

**TCP/11/16(593) – 18/01735/FLL – Erection of ancillary accommodation, Bracklynn, Cuilc Brae, Pitlochry**

## **INDEX**

- (a) Papers submitted by the Applicant (***Pages 7-18***)
- (b) Decision Notice (***Pages 21-22***)
  - Report of Handling (***Pages 23-32***)
  - Reference Documents (***Pages 33-36***)
- (c) Representations (***Pages 37-56***)



**TCP/11/16(593) – 18/01735/FLL – Erection of ancillary accommodation, Bracklynn, Cuilc Brae, Pitlochry**

**PAPERS SUBMITTED  
BY THE  
APPLICANT**





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

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

Thank you for completing this application form:

ONLINE REFERENCE 100157690-001

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

## Applicant or Agent Details

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

☐ Applicant ☒ Agent

## Agent Details

Please enter Agent details

Company/Organisation:	JJF Planning		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Joe	Building Name:	
Last Name: *	Fitzpatrick	Building Number:	35
Telephone Number: *	07974426615	Address 1 (Street): *	Aytoun Crescent
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Burntisland
Fax Number:		Country: *	United Kingdom
		Postcode: *	KY3 9HS
Email Address: *			

Is the applicant an individual or an organisation/corporate entity? \*

☒ Individual ☐ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *
Other Title:	<input type="text"/>	Building Name: <input type="text" value=""/>
First Name: *	<input type="text" value="Neil"/>	Building Number: <input type="text"/>
Last Name: *	<input type="text" value="Kinnell"/>	Address 1 (Street): * <input type="text" value=""/>
Company/Organisation	<input type="text"/>	Address 2: <input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: * <input type="text" value=""/>
Extension Number:	<input type="text"/>	Country: * <input type="text" value=""/>
Mobile Number:	<input type="text"/>	Postcode: * <input type="text" value=""/>
Fax Number:	<input type="text"/>	
Email Address: *	<input type="text"/>	

## Site Address Details

Planning Authority:	<input type="text" value="Perth and Kinross Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text"/>
Post Code:	<input type="text"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="758743"/>	Easting	<input type="text" value="293290"/>
----------	-------------------------------------	---------	-------------------------------------

## Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: \*  
(Max 500 characters)

Planning Application 18/01735/FLL - Erection of Ancillary Accommodation - Bracklynn Cottage Cuihc Brae Pitlochry

## Type of Application

What type of application did you submit to the planning authority? \*

- ☒ Application for planning permission (including householder application but excluding application to work minerals).
- ☐ Application for planning permission in principle.
- ☐ Further application.
- ☐ Application for approval of matters specified in conditions.

What does your review relate to? \*

- ☒ Refusal Notice.
- ☐ Grant of permission with Conditions imposed.
- ☐ No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

## Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: \* (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Please see attached Notice of Review - Supporting Statement

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 the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: \* (Max 500 characters)

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. You can attach these documents electronically later in the process: \* (Max 500 characters)

Notice of Review - Supporting Statement

## Application Details

Please provide details of the application and decision.

What is the application reference number? \*

18/01735/FLL

What date was the application submitted to the planning authority? \*

10/12/2018

What date was the decision issued by the planning authority? \*

24/01/2019

## 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.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. \*

☒ Yes ☐ No

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

Can the site be clearly seen from a road or public land? \*

☒ Yes ☐ No

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

☒ Yes ☐ No

## Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. \*

☒ Yes ☐ No

Have you provided the date and reference number of the application which is the subject of this review? \*

☒ Yes ☐ No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? \*

☒ Yes ☐ No ☐ N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? \*

☒ Yes ☐ No

Note: 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. 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.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review \*

☒ Yes ☐ No

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 (if any) from the earlier consent.



## **Declare – Notice of Review**

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Joe Fitzpatrick

Declaration Date: 18/03/2019



**NOTICE OF REVIEW – Supporting Statement**

Planning Application 18/01735/FLL - Erection of  
Ancillary Accommodation - Bracklynn Cottage Cuilc  
Brae Pitlochry

Applicant: Mr Neil Kinnell

## 1.0 INTRODUCTION

- 1.1 An application for planning permission for the erection of ancillary accommodation at Bracklynn Cottage Cuilc Brae Pitlochry (Ref 18/01735/FUL) was submitted to Perth and Kinross Council on the 10<sup>th</sup> December 2018. On the 22<sup>nd</sup> January 2019 the application was refused for the following reasons:

- 1. The development is contrary to Policy RD1 of the Perth and Kinross Local Development Plan 2014 in that the proposed ancillary accommodation is considered to be entirely divorced from the main dwellinghouse with no shared facilities and is therefore tantamount to a new dwelling. The proposal does not have regard to the density and character of the area, having a detrimental effect on the amenity of the area by virtue of the sites restricted size. The site is not large enough to accommodate the development satisfactorily in site planning terms.*
- 2. As the proposal will result in the loss of privacy to an adjacent residential property (Calluna) and appear oppressive from that property, all to the detriment of the neighbouring properties residential amenity, the proposal is contrary to Policy RD1 of the Perth and Kinross Local Development Plan 2014, which seeks to ensure the residential amenity of existing areas is not adversely affected by new proposals.*
- 3. The proposal, by virtue of its unsympathetic design, bulk, scale and visual massing, including excessive proportions and composition results in over-development of the site resulting in an adverse impact on the visual amenity of the surrounding area. Approval would therefore be contrary to Policies PM1A and PM1B(c) of the Perth and Kinross Local Development Plan 2014 which seek to ensure that development contributes positively to the character and amenity of the place by complementing its surroundings in terms of design, appearance, height, scale and massing.*

A copy of the Decision Notice has been attached with this submission.

## 2.0 GROUNDS FOR REVIEW

- 2.1 Bracklynn Cottage is currently used as a holiday let and as such contributes towards the growing market for self catering tourism accommodation within Pitlochry. Over the years that the cottage has been used for this purpose the owners have sought to improve the quality of the accommodation and have invested in significant refurbishment works. The property is marketed for let directly by the owners and in the course of taking inquiries it has been noted that many families seeking self catering accommodation have expressed a preference for separate ancillary accommodation to cater for elderly parents away from activity associated with the main cottage area. The proposals to build the linked annex accommodation are aimed directly at satisfying the growing demand for self catering accommodation with the capacity to accommodate dependant relatives.
- 2.2 The first reason for refusal is considered to be fundamentally flawed in that it is clearly premised on a concern that the proposed development is intended for use as a separate dwellinghouse. The narrative even refers to the proposed development being "tantamount to a new dwelling" thereby implying that the intended use of the facility is not as claimed by the applicant. It is a well established convention in planning law that a reason for refusal of an application for planning permission cannot be based on conjecture surrounding the possible alternative uses to which a proposed development can be put. Although the residential nature of both uses, i.e. as linked accommodation or as a separate dwellinghouse, tends to obscure the significance of this consideration, to refuse the application on such grounds is no different to refusing an application for a Class 1 retail unit within a retail zone on the basis that it might be used as a hot food outlet. As such the first reason for refusal is considered to be incompetent on this ground alone.

- 2.3 The first reason for refusal also makes reference to the ancillary accommodation being “divorced from the main dwellinghouse”. Without wanting to appear dismissive of such concerns, such an assessment is considered to be based on a lack of understanding about the whole point of having separate accommodation for dependant relatives. For elderly parents in particular it is often the case that they will seek to retreat to an area where they can enjoy a degree of peace and quiet whilst at the same time being within easy reach of the rest of the family. Elderly parents will also often wish to retire earlier in the evening than the rest of the family. The proposed ancillary accommodation offers an ideal opportunity to meet such needs.
- 2.4 Although it will be noted that proposed ancillary accommodation is separated from the main garden area immediately adjacent to the cottage by a shared access driveway serving an adjoining property, this should not in itself prejudice the applicant in that the land relating to the proposed facility is nevertheless part of the same title and as such has been managed over many years as part of the overall garden area.
- 2.5 The first reason for refusal also makes reference to the facility having “no shared facilities”. Again, such a comment betrays a lack of understanding relating to the whole point of providing ancillary accommodation. It is clearly the function of such a facility to provide for basic needs such as limited kitchen and bathroom facilities without the need to visit the main dwellinghouse. In this regard, with reference to the floor plans submitted with the application it will be noted that the bathroom and kitchen facilities are very limited and hardly that which could be considered suited to occupation of the property as a separate dwellinghouse.
- 2.6 The first reason for refusal then goes on to state that, “The site is not large enough to accommodate the development satisfactorily in site planning terms”. This judgment is clearly based on the concern that the facility is intended for use as a separate dwellinghouse where there is a visual expectation that such a form of development should be set within a larger curtilage. However, it has to be stressed that the application submitted to the Council relates to the provision of ancillary accommodation linked to the main dwellinghouse. By their very nature such facilities do not require the level of setting that would be expected of a dwellinghouse and the restricted size of the site is therefore considered to be immaterial in terms of the effect on the amenity and character of the area.
- 2.7 As a final consideration in relation to the first reason for refusal and the concern that the facility is “tantamount to a new dwelling”, if the facility were to be used as a separate dwelling then the Council would have recourse to enforcement action to remedy the breach of planning control.
- 2.8 In relation to the second reason for refusal, it is noted that the concern over privacy relates to the potential for overlooking of the neighbouring property from the balcony area. However, this overlooking can easily be addressed by the erection of a solid screen along the side facing the neighbouring site. It has now been confirmed with the applicant that had the case officer asked for such an addition then this amendment to address the issue would have been agreed. In addition, it should be noted that the area of concern associated with the neighbouring property relates to the front garden and driveway area as opposed to the rear private garden. As such, even in the absence of a screen at the balcony, the significance of any loss of privacy is much reduced compared to the degree of impact that would result had the balcony been overlooking the private rear garden area. This consideration is no doubt the reason why the owner of the property at Calluna has not raised any objection to the proposed development.
- 2.9 In relation to the third reason for refusal, the case officers judgement is again considered to have been unduly influenced by the application of standards relating to visual impact that would be associated with a separate dwellinghouse. In this regard, had this facility been presented as a separate dwellinghouse then to a certain extent it could be argued that the proposals represent an over development of the site with all the consequent effects in visual impact terms. However, as a facility for the provision of ancillary accommodation the level of development is considered to be entirely appropriate. The site is secluded and enjoys a dense wooded landscape setting within which the proposed development nestles and is visually absorbed without any detriment to visual amenity.

### **3.0 CONCLUSION**

- 3.1 In view of the above it is considered that the proposed development is entirely consistent with policies RD1, PM1A and PM1B© of the Perth and Kinross Local Development Plan 2014. In addition, there are not considered to be any issues that would dictate a determination of this application otherwise than in accordance with the development plan. Therefore, in relation to the Council's duties under Section 25 of the Town and Country Planning (Scotland) Act 1997 it is considered that a favorable determination of this application is merited.

**TCP/11/16(593) – 18/01735/FLL – Erection of ancillary accommodation, Bracklynn, Cuilc Brae, Pitlochry**

**PLANNING DECISION NOTICE**

**REPORT OF HANDLING**

**REFERENCE DOCUMENTS**





# PERTH AND KINROSS COUNCIL

Mr Neil Kinnell  
c/o JJF Planning  
Joe Fitzpatrick  
35 Aytoun Crescent  
Burntisland  
KY3 9HS

Pullar House  
35 Kinnoull Street  
PERTH  
PH1 5GD

Date 22nd January 2019

## TOWN AND COUNTRY PLANNING (SCOTLAND) ACT

Application Number: **18/01735/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 10th December 2018 for permission for **Erection of ancillary accommodation Bracklynn Culc Brae Pitlochry PH16 5QS** for the reasons undernoted.

Interim Development Quality Manager

### Reasons for Refusal

1. The development is contrary to Policy RD1 of the Perth and Kinross Local Development Plan 2014 in that the proposed ancillary accommodation is considered to be entirely divorced from the main dwellinghouse with no shared facilities and is therefore tantamount to a new dwelling. The proposal does not have regard to the density and character of the area, having a detrimental effect on the amenity of the area by virtue of the sites restricted size. The site is not large enough to accommodate the development satisfactorily in site planning terms.
2. As the proposal will result in the loss of privacy to an adjacent residential property (Calluna) and appear oppressive from that property, all to the detriment of the neighbouring properties residential amenity, the proposal is contrary to Policy RD1 of the Perth and Kinross Local Development Plan 2014, which seeks to ensure the residential amenity of existing areas is not adversely affected by new proposals.

3. The proposal, by virtue of its unsympathetic design, bulk, scale and visual massing, including excessive proportions and composition results in over-development of the site resulting in an adverse impact on the visual amenity of the surrounding area.

Approval would therefore be contrary to Policies PM1A and PM1B(c) of the Perth and Kinross Local Development Plan 2014 which seek to ensure that development contributes positively to the character and amenity of the place by complementing its surroundings in terms of design, appearance, height, scale and massing.

### **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**

Records indicate that at least part of the proposed development site lies within a radon affected area where the measurement/monitoring of radon gas and the installation of mitigation measures may be required.

Further information on radon gas and the associated reports that can be obtained is available at [www.ukradon.org](http://www.ukradon.org) and at <http://shop.bgs.ac.uk/georeports/>.

**The plans relating to this decision are listed below and are displayed on Perth and Kinross Council's website at [www.pkc.gov.uk](http://www.pkc.gov.uk) "Online Planning Applications" page**

### **Plan Reference**

**18/01735/1**

**18/01735/2**

**18/01735/3**

**18/01735/4**

## REPORT OF HANDLING

### DELEGATED REPORT

Ref No	18/01735/FLL	
Ward No	P4- Highland	
Due Determination Date	09.02.2019	
Case Officer	Gillian Peebles	
Report Issued by		Date
Countersigned by		Date

**PROPOSAL:** Erection of ancillary accommodation

**LOCATION:** Bracklynn Cuilc Brae Pitlochry PH16 5QS

#### 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:** 17 January 2019

#### SITE PHOTOGRAPHS



## **BACKGROUND AND DESCRIPTION OF PROPOSAL**

The application site relates to an extended 4 bed detached dwellinghouse located within Cuilc Brae, Pitlochry. The garden is enclosed with a mixture of hedging and fencing and is predominantly laid with gravel. Double gates provide access to the driveway. To the front of the property there is a large area of decking accessed from a lounge/family room consented under 07/00571/FUL.

The property is currently used as an all year round holiday let business and is also on the open market for sale.

There is an area of land believed to be garden ground associated with the main dwellinghouse which is located to the north of the dwellinghouse, separated by a shared access. Although referred to as garden ground, the land is on a steep gradient, planted with specimen trees and also self-seeded trees and is unusable in its present form. Full planning consent is sought to erect an ancillary building on this land providing a carport/store at ground level with living area with kitchen facilities, shower room and store at first floor level and bedroom at 2nd floor level. The supporting information submitted with the application states the building is for a dependent relative.

It should be noted that the existing/proposed site plan are inaccurate insofar as they do not include the footprint of the previous extension and decking. For the avoidance of doubt all measurements referred to within the report are based on the extended footprint (as in situ) and the decking. In the absence of an accurate site plan these measurements are approximate.

## **SITE HISTORY**

07/00571/FUL      Alterations and extension to dwellinghouse to form bedrooms and re-build sunroom (application approved)

## **PRE-APPLICATION CONSULTATION**

Pre application Reference: N/A

## **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 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 PM1A - Placemaking**

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

### **Policy PM1B - Placemaking**

All proposals should meet all eight of the placemaking criteria.

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

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.

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.

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.

## **OTHER POLICIES**

Perth & Kinross Council's Draft Placemaking Guide 2017 states that;

*"New development should acknowledge the scale and form of the surrounding buildings. This can make a huge difference to the visual impact of a development. Whilst it is not desirable to copy traditional buildings, it is important to harmonise with them.*

*Proportion is a fundamental element of architecture, and relates to the building as a whole and also as sections working harmoniously together. Individual elements of a building must work together to create a coherent design that balances. The building envelope, windows and doors, eaves and roof ridgeline should all work in balance with each other".*

## **CONSULTATION RESPONSES**

None required.

## **REPRESENTATIONS**

Four objections were received from separate households and one from Pitlochry Community Council. The following points were raised in the representations received:

1. Overlooking
2. Adverse effect on visual amenity.
3. Excessive height.
4. Inappropriate land use.
5. Inappropriate design.
6. Loss of trees.

7. Out of character with area.
8. Over intensive development.
9. Road safety concerns.
10. Dependant relative would need to cross over a road to gain access to the main house where there support would be and there is no street lighting.
11. The proposal is on a very steep gradient which will require extensive excavation resulting in potential damage to both adjoining garden ground.
12. The dependant relative would have to access the sleeping space at first floor level which indicates the design is not suitable.
13. The proposed development would have a significant and negative impact on accessibility as it crosses the shared access.
14. Increased traffic and parking would cause disruption.
15. Bracklynn is a holiday let all year round which begs the question of the need for ancillary accommodation for a dependent relative.
16. The proposal is a self-contained holiday let.
17. The impact on the town should be considered as the owners are absentee landlords and as such have no connection to Pitlochry.
18. Disturbance from casual renters is already an issue with parking, noise and people arriving and departing, any extension to that would be an intolerable burden on neighbours.

The above concerns which are considered to be material considerations are addressed in the Appraisal section of the report.

#### **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	Not Required
Report on Impact or Potential Impact eg Flood Risk Assessment	Not Required

#### **APPRAISAL**

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

The site is located within the settlement boundary of Pitlochry where Policies RD1: Residential Areas and PM1A and B: Placemaking are directly applicable. Policy RD1 states that residential amenity will be protected and, where possible, improved. Proposals will be encouraged where they satisfy the criteria set out and are compatible with the amenity and character of an area. Policy PM1A 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.

The criteria in particular which are relevant to this application from the second policy on Placemaking, Policy PM1B is;

- (c) The design and density should complement its surroundings in terms of appearance, height, scale, massing, materials, finishes and colours.

The proposal will result in a loss of residential amenity to a neighbouring property and appear oppressive from that property. Furthermore, the proposal is tantamount to a new dwellinghouse which there is no overriding justification for.

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

The proposal is for an ancillary building on land separate to the curtilage of the existing dwellinghouse, however, declared to be garden ground associated with the host building. The site is located across a private access road to the north of the main dwellinghouse. With the steepness of the site and position of the proposed building towards the edge of the private access road towards the head of the cul-de-sac excavation of the site would be required to accommodate the new building.

Although described as a dependent ancillary building, the building would be a self-contained, detached structure with independent access, a store/carport at ground level, kitchen/dining/living area, shower room at first floor level with bedroom above.

In terms of design the building will feature a mono-pitched roof finished in profiled steel with the walls clad in untreated larch cladding, horizontally hung. Due to the topography of the site gabion baskets will form the retaining walls. A large deck will provide a level access from the living accommodation at first floor level. This will be supported by columns, of which the details have not been provided. A glass balustrade will enclose the deck. The overall height of the structure measured from ground level is approximately 9 metres, although the structure itself is approximately 6.2 metres in height.



Whilst I appreciate there may be a requirement to provide ancillary accommodation in the form of additional living space for either elderly relatives or to meet a variety of other personal and domestic circumstances, to be ancillary, accommodation must be subordinate to the main dwelling and its function supplementary to the use of the existing residence.

Amongst other things, to ensure the accommodation provided remains incidental to the main house and does not in effect lead to the creation of a new dwelling, the ancillary accommodation should meet the following criteria:

- Have adequate parking and amenity facilities associated with both the existing dwellinghouse and occupants of the ancillary accommodation
- Be subordinate to the existing dwellinghouse
- Have a functional connection with the main dwellinghouse

The proposed accommodation is entirely separate from the main dwellinghouse with no level of dependency required. As such it does not meet the criteria as indicated above. Furthermore, the existing property is an all year round holiday let and as such I see no justification for a self-contained ancillary building for a dependent relative. It may, however, be argued the letting business will cease if planning permission were allowed or it may be a requirement of a prospective purchaser. Nonetheless, the proposed building is considered inappropriate for the purpose of providing ancillary accommodation. Additionally, I am not convinced there is adequate parking and turning space to accommodate an additional unit and there is not adequate garden ground to allow the unit to be completely self-contained.

To all intent and purposes the building would be perceived in the streetscene as a separate new dwelling, albeit of a smaller scale and different character to those existing nearby. The site is prominently located at the head of the private access into the cul-de-sac and the new building would be readily visible within the streetscape when viewed from the south. Due to its scale, excessive height and overwhelming mass the new building would look cramped and contrived in nature with the structure closely abutting its southern, eastern and western boundaries resulting in an uncomfortable and uncharacteristic addition.

Bearing in mind the generally more spacious settings to the surrounding dwellings, with the exception of the application site, and the fact that the building would effectively be inserted into an area of land which could only be described as visually important on this side of the cul-de-sac as it provides a separation of built development, within this prominent position the development would appear incongruous and as a discordant feature. The proposal does not have regard to the density and character of the area and therefore would have a detrimental effect on the amenity of the area by virtue of the site's restricted size. The site is not large enough to accommodate the development satisfactorily in site planning terms.

The proposed accommodation is considered tantamount to a new dwelling as it is entirely divorced from the main dwelling house with no shared facilities.

Effectively the development forms a separate planning unit given the degree of separation and lack of any relationship between the use of the structures.

In the context of its surroundings the building would materially detract from the character and appearance of the area in an unacceptable way and the development would fail to respect the positive visual qualities of the neighbourhood. As a result the proposal would detract rather than respond positively to the local character of the area and would fail to improve its overall quality. In all these respects the proposed development would conflict with the provisions of the above local plan policies.

### **Landscape**

While the works are contained within the plot boundaries the established character of the site and adjoining land provides a “woodland landscaped setting” and as such the removal of the trees and erection of the building proposed will result in a negative visual impact to the wider environment.

### **Residential Amenity**

Whilst the proposal does not have any windows on the eastern elevation within 9 metres of the boundary the proposed deck sits approximately 2.7 metres above ground level which has the potential to overlook neighbouring garden ground. It may be argued that the existing boundary treatments in situ will restrict views, however, these are not within with the control of the applicant. As such the elevated height of the proposal has the potential to result in a loss of privacy. Furthermore, the overall height of the structure will sit approximately 9 metres above ground level and as a result is considered to be intrusive and oppressive when viewed from the property to the east Calluna, all to the detriment of their residential amenity.

### **Private Amenity Space**

The plot size directly associated with the main dwellinghouse measures approximately 640 square metres which has an approximate build to plot ratio of 35 per cent. The area of ground proposed for the ancillary building measures approximately 104 square metres with a proposed footprint of 72 square metres. This would result in a build to plot ratio of 69 per cent. The Council's normal standard is 25 per cent which this proposal exceeds. In terms of residential amenity I consider the proposal to be overdevelopment insofar as the remaining garden ground is inadequate to serve two residential properties.

### **Roads and Access**

I am not convinced there is adequate parking to accommodate an additional unit without impinging on existing access requirements.

## **Drainage and Flooding**

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

## **Developer Contributions**

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

## **Economic Impact**

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

## **Conclusion**

In conclusion, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, the proposal is not considered to comply with the approved TAYplan 2016 and the adopted Local Development Plan 2014. I have taken account of material considerations and find none that would justify overriding the adopted Development Plan. On that basis the application is recommended for refusal.

## **APPLICATION PROCESSING TIME**

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

## **LEGAL AGREEMENTS**

None required.

## **DIRECTION BY SCOTTISH MINISTERS**

None applicable to this proposal.

## **RECOMMENDATION**

### **Refuse the application**

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

1. The development is contrary to Policy RD1 of the Perth and Kinross Local Development Plan 2014 in that the proposed ancillary accommodation is considered to be entirely divorced from the main dwellinghouse with no shared facilities and is therefore tantamount to a new dwelling.

The proposal does not have regard to the density and character of the area, having a detrimental effect on the amenity of the area by virtue of the sites restricted size. The site is not large enough to accommodate the development satisfactorily in site planning terms.

2. As the proposal will result in the loss of privacy to an adjacent residential property (Calluna) and appear oppressive from that property, all to the detriment of the neighbouring properties residential amenity, the proposal is contrary to Policy RD1 of the Perth and Kinross Local Development Plan 2014, which seeks to ensure the residential amenity of existing areas is not adversely affected by new proposals.
3. The proposal, by virtue of its unsympathetic design, bulk, scale and visual massing, including excessive proportions and composition results in over-development of the site resulting in an adverse impact on the visual amenity of the surrounding area.

Approval would therefore be contrary to Policies PM1A and PM1B(c) of the Perth and Kinross Local Development Plan 2014 which seek to ensure that development contributes positively to the character and amenity of the place by complementing its surroundings in terms of design, appearance, height, scale and massing.

### **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**

N/A

### **Procedural Notes**

Not Applicable.

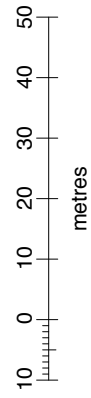
### **PLANS AND DOCUMENTS RELATING TO THIS DECISION**

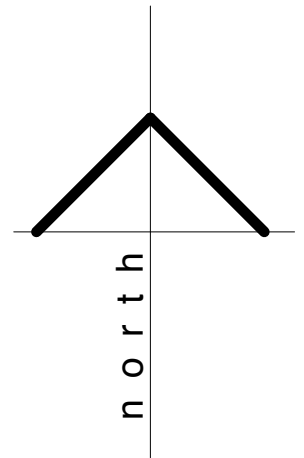
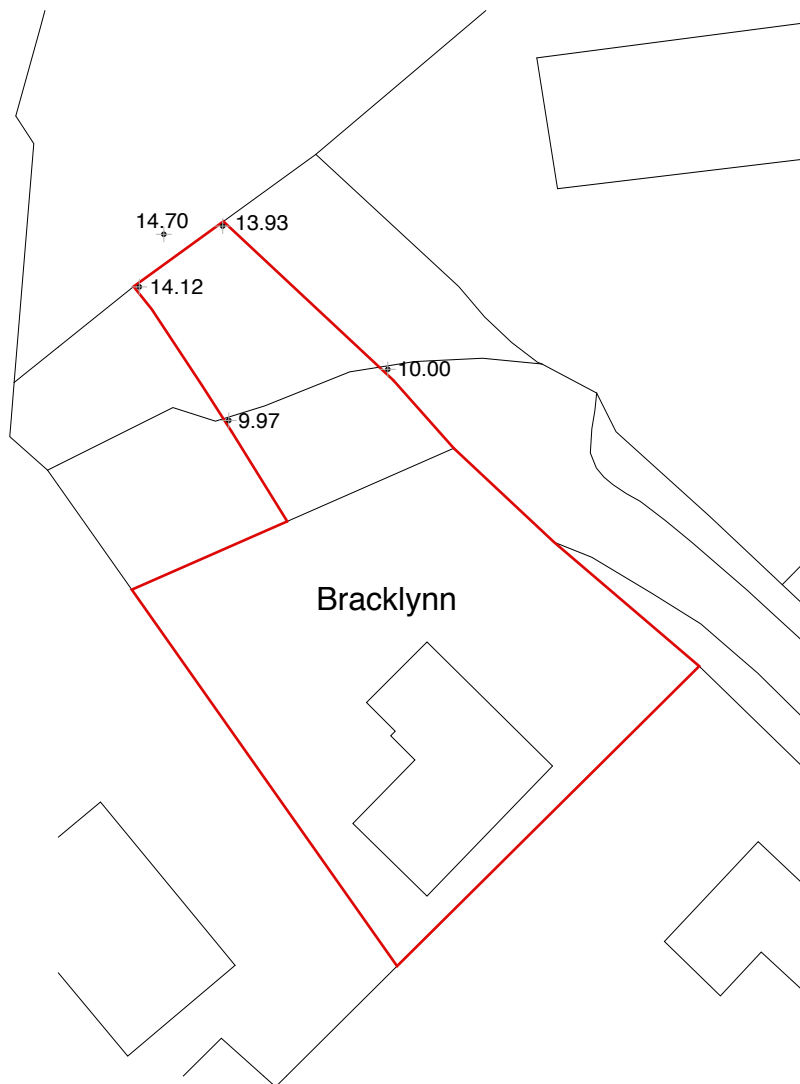
18/01735/1  
18/01735/2  
18/01735/3  
18/01735/4

**Date of Report 22 January 2019**



Serial number: 148198  
 Crown copyright and database right 2016  
 Ordnance Survey Licence 100004867  
 Reproduction in whole or in part is prohibited  
 without the prior permission of Ordnance Survey





scale of meters



## E.Dalton

Design  
&  
Construction Services.

Kilmory, Crombie Point, Crombie,  
by Dunfermline, KY12 8LQ  
Tel: 01383 882382

Project  
Proposed Forest Lodge,  
Bracklynn, Culic Brae  
Pitlochry

**EXISTING BLOCK PLAN.**

Drawn By	Date	Scale	Drawing No.
ED	Oct'18	1.500	1717. D.03



REVISIONS.  
A. 15/10/2018  
Ground and floor levels added.

**E.Dalton**

Design & Construction Services.

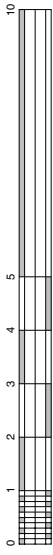
Kilmory, Crombie Point, Crombie,  
by Dunfermline, KY12 8LQ  
Tel: 01383 882382

Project  
**Proposed Forest Lodge,  
Bracklynn, Culic Brae  
Pitlochry**

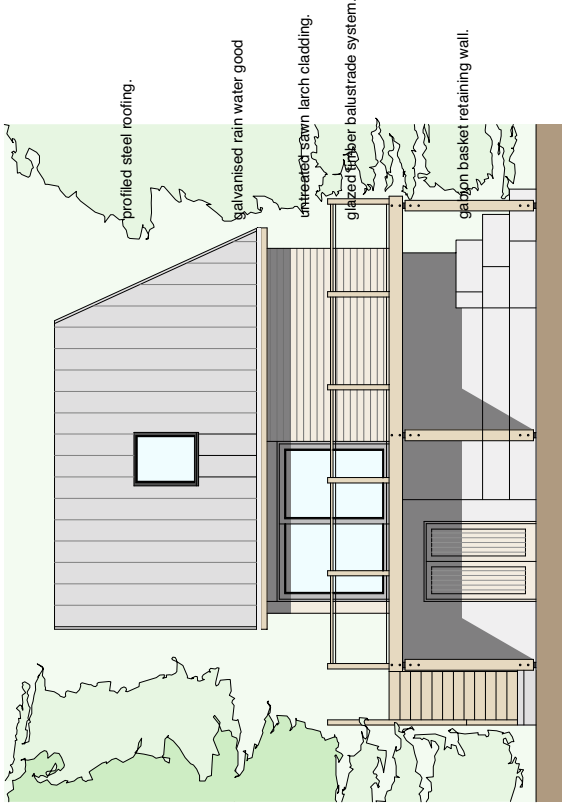
**PLANS & SECTION.**

Drawn by <b>ED</b>	Date <b>Sept'18</b>	Scale <b>1,100</b>	Drawing No. <b>1717. D.01A</b>
-----------------------	------------------------	-----------------------	---------------------------------------

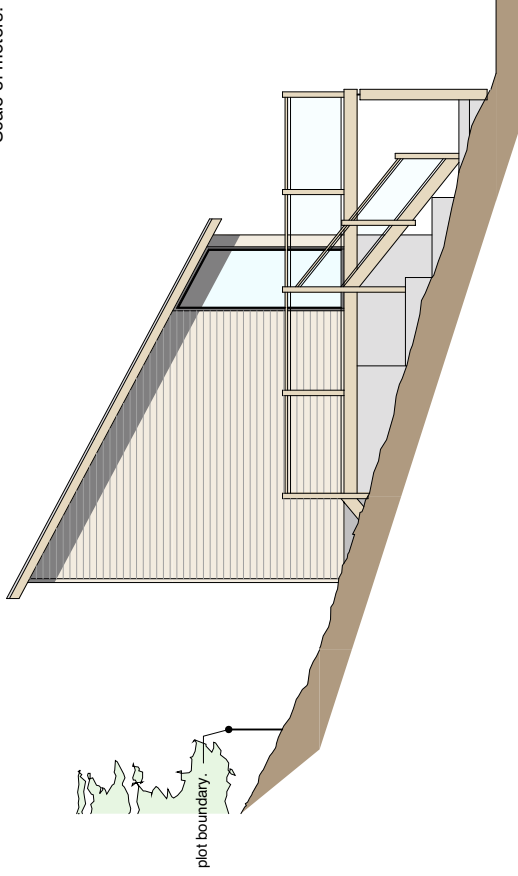
**Site Section.**



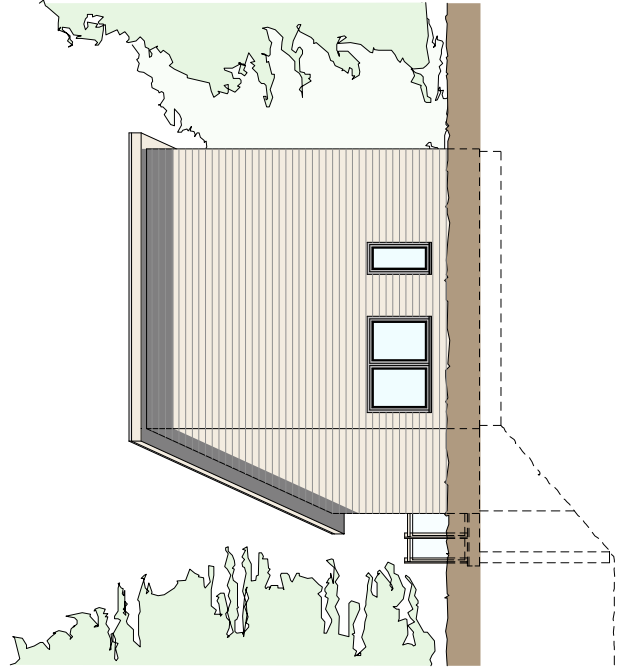
Scale of meters. 1:100



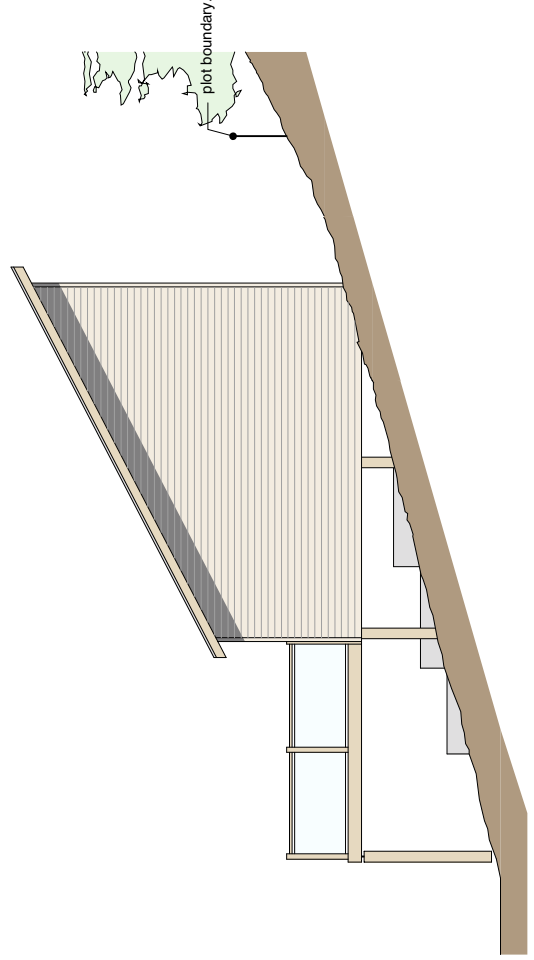
South East Elevation.



South West Elevation.



North West Elevation.



North East Elevation.

E.Dalton

Design & Construction Services.

Kilmory, Crombie Point, Crombie,  
by Dunfermline, KY12 8LQ  
Tel: 01383 882382

Project  
Proposed Forest Lodge,  
Bracklenn, Culic Bare  
Pitlochry  
**ELEVATIONS.**

Drawn by  
ED

Date  
Sept'18

Scale  
1,100

Drawing No.  
1717.  
D.02

36



**TCP/11/16(593) – 18/01735/FLL – Erection of ancillary accommodation, Bracklynn, Cuilc Brae, Pitlochry**

## **REPRESENTATIONS**



Objections to application by Robin and Pam Sinclair [REDACTED]

Applicant and family do not live in the property, and have not done so for 10 or so years, so it is hard to see why accommodation for a "Dependent Relative" would be required

1. The existing property has been already been overextended, has virtually no garden ground.
2. The development site is separated from the main property by a shared access road, which is not owned by the applicant, and while the plans show that access road as part of the curtilage, this is a matter of convenience. It gives entirely the wrong impression, and it should be noted that the "dependent" relative would have to cross that access road to gain access to the main property where their support will be. There is no street lighting in the area.
3. The design is totally inappropriate for the locality and does not fit in with other properties in terms of height, scale, density, finishes and layout.
4. The site is on a very steep and unstable slope on a wooded hillside, and the design will require significant excavation and result in potential damage to both neighbouring garden grounds. Even with an engineering solution, retaining walls will be required to avoid that happening. [REDACTED] and any development would destroy that amenity.
5. The "dependent relative" would have to access the accommodation which is on two floors over two flights of steps from the access road, and the sleeping space is on another level, which indicates the design is not suitable for the aims.
6. It should be noted that the entire site is a small plantation of mature Spruce trees, which are over 35 years old and all would require to be removed, with loss of amenity and shelter for wildlife such as roe deer and red squirrels, of which there are several in the area.
7. The shared access road is the only route to my property, and any development would have a significant and negative impact on our accessibility at all times. Increased traffic and parking would cause disruption.
8. Bracklynn is a £30k pa holiday let and has been for a significant number of years, and as such is available to paying members of the public all year round, which begs the question of the need for ancillary accommodation for this "dependent relative".
9. It is not hard to imagine the intention of the applicant to secure another income stream from an additional self contained holiday let, as the name "Forest Lodge" implies.
10. While currently there are no restrictions for offering property as a holiday rental, the impact on the town should be considered. As the owners are absentee landlords, they have no connection to Pitlochry and have never lived in the property permanently.
11. Disturbance from casual renters is already an issue with parking, noise when people arrive and then depart, and any extension to that would be an intolerable burden on neighbours.
12. The height of the design will mean it would overlook our own property, and reduce our own privacy. Our use and enjoyment of the adjacent garden grounds would be permanently affected.



# Comments for Planning Application 18/01735/FLL

## Application Summary

Application Number: 18/01735/FLL

Address: Bracklynn Cuilc Brae Pitlochry PH16 5QS

Proposal: Erection of ancillary accommodation

Case Officer: Gillian Peebles

## Customer Details

Name: Mr Robin Sinclair

Address: [REDACTED]

## Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

- Adverse Effect on Visual Amenity
- Contrary to Development Plan Policy
- Excessive Height
- Inappropriate Land Use
- Loss Of Trees
- Out of Character with the Area
- Over Intensive Development
- Over Looking

Comment: Further to my original comments, I wish to point out that as the property is for sale and has been for many months, is not (and never has been) the permanent the residence of the owners, is an advertised year round holiday let;

<https://www.homefromhomeperthshire.com/home-Bracklin-Pitlochry-id21>

and has already been extended to 4 bedrooms with accommodation for 8, there is a real dichotomy between this application (ancillary accommodation for a dependent relative) and the owners situation.

As far as the application is concerned there are a number of Development Plan Policies that cannot be fully met.

Placemaking

PM1A - Development MUST contribute positively to the quality of the surrounding built and natural environment. .... The design, density, and siting should respect the character and amenity of the

place.

PM1B (b) The Development MUST consider and respect site topography

(c) The design and density should complement its surroundings in terms of appearance, height, scale .....

There is nothing about the design that meets these criteria.

## Environment

NE2B Tree surveys ... should accompany all applications for planning permission where there are existing trees in a site

Despite the application drawing not mentioning the existing trees, apart from a reference to "self seeded overhanging trees", the site comprises a significant (around 10) number of mature spruce trees that are at least 35/40 years old, and it is clear were planted by a previous owner.

None of these trees could be retained by the plan, and disturbance to wildlife would be a result.

## NE3 European protected species

There are red squirrels on and around the site, and quite possibly nesting there, so a survey will be required that should include the possibility of bats using the site as a roost as it is dense and dark.

## Usable amenity space

The council has a policy of insisting on a percentage of usable amenity space on any development. The plans do not show any usable amenity space on the site, and the original property is already hard placed to match that requirement at the present time, (most of that space is used for parking for up to three cars) and so the removal of that amenity space from the curtilage will mean that the policy cannot be met overall.

## Drainage

The drainage and foul water discharge is to be via the main property (across the joint access road), and I have a genuine concern that with up to 8 people in the main house the existing drainage (into a private septic tank) may already be at full capacity, without the addition of what looks like two more residents.

## Title

Although the title to the site is not a planning concern, it should be noted that the title has the

restriction that "only a garage" can be erected on the site and that any remaining space "can only be used as a garden". It is suggested that a garage had been on the site but the size and age of the trees would indicate that if it were the case it must have been a very long time ago. This is a legal matter, but nevertheless should be a consideration. My purchase of Tombruach included title investigations, and it will be unacceptable if that restriction is ignored. Further I would like to point out that Bracklynn also has a title restriction that insists any property would be for the use of "one family" as a residence. I am hopeful that the planners take account of the current use of this property as a holiday let in coming to their decision.

## Privacy and Overlooking

[REDACTED] an intrusion, with loss of privacy, amenity and habitat. There is virtually no space between the side of the planned development [REDACTED]. The proposed building would overlook [REDACTED], with the height of the building becoming a massive blot on the view from our home into the woods and forest.

The proposed decking area would be a platform for the residents [REDACTED], and the fact that additional vehicles would be using the private access road would make life intolerable,





**Tracy McManamon**

---

**From:** Carol Ann Miller [REDACTED]  
**Sent:** 27 December 2018 11:58  
**To:** Development Management - Generic Email Account  
**Subject:** Bracklyn Cuilc Brae Pitlochry Application No 18/01735/FLL

Dear Sirs.

As a neighbour of the above property, I wish to strongly object to the current application for ancillary accommodation this is a case of overdevelopment of the site and would impinge on the privacy further of nearby neighbours..

As stated in another objection this property has always been a holiday let while owned by the applicant, they do not live in the town and the property has never been their permanent residence. It is currently on the market as it has been previously with no sale .

Cuilc Brae is not suitable for anyone disabled due to the steep gradient and as it is not adopted sometimes in extreme bad weather has no access in or out.

Yours sincerely

Carol Miller (Mrs)

I





[REDACTED]

---

**From:** Michael Miller [REDACTED]  
**Sent:** 02 January 2019 11:35  
**To:** Development Management - Generic Email Account  
**Subject:** Town & Country Planning Act - Objection to Application 18-01735-FLL Bracklyn PH16 5QS.

Dear Sirs

I am the owner and occupant of [REDACTED]  
[REDACTED]

I wish to formally object to the proposals as described in this application;

1. In 14 years I have never met or seen the Freeholder this has been a Holiday let and hardly suits a 'dependant relative!.'
2. The site is already subject to extensive over development in a quiet residential cul-de-sac and appears to transgress rights of way and shared access. There is virtually no amenity space left.
3. I am shocked by the scale and density proposed which reflects the ignorance and disregard held by the applicant for the area and its setting with the adjoining properties.
- 4 The proposed loss of mature Spruce trees is totally unacceptable and again reflects the applicants disregard and knowledge of the local wildlife, deer and squirrels which we all enjoy by living in this unique setting.

This site is already subject to disturbance from rental occupiers who disregard the well being of the adjoining owners which is a matter I feel the Authority should carefully reflect when assessing this application.

Kind Regards

Michael Miller RIBA RIAS

[REDACTED]

ENTERED IN COMPUTER

- 3 JAN 2019





# Comments for Planning Application 18/01735/FLL

## Application Summary

Application Number: 18/01735/FLL

Address: Bracklynn Cuilc Brae Pitlochry PH16 5QS

Proposal: Erection of ancillary accommodation

Case Officer: Gillian Peebles

## Customer Details

Name: Mr Graeme Mollison

Address: [REDACTED]

## Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

- Adverse Effect on Visual Amenity
- Inappropriate Land Use
- Loss Of Trees
- Noise Pollution
- Over Intensive Development
- Traffic Congestion

Comment: As an immediate neighbour to the existing and proposed properties, our concerns relating to the application include:

- 1) The existing property is a full time holiday let and has been for a number of years. Our main concern is that the proposed property would be used for the purpose of a holiday let also.
- 2) The existing property is currently up for sale, advertised as a holiday let business. The concern is that the current and/or potential new owners would not utilise the proposed property as detailed in the planning application.
- 3) The access and egress for the proposed site is a single track, private road. There already exists traffic congestion when users of the existing property park in the road instead of in the drive. Our concern is that the increased traffic, relating to the proposed property, would exacerbate this problem resulting in further difficulty accessing our own property.
- 4) A further concern pertaining to access / egress is that any building / construction traffic would render the road inaccessible for ourselves and our neighbours, especially as the proposed site has no off road parking.
- 5) There is a potential for intolerable noise pollution during the construction phase as the proposed property is immediately adjacent to our master bedroom. I am a shift worker and routinely sleep during the day / working hours.
- 6) There is a concern relating to the destruction of mature woodland and the adverse effect this

would have on the diverse nature and habitats.

Due to the reasons stated above we wish to note our objection to the application.



Tracy McManamon

---

Objection

**From:** [REDACTED]  
**Sent:** 07 January 2019 16:19  
**To:** Development Management - Generic Email Account  
**Subject:** Planning Application Reference 18/01735/FLL

Dear Development Quality Manager.

I have received the notification for the above application and submit the following comments on this day of the 7<sup>th</sup> January 2019.

I understand the development is proposed to accommodate a dependant relative.

The property to which the proposed development is to be "ancillary" to is a Holiday Let and is advertised as such under Bracklin.

<https://homefromhomeperthshire.com/home-Bracklin-Pitlochry-id21#>.

The Holiday Let is at present on the market for £390000

The proposed new build is on the other side of a shared access some 20m from the Holiday Let's structure. Those residing in the proposed development will have to utilise an external staircase (there appears to be no disabled access) before crossing the shared access road.

The proposed new build is on steeply sloping ground that is purported, I understand, to have been the site of a garage. I cannot gainsay this but can only comment that it is an unlikely location for a garage from my inspection of the site.

The trees within the footprint of the proposed development are substantial and mature. They must be at least 25 years old. To remove these mature trees would severely impact on the visible integrity of the wooded escarpment to which the site is part and may compromise slope stability.

The increased number of cars utilising a small private road shared with other users should also be a consideration in my opinion.

I do not know if Bracklynn drains to a septic tank or a main sewer, however, this addition to the drainage system will hopefully be carefully considered.

Yours faithfully

Lothian & Maureen Webster



ENTERED IN COMPUTER

- 9 JAN 2019







# Comments for Planning Application 18/01735/FLL

## Application Summary

Application Number: 18/01735/FLL

Address: Bracklynn Cuilc Brae Pitlochry PH16 5QS

Proposal: Erection of ancillary accommodation

Case Officer: Gillian Peebles

## Customer Details

Name: Mr james laurenson

Address: [REDACTED]

## Comment Details

Commenter Type: community council

Stance: Customer objects to the Planning Application

Comment Reasons:

- Inappropriate Land Use
- Loss Of Trees
- Over Intensive Development
- Over Looking
- Road Safety Concerns
- Traffic Congestion

Comment: Having seen the plans and location we feel that the proposed development is totally unsuitable for this site for the reasons listed above.

We therefore support the comments already submitted.

Regards, James T Laurenson

Chairman Pitlochry & Moulin CC.



## CHX Planning Local Review Body - Generic Email Account

---

**From:** GRAEME moll [REDACTED]  
**Sent:** 04 April 2019 20:25  
**To:** CHX Planning Local Review Body - Generic Email Account  
**Subject:** Re: TCP/11/16(593)

Dear Lisa,

In relation to the review of the original decision, I am writing to make further representations in addition to my previously lodged objection, which remains current and valid.

As per the Reasons for Refusal which we are in agreement with, as detailed in the attached document, point two is of particular relevance being that the proposal would result in the loss of privacy and would appear oppressive from our property.

In addition to this I would like to stress again the potential for intolerable noise disturbance both during the construction phase and upon completion particularly because there will be a newborn baby in the house immediately adjacent.

Please accept these comments along with those previously stated.

Kind regards  
Graeme Mollison.

