

Perth and Kinross Council  
Planning & Development Management Committee – 21 November 2018  
Report of Handling by Interim Development Quality Manager (Report No. 18/380)

**PROPOSAL:** Erection of 3 dwellinghouses.

**LOCATION:** Land west of Darkfaulds Cottage, Blairgowrie.

Ref. No: [18/01091/FLL](#)

Ward No: P3- Blairgowrie And Glens

### **Summary**

This report recommends approval of the application as the development is considered to comply with the relevant provisions of the Development Plan and there are no material considerations apparent which outweigh the Development Plan.

### **BACKGROUND AND DESCRIPTION OF PROPOSAL**

- 1 The application site relates to an area of garden ground on the south side of Blairgowrie, close to Perth Road. The site measures 870sqm and was originally part of a wider residential plot associated with Darkfaulds Cottage containing a mix of trees, grass and other vegetation. The site has been subdivided from Darkfaulds Cottage by a timber fence along its eastern boundary. The west side of the site fronts an access road that runs parallel to Perth Road and serves a number of existing residential properties including Ardblair Cottages. There is a parking area and substation to the south of Ardblair Cottages, opposite to the southern end of the site. A private access runs adjacent to the southern site boundary. Garden ground associated with another private access is to the north bounded by a timber fence.
- 2 Planning permission in principle was given in 2014 ([14/01147/IPL](#)) for the erection of a dwellinghouse on this site. An application for four dwellinghouses on the site ([17/02082/FLL](#)) was submitted in November 2017. This application was withdrawn due to concerns with the number of properties proposed on the site. Subsequently, this current application was submitted for the erection of three dwellinghouses. Each of the proposed dwellinghouses has three bedrooms with accommodation over two levels and associated car parking.
- 3 There are a number of trees on the site and a tree survey has been submitted to assess the condition of the trees.
- 4 There is a mix of development in the area including a row of single storey modern properties opposite the site.

- 5 During the course of considering the application slight amendments were made to the parking areas and garages and consequently neighbours were re-notified of the revised proposals on 12 September 2018.

### **ENVIRONMENTAL IMPACT ASSESSMENT (EIA)**

- 6 Directive 2011/92/EU (as amended) requires the 'competent authority' (in this case Perth and Kinross Council) when giving a planning permission for particular large scale projects to do so in the knowledge of any likely significant effects on the environment. The Directive therefore sets out a procedure that must be followed for certain types of project before 'development consent' can be given.
- 7 This procedure, known as Environmental Impact Assessment (EIA), is a means of drawing together, in a systematic way, an assessment of a project's likely significant environmental effects. The EIA Report helps to ensure that the importance of the predicted effects, and the scope for reducing any adverse effects, are properly understood by the public and the relevant competent authority before it makes its decision.
- 8 An EIA Report was not required to be submitted with the proposal as the scale of development falls below the EIA thresholds.

### **PRE-APPLICATION CONSULTATION**

- 9 Pre-application discussions have been held with the agent and applicant.

### **NATIONAL POLICY AND GUIDANCE**

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

#### **National Planning Framework**

- 11 NPF3 is a long-term strategy for Scotland and is a spatial expression of the Government's Economic Strategy and plans for development and investment in infrastructure. Under the Planning etc. (Scotland) Act 2006 this is now a statutory document and material consideration in any planning application. The document provides a national context for development plans and planning decisions as well as informing the on-going programmes of the Scottish Government, public agencies and local authorities.

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

- 12 The Scottish Planning Policy (SPP) was published in June 2014 and sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of policy across Scotland

whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:

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

13 The following sections of the SPP will be of particular importance in the assessment of this proposal:

- Sustainability : paragraphs 24 – 35
- Placemaking : paragraphs 36 – 57

### **Planning Advice Notes**

14 The following Scottish Government Planning Advice Notes (PANs) and Guidance Documents are of relevance to the proposal:

- PAN 40 Development Management
- PAN 61 Planning and Sustainable Urban Drainage Systems
- PAN 68 Design Statements
- PAN 75 Planning for Transport
- PAN 77 Designing Safer Places

### **Creating Places 2013**

15 Creating Places is the Scottish Government's policy statement on architecture and place. It sets out the comprehensive value good design can deliver. It notes that successful places can unlock opportunities, build vibrant communities and contribute to a flourishing economy and set out actions that can achieve positive changes in our places.

### **Designing Streets 2010**

16 Designing Streets is the first policy statement in Scotland for street design and marks a change in the emphasis of guidance on street design towards place-making and away from a system focused upon the dominance of motor vehicles. It has been created to support the Scottish Government's place-making agenda, alongside Creating Places, which sets out Government aspirations for design and the role of the planning system in delivering these.

### **National Roads Development Guide 2014**

17 This document supports Designing Streets and expands on its principles and is considered to be the technical advice that should be followed in designing and approving of all streets including parking provision.

## **DEVELOPMENT PLAN**

- 18 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**

- 19 TAYPlan sets out a vision for how the region will be in 2036 and what must occur to bring about change to achieve this vision. The vision for the area as set out in the plans states that:
- 20 *“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.”*
- 21 The following sections of the TAYplan 2016 are of particular importance in the assessment of this application.
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### **Policy 1: Locational Priorities**

- 23 Seeks to focus the majority of development in the region’s principal settlements. Perth Core Area is identified as a Tier 1 Settlement with the potential to accommodate the majority of the region’s additional development over the plan period and make a major contribution to the region’s economy. Tier 2 settlements also have the potential to make a major contribution but will accommodate a smaller share of the additional development. Tier 3 settlements play an important but more modest role and will therefore accommodate a small share of the growth.
- 24 The release of land shall be based on the sequential approach: within principal settlements; edge of principal settlements; expansion of other settlements.
- 25 Outwith principle settlements, development may be supported where it genuinely contributes to the outcomes of the Plan however suburbanization of the countryside and unsustainable travel and development patterns should be avoided.

### **Perth and Kinross Local Development Plan 2014**

- 26 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. The LDP sets out a vision statement for the area and states that, *“Our vision is of a Perth and Kinross which is dynamic, attractive and effective which protects its assets whilst welcoming population*

*and economic growth.*” It is the most recent statement of Council policy and is augmented by Supplementary Guidance.

27 The principal relevant policies are, in summary;

**Policy PM1A - Placemaking**

28 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**

29 All proposals should meet all eight of the placemaking criteria.

**Policy PM3 - Infrastructure Contributions**

30 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**

31 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 NE2B - Forestry, Woodland and Trees**

32 Where there are existing trees on a development site, any application should be accompanied by a tree survey. There is a presumption in favour of protecting woodland resources. In exceptional circumstances where the loss of individual trees or woodland cover is unavoidable, mitigation measures will be required.

**Policy NE3 - Biodiversity**

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

## **Policy TA1B - Transport Standards and Accessibility Requirements**

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

## **Proposed Perth and Kinross Local Development Plan 2 (LDP2)**

- 35 Perth & Kinross Council is progressing with preparation of a new Local Development Plan to provide up-to-date Development Plan coverage for Perth & Kinross. When adopted, the Perth & Kinross Local Development Plan 2 (LDP2) will replace the current adopted Perth & Kinross Local Development Plan (LDP). The Proposed Local Development Plan 2 (LDP2) was approved at the Special Council meeting on 22 November 2017.
- 36 The representations received on the Proposed LDP2 and the Council's responses to these were considered at the Special Council meeting on 29 August 2018. The unresolved representation to the Proposed Plan after this period is likely to be considered at an Examination by independent Reporter(s) appointed by the Scottish Ministers, later this year. The Reporter(s) will thereafter present their conclusions and recommendations on the plan, which the Council must accept prior to adoption. It is only in exceptional circumstances that the Council can elect not to do this.
- 37 The Proposed LDP2 represents Perth & Kinross Council's settled view in relation to land use planning and as such it is a material consideration in the determination of planning applications. It sets out a clear, long-term vision and planning policies for Perth & Kinross to meet the development needs of the area up to 2028 and beyond. The Proposed LDP2 is considered consistent with the Strategic Development Plan (TAYplan) and Scottish Planning Policy (SPP) 2014. However, the outcome of the Examination could potentially result in modifications to the Plan. As such, currently limited weight can be given to its content where subject of a representation, and the policies and proposals of the plan are only referred to where they would materially alter the recommendation or decision.

## **SITE HISTORY**

- 38 [14/01147/FLL](#) Erection of a dwellinghouse (in principle) Application Approved under delegated powers 14 October 2014.
- 39 [17/02082/FLL](#) Erection of 4 dwellinghouses Application Withdrawn 26 June 2018

## **CONSULTATIONS**

- 40 As part of the planning application process the following bodies were consulted:

## External

### Scottish Water

41 No objection.

## Internal

### Transport Planning

42 No objection.

### Development Negotiations Officer

43 No objection if contributions are secured. Primary education contribution of £19,380 (3 x £6,460) required.

### Environmental Health (Contaminated Land)

44 No adverse comments.

## REPRESENTATIONS

45 A total of 11 representations were received. Ten of these were objections to the proposals. One is in support. The following points were raised in the 10 representations of objection received:

- Contrary to Development Plan
- Impact on visual amenity
- Design – out of character
- Impact on trees
- Impact on biodiversity
- Over development
- Impact on residential amenity - loss of light, loss of privacy
- Traffic and road safety
- Precedent for other building in gardens

46 These issues are addressed in the Appraisal section of the report.

## 47 ADDITIONAL STATEMENTS

Environment Statement	Not Required
Screening Opinion	Not Required
Environmental Impact Assessment	Not Required
Appropriate Assessment	Not Required
Design Statement / Design and Access Statement	Not Required
Reports on Impact or Potential Impact	Tree survey submitted

## **APPRAISAL**

- 48 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) require the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The adopted Development Plan comprises the TAYplan Strategic Development Plan 2016–2036 and the Perth and Kinross Local Development Plan 2014. The relevant policy considerations are outlined in the policy section above and are considered in more detail below.

### **Principle**

- 49 TAYplan Policy 1 (Location Priorities) seeks to focus the majority of development in the region's principal settlements. Blairgowrie/Rattray is identified as a Tier 2 principal settlement which has the potential to make a major contribution to the regional economy but will accommodate a smaller share of the additional development in comparison to Tier 1 Settlements. The provision of three residential units satisfies this TAYplan Policy.
- 50 The site is located within the settlement boundary of Blairgowrie where Policy RD1 of the adopted Local Development Plan 2014 applies. This supports development that is compatible with surrounding uses, protects residential amenity and meets various criteria. The principle of residential development on this site has previously been accepted and is still considered to be appropriate.
- 51 Placemaking policies PM1A and PM1B seek to ensure that development makes a positive contribution to the quality of the surrounding built and natural environment with the design and density respecting the character and amenity of the place. For reasons set out in the report below it is considered that the proposal accords with these policies in the Development Plan.

### **Design and Layout**

- 52 A previous scheme was submitted for this site for four dwellinghouses. That scheme could not be supported due to concerns with impact on the existing trees and character of the area. The applicant was advised to withdraw that application and amend their proposals.
- 53 The revised scheme has reduced the number of proposed houses from four to three. These are set fronting the access road that serves Ardblair Cottages. The three houses are detached properties with a height of 8.6m to the roof ridge and 4m to the eaves. They are proposed to be finished with a slate roof, rendered walls and upvc windows. There is a mix of house styles in the area including a terrace of single storey properties to the west. It is considered that the proposed development will not look out of place in this context. A condition requiring full details of external finishes is recommended (Condition 2).



## **Landscape**

- 54 Policy NE2B of the Local Development Plan requires a tree survey to be submitted where there are existing trees on a site. The site, as former garden ground to the residential property of Darkfaulds Cottage, was previously well vegetated. Some of this vegetation has been removed. A tree survey was submitted with the application detailing the existing trees on the site. A number of trees have been identified for removal particularly along the frontage of the site including some leylandii, a birch tree and a holly tree. However, three large beech trees will be retained on the site and incorporated into the garden ground of two of the proposed new houses.
- 55 It is recommended that conditions be attached to protect the trees to be retained (Condition 3) and also to require further information of boundary treatment (Condition 4).

## **Residential Amenity**

- 56 The proposal has been assessed in terms of its potential to impact on residential amenity of both existing and future residents. Council guidance seeks a distance of 9m from windows to boundaries to achieve sufficient window to window distance between properties of not less than 18m. In this case the rear boundary distance of plot 3 is below 9m at between 5m and 6m. However the ground levels compensate for this as Darkfaulds Cottage sits higher than the site and is over 20m away. The distance from the dwellinghouse to the rear boundaries increases for plots 1 and 2 and is between 7m and 11m. This is considered to be acceptable. Amenity space for plot 2 is around 105sqm and for plot 1 it is 150sqm. Plot 3 also has extensive amenity ground to the side giving a total of around 180sqm making up for having a smaller rear garden area. This meets the Council draft guidance that recommends a minimum of 80 square metres for three bed properties.
- 57 There have been objections with regard to potential overlooking from the front of the proposed properties to Ardblair Cottages located to the west of the site across an access road, as well as possible loss of light. The gardens of Ardblair Cottages are open and visible to anyone passing. One of the proposed new houses is opposite the southern part of 1 Ardblair Cottages but the other new houses are offset to the south. As there is a 5.5m wide road between the proposed site for development and the existing properties of Ardblair Cottages, I am satisfied that sufficient amenity will be maintained. The layout of the three properties does not raise any issues of overlooking between the new properties and all have sufficient amenity space.
- 58 The proposals protect existing and proposed residential amenity and therefore comply with policy RD1 (residential areas) of the Local Development Plan.

## **Visual Amenity**

- 59 There have been a number of objections with regard to the visual impact of the proposals and that the design is not in keeping with the surroundings. Whilst there are some large houses in large plots there are also smaller properties such as the row opposite. The visual impact will change from a well vegetated former garden ground to a three house development. However, the scale of the properties is relatively modest and the retention of some of the mature trees to the north and south of the site will help to retain some of the existing character of the site and the wider area.

## **Roads and Access**

- 60 There have been a number of objections relating to road safety matters. The Transport Planner originally had concern with the dimensions of the proposed parking provision. This comprises a mix of garage and off-street parking. After a slight revision to the plans Transport Planning is now satisfied with the proposals. However, objectors have expressed concern with regard to the width of the access road adjacent to the development and the impact that the new houses will have by accessing this road. It is noted that the carriageway is 5.5 metres wide and this is considered to be capable of accommodating the vehicular movements required. The radius of each new access would also be constructed as detailed in the National Roads Development Guide and Designing Streets, thus enabling ease of entry and exit from the properties. The properties provide parking for six additional vehicles and Transport Planning is of the view that this will not impact significantly on the existing traffic flows. I would agree with this view and consider the proposal is acceptable in terms of road and access matters. The proposal accords with policy TA1B - Transport Standards and Accessibility Requirements.

## **Drainage and Flooding**

- 61 The development utilises mains sewerage and water supplies. No implications with regard to drainage or flooding have been identified on this site. The site is not in an area at risk of flooding.

## **Waste Collection**

- 62 An informative note will be attached to ensure that the developer is aware of the Council's requirements with regard waste collection from the site (Informative 6).

## **Conservation Considerations**

- 63 The site is not in a designated Conservation Area or in close proximity to a listed building or any other designated site. It is therefore considered that the development will have no adverse impact upon the cultural heritage of the area.

## **Natural Heritage and Biodiversity**

- 64 The site has some natural heritage and biodiversity interest from the trees and other vegetation on the site. Some of the larger trees are being retained. An informative note will be added to ensure that works do not impact on nesting birds or protected species (Informatives 7 and 8).
- 65 In order to enhance biodiversity at the site it is recommended that bat and swift bricks be incorporated into the proposed development (Conditions 5 and 6).

## **Developer Contributions**

### **Primary Education**

- 66 The Council Developer Contributions Supplementary Guidance requires a financial contribution towards increased primary school capacity in areas where a primary school capacity constraint has been identified. A capacity constraint is defined as where a primary school is operating, or likely to be operating following completion of the proposed development and extant planning permissions, at or above 80% of total capacity.
- 67 This proposal is within the catchment of Newhill Primary School which is operating at or above 80% capacity.
- 68 A contribution towards primary education of £19,380 (3 x £6,460) is required.

### **Contaminated Land**

- 69 The proposed development is just to the north west of an area of land that was once an old quarry. This quarry has previously been investigated and remedial works carried out and verified by Environmental Health (Contaminated Land Officer). No further information is required with regard to contaminated land.

### **Economic Impact**

- 70 There will be some positive economic impact from the development, mainly during the construction phase.

## **LEGAL AGREEMENTS**

- 71 A section 75 legal agreement may be required should the applicant seek to defer payment of the developer contribution required with regard to primary education.

## **DIRECTION BY SCOTTISH MINISTERS**

- 72 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, regulations 30 – 33 there have been

no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in or notification relating to this application.

## **CONCLUSION AND REASONS FOR RECOMMENDATION**

- 73 To conclude, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, I have taken account of the Local Development Plan and material considerations and in this case I am content that the development proposed does not conflict with the Development Plan.
- 74 Accordingly the proposal is recommended for approval subject to the following conditions.

## **RECOMMENDATION**

### **Approve the application**

#### **Conditions and Reasons for Recommendation**

- 1 The development hereby approved must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed by this decision notice.

Reason - To ensure the development is carried out in accordance with the approved drawings and documents.

- 2 Prior to the commencement of the development hereby approved, details of the specification and colour of the proposed external finishing materials to be used shall be submitted to and agreed in writing by the Council as Planning Authority. The scheme as agreed shall be implemented prior to the completion or bringing into use of the development, whichever is the earlier.

Reason - In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.

- 3 Prior to the commencement of any works on site, all trees on site (other than those marked for felling on the approved plans) and those which have Root Protection Areas which fall within the site shall be retained and protected. Protection methods shall be strictly in accordance with BS 5837 2012: Trees in Relation to Design, Demolition and Construction. Protection measures, once in place, shall remain in place for the duration of construction.

Reason - To ensure a satisfactory standard of development and environmental quality and to reserve the rights of the Planning Authority.

- 4 Prior to the commencement of the development hereby approved, details of the proposed boundary treatments for the site shall be submitted for the further written agreement of the Council as Planning Authority. The scheme

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

Reason - In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.

- 5 A minimum of 1 swift brick or swift nest box shall be incorporated into each dwellinghouse. Prior to commencement of the development hereby approved details of the location and specification of the swift brick(s) or swift nest box(s) shall be submitted and approved in writing by 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.

Reason - In the interests of enhancing biodiversity.

- 6 A minimum of 1 bat brick or bat nest box shall be incorporated into each dwellinghouse. Prior to commencement of the development hereby approved details of the location and specification of the bat brick(s) or bat nest box(s) shall be submitted and approved in writing by the Council as Planning Authority. Thereafter, the bat brick(s) or bat nest box(s) shall be installed in accordance with the agreed details prior to the occupation of the relevant residential unit.

Reason - In the interests of enhancing biodiversity.

## **B JUSTIFICATION**

- 75 The proposal is in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

## **C PROCEDURAL NOTES**

- 76 The planning permission decision notice shall not be issued until such time as the required Developer Contributions have been secured or paid in full.
- 77 In the event the applicant does not either make the required payment within 28 days from the date the agent/applicant is advised of the need for the contributions, or complete a legal agreement for delayed payment within a 4 month period from the date the agent/applicant is advised of the need for the contributions, the application may be refused under delegated powers without any further discussion with the applicant.

## **D INFORMATIVES**

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period (see section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).

- 2 Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
- 4 No work shall be commenced until an application for building warrant has been submitted and approved.
- 5 The applicant is advised that in terms of Sections 56 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environmental Protection Agency.
- 6 The applicant should be aware of the requirements of the Council's Environment and Regulatory Services in relation to waste collection from the site and should ensure adequate measures are provided on site to allow for the collection of waste.
- 7 Trees and scrub are likely to contain nesting birds between 1 March and 31 August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning permission for a development does not provide a defence against prosecution under this Act.
- 8 The presence of protected species, and the extent to which they could be affected by the proposed development, should be established before works commence. Should protected species be identified within the site the developer should ensure that all appropriate measures required to comply with the relevant legislation are carried out.

Background Papers: 11 letters of representation including one of support  
Contact Officer: Persephone Beer  
Date: 8 November 2018

**ANNE CONDLIFFE**  
**INTERIM DEVELOPMENT QUALITY MANAGER**

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