) for a dwellinghouse.

Page 11 Para 1. Agent’s references to plot sizes “The plot size remaining for the Lea Park house” etc.

Once more the plots of Rockhill and associated buildings are irrelevant as they were established in 1888. We also strongly question that the ratios of Lea Park and its new build are in any way comparable to the new build at Cruachan. As previously stated Cruachan was a brownfield site with no bearing on the above.

The issue of a brownfield site is irrelevant in this case because the central issue is whether or not the former Cruachan site was backland development. Given the definition of backland development as:

Backland development is a term used for land which may not be visible from the usual roadways, such as behind a row of houses. Backland sites are usually a section of garden with road access at the rear or side of a property, or a plot of land in-between gardens with communal or a private access alley. (urbanistarchitecture .co.uk)

The former Cruachan site is without doubt a backland development site as it has no street frontage, behind the building line of the older Victorian houses on Kenmore Road, with access at the side of a property and with a private access alley. It is also, very significantly, within the Conservation Area boundary of Aberfeldy.

Para 2. Overlooking and shadowing.

On our garden boundary between Hartley and Lea Park we have an established border with mature garden plants, small trees, and large shrubs with a small 2 foot high original wire and post fence. As far as we can ascertain from the plans the proposed new build will have a gable end wall which is at least 6.5 metres (approx 18 ft) at its apex and 10 metres in length and a conservatory which is over 4 metres high and 5 metres in length just 3 metres in from our garden boundary. The proposed new fence, the full length of the boundary, has to be at least 2 metres high in order to prevent any overlooking from the conservatory.

The correct conservatory dimensions are 4.5m long by 4.2m wide and 3m in height, with the conservatory distanced 8.5m from the boundary fence with Hartley.

More importantly however the combination of a large gable end with a high fence (aesthetically grotesque to us) would plunge what is a now a mature border, planted predominantly to sun, into deep shade (cast by building and fence) and at least half the garden including a recently laid lawn into the same shade. Consequently the amenity of the large garden which we have nurtured and enjoyed for the past 22 years would be drastically diminished.

Conveniently the agent has selected (via Google!) Midsummer's day (the longest day of the year when the sun is at its zenith) to give an indication of the hours of sunlight that we could expect to enjoy. No mention is made of the other 364 days of the year especially in Spring and Autumn when both light levels and the sun are a lot lower and plants/grass require as much natural light as possible for growth and later in the year for maturing and harvesting vegetables/fruit.

Again we absolutely fail to see the relevance of the photo the agent has attached as these properties are well to the North of Lea Park and Hartley and therefore obviously have no impact on overshadowing of our garden. However the photo of the gable end of Taransay (taken from at least 40 metres distant) gives us a graphic indication of the sheer size and scale of the gable end that the agent is proposing to erect 3 metres in from our boundary with Lea Park.

By applying the suncalc.net web-based software and accessing relevant dates of 1 April and 30 September it can be seen that sunrise is exactly due east and sunset exactly due west. Therefore for 6 months of the year the proposed house will cast very little shadow on the garden at Hartley. Between these dates there will be shadow cast but only in the later part of the day.

It should be recognised that the site for the development lies due north to north-west of the house and garden at Hartley and generally such relevant positioning of developments give little affect to significant daylight reduction to the southern located properties.

The applicant wishes it to be noted that he intends to remove an old plum tree on the application site near the site boundary with Hartley if consent is granted, so that the impact of the new house affecting available daylight to the neighbouring garden would be offset.

Page 12 and 13 Conservation considerations and layout.

The agent states that many parallels can be drawn between the Cruachan development and his application for Lea Park.

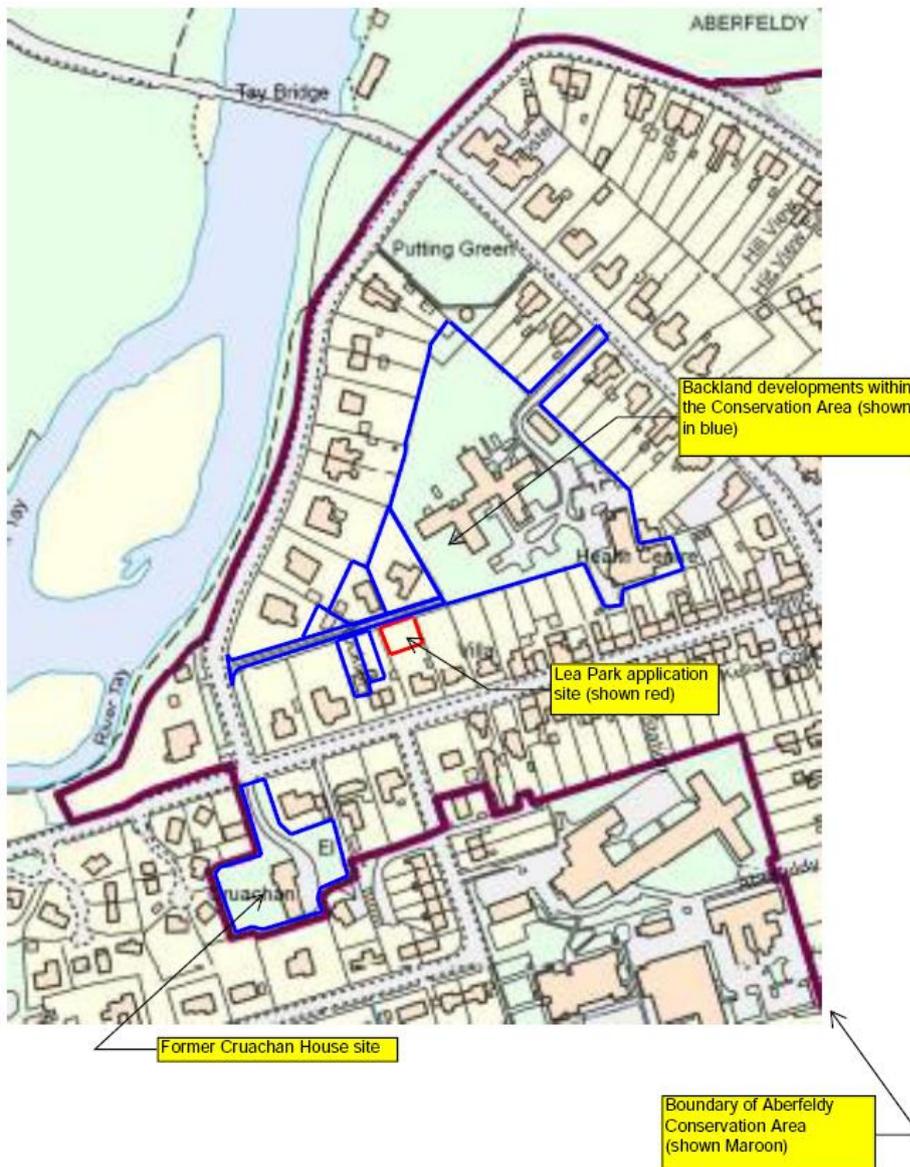
We reiterate yet again that Cruachan was a brownfield site and not a backland development in a rear garden. The picture submitted of the Cruachan build is of a large dwelling house erected in a style

similar to the larger Victorian houses in Kenmore St and many of the builds at the adjacent Beeches. There is absolutely no comparison between the Cruachan site build and Lea Park in architectural design. As a point of note the postal address of No.4 at the Cruachan site was registered as Kenmore Road and not Kenmore St.

The former Cruachan site is without doubt a backland development site as it has no street frontage, behind the building line of the older Victorian houses on Kenmore Road, with access at the side of a property and with a private access alley. It is also, very significantly, within the Conservation Area boundary of Aberfeldy.

The house design as built on this plot is not similar to that of a large Victorian house, it is of a contemporary design given its lack of references to Victorian architectural details, window proportions, cill heights, etc.

For reference, details of the house design are given below and the site location is shown on the following plan:

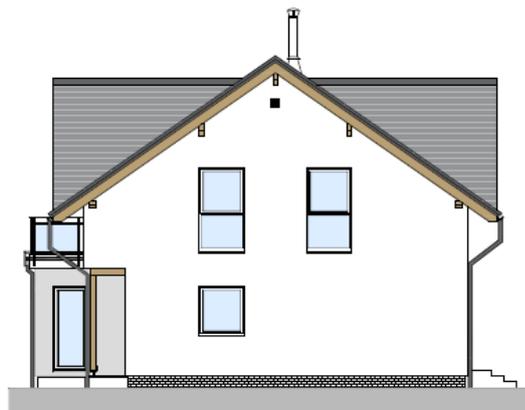




The house presently occupying Plot 4 of the former Cruachan site.



EAST ELEVATION



SOUTH ELEVATION



NORTH ELEVATION



WEST ELEVATION

House design for Plot 4 at Cruachan

Conclusion.

Perth & Kinross Council set a precedent in 2000 when they refused the planning application for a dwelling house in the rear garden of Lea Park on three grounds, all of which contravened Council policies (dated 1993 and 1999).

This precedent was reinforced in October 2019 when they again refused planning permission for a dwelling house on the same site again on three grounds due to contravention of updated Council policies (dated 2014)

In our opinion it is wholly inconceivable that at this review the above two decisions could be overturned considering the Council's policies and the Agent's flimsy and in many instances inaccurate submissions

If Perth & Kinross Council reverse their original decisions then this will undoubtedly open the way to further backland developments in the conservation areas of Aberfeldy.

In a year when Scotland is hosting the climate change conference it is so important that we should all be striving to preserve and nurture our open spaces, gardens and wildlife habitat and not destroy them for the sake of building unnecessary houses in our rear gardens.

As has been demonstrated in the Appeal Statement, the use of backland development in the Aberfeldy Conservation area is an established fact with precedent examples given. Backland development has been used appropriately over the years and in situations where the overall character of the Conservation Area has not been impacted upon due to the backland sites being located away from the main streetscapes.

Due recognition and credit should be given to the local authority for this approach. However, the Planning Officer's analysis and conclusions against such appropriate backland development has been made inconsistently in this case and the Review Body are asked to normalise this by overturning the decision to refuse consent.

The arguments put forward by the Interested Party do not weaken the case put forward by the Appeal Statement and in some cases provide an opportunity to further reinforce the case for supporting the appeal application.

The planning application was made by the Lea Park owner/occupier, who along with his wife are now of an age and degree of infirmity that they require a more manageable house, with modern standards of heating and low running and maintenance costs, with room for children and grandchildren to visit, given that they are unable to travel to them. They wish to remain in an area of Aberfeldy that they consider home and near to neighbours and friends. It is intended that the present Lea Park house would be sold to finance the new build development if this appeal is successful.

The applicant suggests that the Local review Body makes a site visit to see for themselves that there will be no conflict of interest or privacy on the site.

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