

LRB-2022-15
22/00203/FLL – Siting of holiday accommodation unit and sauna unit (in retrospect), land 145 metres north east of Kirkmichael Hotel, Main Street, Kirkmichael

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LRB-2022-15

22/00203/FLL – Siting of holiday accommodation unit and sauna unit (in retrospect), land 145 metres north east of Kirkmichael Hotel, Main Street, Kirkmichael

**PAPERS SUBMITTED
BY THE
APPLICANT**

NOTICE OF REVIEW

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

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE)
(SCOTLAND) REGULATIONS 2013

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

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

Use BLOCK CAPITALS if completing in manuscript

Applicant(s)

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

Yes No

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

☒ ☐

Planning authority

Perth & Kinross Council

Planning authority's application reference number

22/00203/FLL

Site address

Land 145 Metres North East of Kirkcubrecht Hotel Main Street
KIRKMICHAEL

Description of proposed
development

Holiday Accommodation (Shepherd's Hut) and tennis

Date of application **07.02.2022**

Date of decision (if any) **17.03.2022**

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

Nature of application

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

Reasons for seeking review

- | | |
|-----------------------------------------------------------------------------------------------------------------------------|-------------------------------------|
| 1. Refusal of application by appointed officer | <input checked="" type="checkbox"/> |
| 2. Failure by appointed officer to determine the application within the period allowed for determination of the application | <input type="checkbox"/> |
| 3. Conditions imposed on consent by appointed officer | <input type="checkbox"/> |

Review procedure

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

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

- | | |
|-------------------------------------------------------------------|-------------------------------------|
| 1. Further written submissions | <input type="checkbox"/> |
| 2. One or more hearing sessions | <input type="checkbox"/> |
| 3. Site inspection | <input checked="" type="checkbox"/> |
| 4. Assessment of review documents only, with no further procedure | <input type="checkbox"/> |

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

Site inspection

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

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

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

Statement

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

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

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

see attached sheet.

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

Yes ☒ No ☐

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

The photographs were not uploaded when the second planning application was submitted

List of documents and evidence

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

Existing site plan 03
 Proposed site plan 04
 Design Statement 06
 Elevation & Plan 05
 Location Plan 1:2500 02
 Location Plan 1:1250 01
 List of Neighbours notified - Plan
 Delegated Report

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

Checklist

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

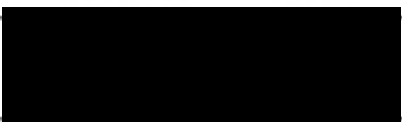
- ☒ Full completion of all parts of this form
- ☒ Statement of your reasons for requiring a review
- ☒ All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

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

Declaration

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

Signed



Date

12.04.2022

On the 8th October 2021 correspondence was received from the Enforcement Officer regarding unauthorised development at this site. The correspondence indicates that a breach of planning has occurred and requesting that an application be submitted by the 25th October. Whilst this timeframe is in itself wholly unreasonable (to expect a full application to be instructed, prepared and submitted within 3 weeks), failure to comply with this request would result in further action being taken. As required by the Officer an application was duly submitted, albeit on the 7th Feb 2022.

Circular 10/2009: Planning Enforcement states (Para 11) that *"where the planning authority's assessment indicates clearly that planning permission should be granted for development which has already taken place, the correct enforcement approach is (assuming an informal request to submit a retrospective planning application has been unsuccessful) to issue to the person responsible for the development a notice under section 33A requiring application for planning permission for development already carried out (together with the appropriate application fee)"*. This would imply that the correct enforcement approach in other cases where permission is likely to be refused, applications should not be invited (or in this case directed) by the Council as has been the case here.

The application submitted (22/00203/FUL) was progressed as a local application and determined under delegated powers. The Councils Scheme of Delegation (Jan 2020) unfortunately has no trigger relating to support. Whilst we see this as a weakness and contrary to the spirit of planning (which is the balancing of competing interests in the long term public interest), we appreciate the application has been progressed in the appropriate manner.

However, with local support being expressed on development proposals so rare (in our experience), we feel this should have had a greater bearing on the determination of the application. When looking at the 18 public comments, there are 6 objections and 12 support (2 from the same household so 11) including from the Glenshee & Strathardle Tourist Association.

The Case Officer, in the Delegated Report, states that a site visit was not undertaken rather the site viewed from aerial photographs and Google streetview. However, having attempted unsuccessfully ourselves to obtain a view of the site on Google streetview from surrounding roads, it appears the sole reason for refusal has been arrived at from two dimensional aerial photographs. When attempting to balance competing interests here, the Officer, instead of visiting the site attributed more weight to a smaller body of objection over a larger body of support on the same issue. No reference is made in the report to any prior or local knowledge, or having visited the site previously and therefore, the reader must assume that this is not the case.

Whilst the Case Officer indicates that landscaping is not an appropriate method of mitigation, it is unclear why this would be the case. When greenfield sites are removed from the greenbelt for a development of hundreds of houses this very often has a requirement for a new "defensible green belt boundary to be formed" (typically 30m deep tree belt). It is unclear why that would be acceptable, but this isn't. The impact can be mitigated (and could be mitigated further by painting the unit as suggested in the submission documents – and could be secured by condition at appeal if required).

The Officer in the report effectively confirms that the impact on amenity raised by an objector is not a concern sufficient to refuse permission, Transport have raised no objection and therefore the sole issue raised by objectors remains landscape impact. It seems more local people consider this not to be an issue, this can be mitigated in any event and this should not need to result in permission being refused.

All development has a landscape impact, the question in this instance is whether that impact is sufficient to warrant upholding this refusal and it seems on balance that in this instance the impact can be mitigated in a couple of different ways.



Shepherd's Hut
and Sauna
at land behind the
Kirkmichael Hotel

Photographs

John Manning Chartered Architect
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REPORT OF HANDLING

DELEGATED REPORT

Ref No	22/00203/FLL	
Ward No	P3- Blairgowrie And Glens	
Due Determination Date	6th April 2022	
Draft Report Date	22nd March 2022	
Report Issued by	AMB	Date 23rd March 2022

PROPOSAL: Siting of holiday accommodation unit and sauna unit (in retrospect)

LOCATION: Land 145 Metres North East Of Kirkmichael Hotel, Main Street, Kirkmichael

SUMMARY:

This report recommends **refusal** of a partly retrospective detailed planning application for the siting of a holiday accommodation unit and an associated sauna on a rural site near the Kirkmichael Hotel 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.

SITE VISIT:

In line with established practices, the need to visit the application site has been carefully considered by the case officer. The application site and its context have been viewed by a variety of remote and electronic means, such as aerial imagery and Streetview, in addition to photographs submitted by interested parties.

This information has meant that, in this case, it is possible and appropriate to determine this application without a physical visit as it provides an acceptable basis on which to consider the potential impacts of this proposed development.

BACKGROUND AND DESCRIPTION OF PROPOSAL

This planning application seeks to obtain retrospective approval for the siting of a holiday accommodation unit, and an associated detached sauna building on a rural site to the rear of the Kirkmichael Hotel. The main unit is a shepherd's hut, caravan style unit and the sauna a small timber structure.

Both the units are onsite at present; however this planning application proposes to relocate the sauna from its current position.

This application is essentially a re-submission of a recent refused application (21/01856/FLL) with the key differences being new landscaping / planting being introduced, and the movement of the position of the sauna.

SITE HISTORY

A detailed planning application for the siting of holiday accommodation unit and sauna unit (in retrospect) was refused earlier this year (21/01856/FLL).

There has also been enforcement interest in the development.

PRE-APPLICATION CONSULTATION

None undertaken.

NATIONAL POLICY AND GUIDANCE

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

This is a fairly minor proposal which does not raise any specific issues with national planning policy or guidance, however the principle of rural diversification and promoting tourist opportunities are supported by the SPP.

DEVELOPMENT PLAN

The Development Plan for the area comprises the TAYplan Strategic Development Plan 2016-2036 and the Perth and Kinross Local Development Plan 2 (2019).

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 2 – Adopted November 2019

The Local Development Plan 2 (LDP2) is the most recent statement of Council policy and is augmented by Supplementary Guidance.

The site is located with the landward area of the LDP2, where the following policies are applicable,

Policy 1A: Placemaking

Policy 1B: Placemaking

Policy 5: Infrastructure Contributions

Policy 8: Rural Business and Diversification

Policy 47: River Tay Catchment Area

OTHER COUNCIL POLICIES

Placemaking Guide 2020

This is the most recent expression of Council policy towards Placemaking Standards.

Developer Contributions and Affordable Housing 2020

This is the most recent expression of Council policy towards Developer Contributions.

EXTERNAL CONSULTATION RESPONSES

None undertaken.

INTERNAL COUNCIL COMMENTS

Environmental Health have commented on the proposal in terms of private water, noise, odours etc and have no objections, subject to informative notes being attached to any permission. There is however a concern that the proposal would not meet the minimal requirements for a caravan site licence.

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

REPRESENTATIONS

18 letters of representations have been received, of which 6 are raising an objection and 12 are in support of the proposal.

In terms of the objections, the main issues raised are,

- Lack of a proper vehicular access
- Impact on the visual amenity of the area
- Overlooking

These issues are addressed in the main appraisal section below.

In terms of the letters of support, these comment on the benefits that the development would bring economically, that the proposal fits in well with the landscape, would result in environmental improvements and that the proposal is in accordance with the Development Plan and other national policies.

ADDITIONAL STATEMENTS

Screening Opinion	EIA Not Required
Environmental Impact Assessment (EIA): Environmental Report	Not applicable
Appropriate Assessment	AA Not Required
Design Statement or Design and Access Statement	Supporting statement submitted.
Report on Impact or Potential Impact	Not Required

APPRAISAL

Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for the area comprises the approved TAYplan and the adopted LDP2.

In terms of other material considerations, consideration of the Council's SPG's on Placemaking and also Developer Contributions are material considerations.

Policy Appraisal

The site is located within the landward area of the LDP2, where *Policies 1 (placemaking) and 8 (rural business)* would be directly applicable to this proposal. *Policy 1* seeks to ensure that all new proposals do not have an adverse impact on the area in which they are located, whilst *Policy 8* offers support for new rural business diversifications in suitable locations.

Policy 47 (River Tay) of the LDP2 also seeks to ensure that the water quality of the river is protected.

Policy 9B (caravans sites) of the LDP2 should also be acknowledge, however the contents of this policy are more aimed at 'sites' as opposed to the siting of individual caravans.

Land Use

Within the representations it has been suggested that that there is not a clear diversification case for this proposal as the applicant is not the owner of the Kirkmichael Hotel but is just a tenant of the hotel. Whether or not this is the case, there could still be an argument for a diversification of the hotel by an interested party (i.e., occupier/tenant), but in this case the lack of a good, established landscape framework is more of a concern. The relocation of the sauna does address the concerns which were raised for the previous applications.

To this end, it remains the case that this site does not have a good existing landscape framework. Implementing new landscaping and planting (as proposed here) and creating a new landscape framework, is not an acceptable arrangement. New holiday accommodation can be occasionally acceptable on sites which are perhaps not as well contained as residential sites; however, this site appears to be extremely open with only the northern boundary having a degree of containment.

The amended sauna location does not alter this position.

Ultimately, the placement of the accommodation unit and sauna would not be suitably contained within the existing landscape – based on the pictures submitted by the applicant, and also images from Google. The lack of an established landscape setting has also been raised within the letters of representations also.

The proposal, notwithstanding the amendment to the sauna location, remains contrary to Policy 1B (b) which requires all proposals to respect (existing) site topography, Policy 1A which requires all proposals to be sited in a way which respects the character and

amenity of the area concerned and Policy 8 (d) which seeks all new proposal to be satisfactory accommodated within the landscape.

Visual, Design and Layout

In isolation, the accommodation unit and detached sauna are generally acceptable in a rural location – subject to controls over their appearance.

However, the lack of an established landscaping setting remains a cause of concern. The amended location of the sauna does not change this position and issues regarding the site containment.

Residential Amenity

A concern has been raised within the letters of representations that there would be an adverse impact on existing residential amenity, if this development was to be advanced.

Whilst there are residential properties in the area, the distances involved between the proposed unit and the existing properties are in line with the standards set out in the Placemaking Guide. To this end, direct impact to a level which is to the detriment of the neighbour's residential amenity is not expected.

Roads and Access

There is no vehicular access to the site.

Parking is available at the local hotel, and visitors to the accommodation will walk to the site. In terms of Transport Planning position, this is acceptable.

This arrangement could however be problematic for the requirements of a licencing application for a caravan site, and the local fire brigade officer has previously raised concerns regarding the ability of a fire engine to get to the site – however these issues are not planning consideration but may be relevant to the requirements of building standards and / or licencing applications.

Drainage and Flooding

The proposal raises no issues in terms of drainage or flooding issues.

The accommodation uses a composting toilet, and there are no fixed connections associated with the sauna.

The area is also not at risk from flooding.

Private Water

There is private water infrastructure in the area. Environmental Health have commented on the proposal and suggested an informative note should be attached to any permission.

Conservation Considerations

The proposal does not impact on any listed building, conservation area or local archaeology.

Natural Heritage and Biodiversity

The proposal will have little impact on the biodiversity of the area.

The site is located within the River Tay catchment area, however as the site is more than 30m from any water and there is no fixed drainage there is not likely to be any impact on the River Tay and the interests of the SAC.

Developer Contributions

Affordable Housing

As the proposal is for a single holiday unit, there is no requirement for any affordable housing provision.

Primary Education

As the proposal is for a single holiday unit, there is no requirement for any developer contribution in relation to Primary Education.

Transport Infrastructure

The site is located outwith the catchment area for Transport Infrastructure contributions.

A9 Junction Improvements

The site is located outwith the catchment area for A9 Junction Improvements.

Economic Impact

The proposal could have a positive impact on the local economy, albeit a local one.

VARIATION OF APPLICATION UNDER SECTION 32A

The application has not been varied.

PLANNING OBLIGATIONS AND LEGAL AGREEMENTS

None required.

DIRECTION BY SCOTTISH MINISTERS

None applicable to this proposal.

CONCLUSION AND REASONS FOR DECISION

To conclude, the application must be determined in accordance with the Development Plan unless material considerations indicate otherwise. In this respect, the proposal is considered to be contrary to the Development Plan. Account has been taken of the relevant material considerations and none has been found that would justify overriding the adopted Development Plan.

Accordingly the proposal is refused on the grounds identified below.

The site does not have an acceptable existing landscape setting which is capable of absorbing the development proposed, and the site is not suitably contained by existing topographical features. The proposal is therefore contrary to Policies 1A (Placemaking), 1B(b) (Placemaking) and Policy 8(d) (rural business and diversification) which all require suitable new sites to be well contained and have the necessary landscape capacity to accommodate the development proposed.

Justification

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

Informatives

None, refusal recommended.

Procedural Notes

Not Applicable.

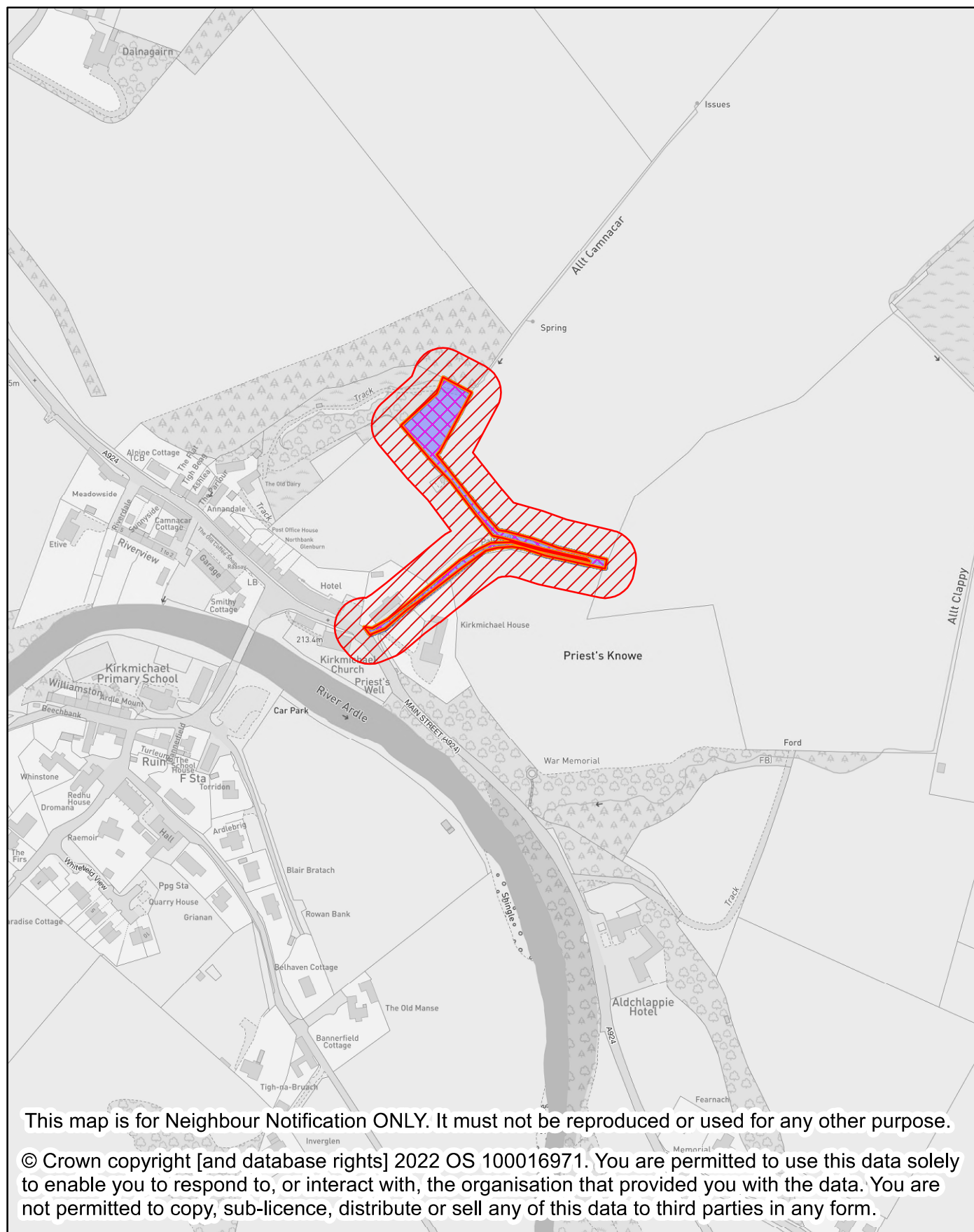
PLANS AND DOCUMENTS RELATING TO THIS DECISION

01 – 06 (*inclusive*)

Perth & Kinross Council

NEIGHBOUR NOTIFICATION

Location Plan showing planning application site



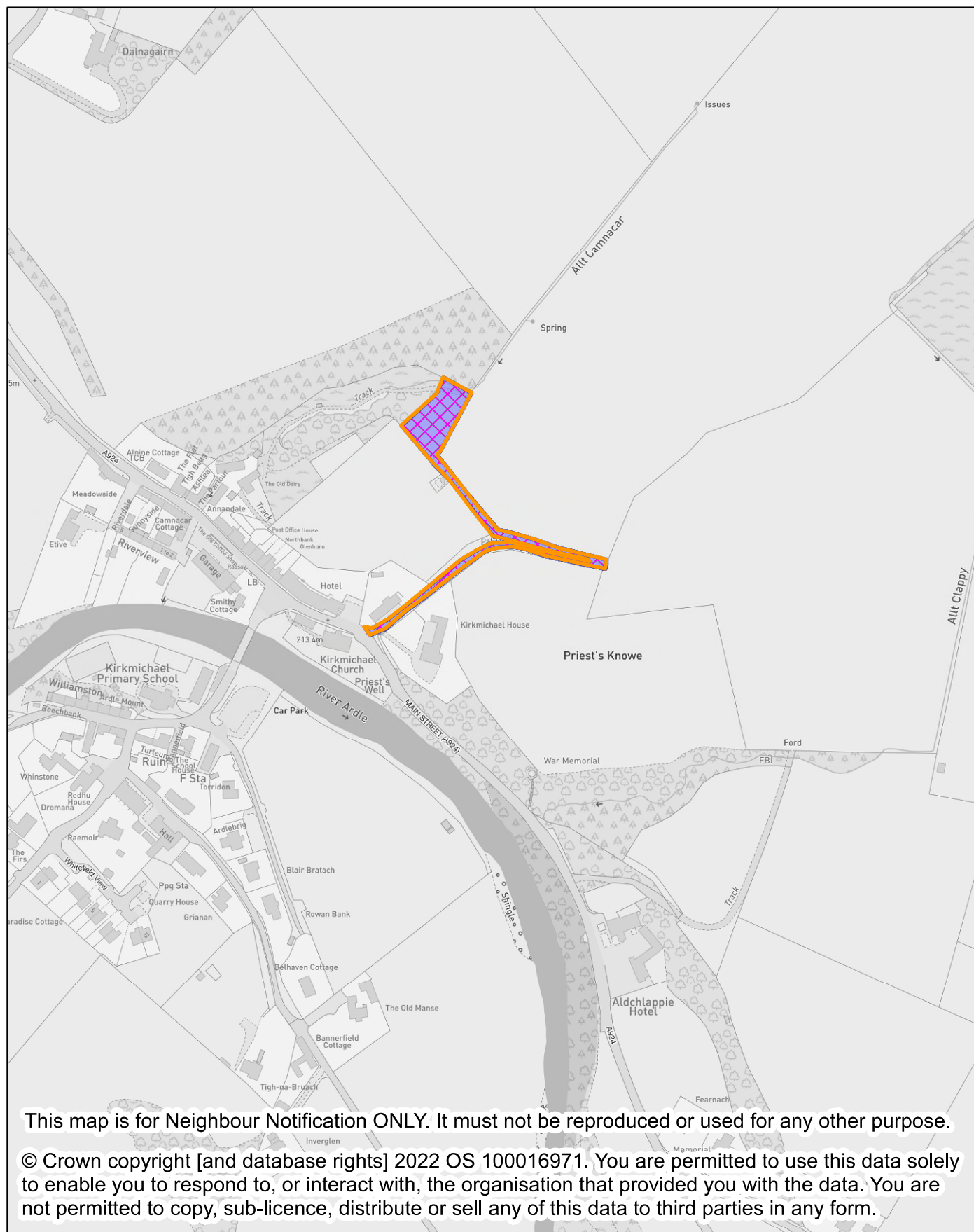
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Perth & Kinross Council

NEIGHBOUR NOTIFICATION

Location Plan showing planning application site



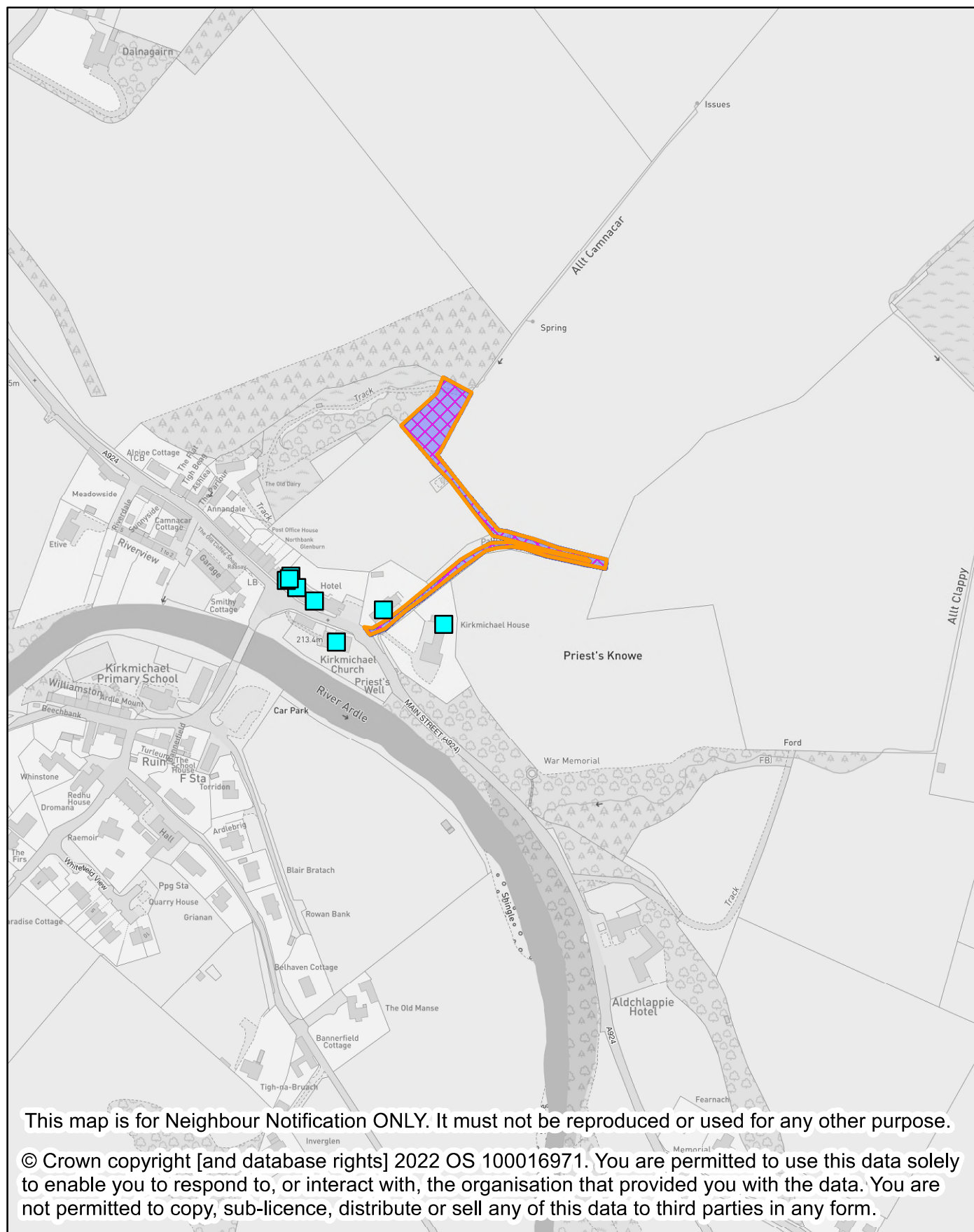
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Perth & Kinross Council

NEIGHBOUR NOTIFICATION

Location Plan showing planning application site



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DESIGN STATEMENT
Shepherd's Hut and Sauna
at land behind the Kirkmichael Hotel

Planning application reference 21/01856/FLL

The proprietor of the Kirkmichael Hotel received of a letter reference 21/00085/ALNDV on the 28 September 2021. My instructions were given on 8th October 2021. It is noted that a planning application had to be submitted by 25th October 2021 and was submitted and registered on 8th November 2021.

The Shepherd's Hut was installed about two years ago and the sauna was added in the last 12 months; they are let together as a unit.

The Shepherd's hut is off grid with a composting toilet; the water for the shower is pumped up from the burn. Effluent is collected and disposed appropriately offsite. Heating and domestic hot water are heated by electricity from the PV array and stored in batteries located below the PV unit. The sauna is also off grid

There is no vehicular access to the site and guests are provided with a wheelbarrow to transport their luggage to the site.

Planning consent is sought to continue the existing use as a holiday let being part of the Kirkmichael Hotel business. The Kirkmichael Hotel affectionately called the 'Kirky' has carried on all through the current pandemic opening in whatever way has been permitted either in the hotel or in a gazebo and letting rooms. Its takeaways advertised through the community Newsgroup have been a lifeline to some in a comparatively isolated area. However running such a business is challenging and seeking diversification such as the Shepherd's Hut is necessary to survive.

It is not immediately obvious to those not qualified that a Shepherd's Hut requires Planning Consent and if it is on wheels such as this one; it would not require consent if it was moved as traditional shepherd's huts were. However this shepherd's hut is stationary and is used as part of a an established holiday/hospitality enterprise; as such an application would be required but would be within policy.

Siting of the Shepherd's Hut is not visible from any nearby houses so it does not impinge on any residential amenity.

There are no traffic implications there being no vehicular access; guests can park in the hotel car park adjacent to the access at the road end.

This application was refused on the grounds of lack of an established landscape setting in order to address landscaping has been added to the revised Block Plan 542/03 and consists of:

Mixed informal native shrub planting (7.5l pot grown); 3 of each hazel, holly, spindle, juniper and Viburnum opulus

Tree planting minimum 2m standards properly staked and protected
3 of each Birch, Rowan, Gean, Field Maple
(Acer campestre) and Wayfaring Tree (Viburnum lantana)

It is proposed to reposition the sauna closer to the Shepherd's Hut between the Hut and the boundary dyke within the planting to make the area more compact and reduce visual impact.

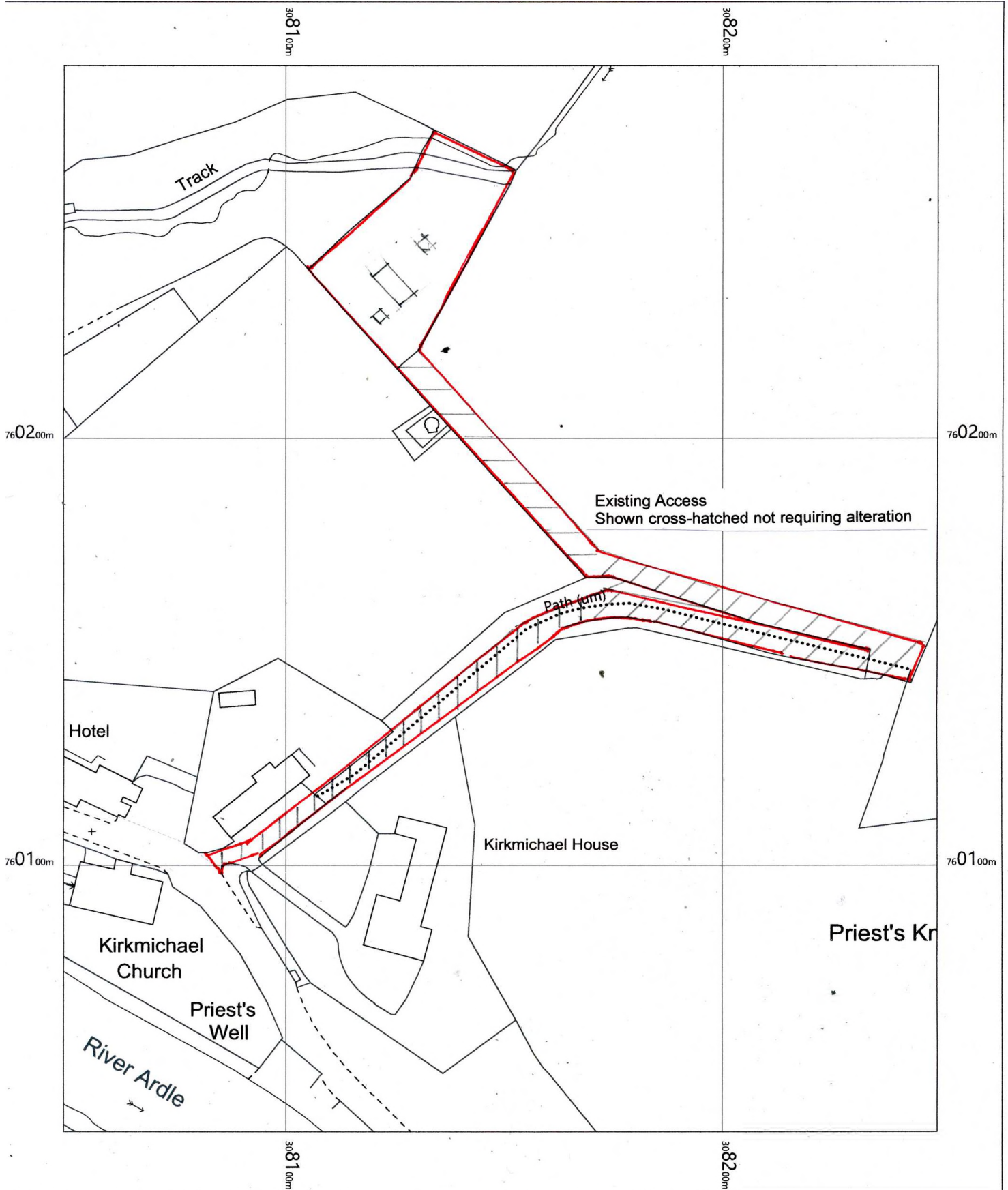
It is also proposed to repaint the Shpherd's hut grey so that it does not stand out in the landscape.

There is precedent for similar holiday accommodation planning consent reference 19/00734/FLL dated 15.07.2019 for two holiday chalet units on adjacent Borland Farm on an open site with tree planting and screening included in the scheme, some 400m distance from this site.

.
John Manning Chartered Architect
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ref 542DS02
04,02,2022



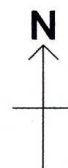
**Shepherd's Hut
and Sauna
at land behind the
Kirkmichael Hotel**

**Site Plan
542/SP01B**

OS MasterMap 1250/2500/10000 scale
Monday, October 11, 2021, ID: M4P-00995505
www.nicolsondigital.com

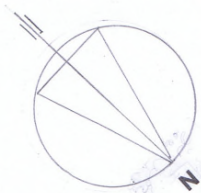
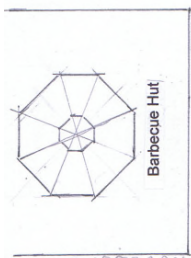
1:1250 scale print at A4, Centre: 308149 E, 760163 N

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Shepherd's Hut and Sauna
at land behind the
Kirkmichael Hotel

Block Plan as existing

542/02

Scales: 1:200

Date: 04.02.2022

Revision

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RIAS Accreditation in Conservation Architecture

Dimanean Enochdhu Blairgowrie Perthshire PH10 7PD

Tel +44(0)1250 881400

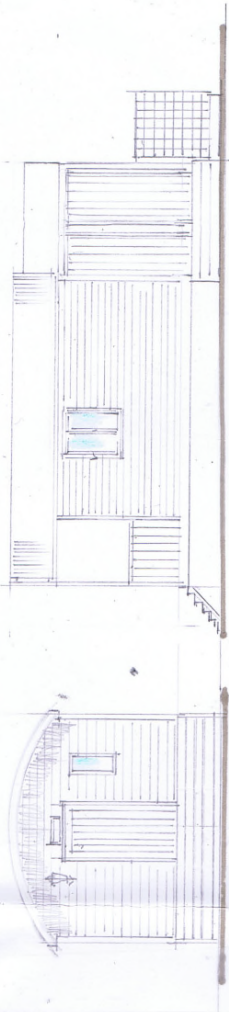
E-Mail jrm@johnmanningarchitect.co.uk

Scale Bar

1:200







NORTH EAST ELEVATION

SOUTH EAST ELEVATION

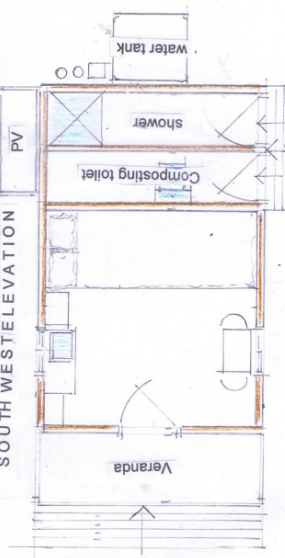


NORTH WEST ELEVATION

SOUTH WEST ELEVATION

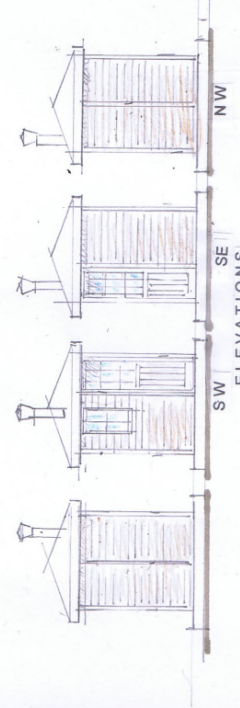
Shepherd's hut

Materials
 Roof – part corrugated part felt pitched
 Walls – painted horizontal boarding
 Windows and doors – painted timber

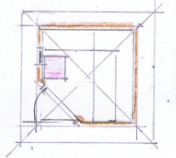


PLAN

Materials
 Roof felt
 Flue steel – non-shiny
 Walls – stained horizontal boarding

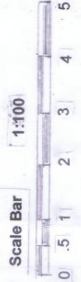


ELEVATIONS



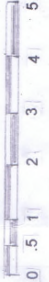
PLAN

Sauna



Scale Bar

1:100



Shepherd's Hut and Sauna at land behind the Kirkmichael Hotel

Plan and Elevations

542/04

Scales: 1:100
 Date: 04.02.2022
 Revision

John Manning, Chartered Architect
 RIAS Accredited in Sustainable Design
 RIAS Accredited in Conservation Architecture
 Dimanean Enochdhu Blairgowrie Perthshire PH10 7PD
 Tel +44(0)1250 881400
 E-Mail jim@johnmanningarchitect.co.uk

LRB-2022-15

22/00203/FLL – Siting of holiday accommodation unit and sauna unit (in retrospect), land 145 metres north east of Kirkmichael Hotel, Main Street, Kirkmichael

PLANNING DECISION NOTICE

REPORT OF HANDLING *(included in applicant's submission, pages 247-253)*

REFERENCE DOCUMENTS *(included in applicant's submission, pages 259-265)*



Mr Gary Norwood
c/o John Manning Chartered Architect
John Manning
Dirnanean
1 Enochdhu
Blairgowrie
PH10 7PD

Pullar House
35 Kinnoull Street
PERTH
PH1 5GD

Date of Notice: **29th March 2022**

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT

Application Reference: **22/00203/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 7th February 2022 for Planning Permission for **Siting of holiday accommodation unit and sauna unit (in retrospect) Land 145 Metres North East Of Kirkmichael Hotel Main Street Kirkmichael**

David Littlejohn
Head of Planning and Development

Reasons for Refusal

1. The site does not have an acceptable existing landscape setting which is capable of absorbing the development proposed, and the site is not suitably contained by existing topographical features. The proposal is therefore contrary to Policies 1A (Placemaking), 1B(b) (Placemaking) and Policy 8(d) (rural business and diversification) which all require suitable new sites to be well contained and have the necessary landscape capacity to accommodate the development proposed.

Justification

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

Notes

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

Plan Reference

01

02

03

04

05

06

LRB-2022-15

22/00203/FLL – Siting of holiday accommodation unit and sauna unit (in retrospect), land 145 metres north east of Kirkmichael Hotel, Main Street, Kirkmichael

REPRESENTATIONS

Memorandum

To Development Quality Manager

From Regulatory Service Manager

Your ref 22/00203/FLL

Our ref ALS

Date 18/02/2022

Tel No 01738 476476

The Environment Service

Pullar House, 35 Kinnoull Street, Perth PH1 5GD

Consultation on an Application for Planning Permission

RE: Siting of holiday accommodation unit and sauna unit (in retrospect) Land 145 Metres North East Of Kirkmichael Hotel Main Street Kirkmichael for Mr Gary Norwood

I refer to your letter dated 14/02/2022 in connection with the above application and have the following comments to make.

Water (assessment date – 18/02/2022)

Recommendation

I have no objections to the application but recommend the undernoted informative be included in any given consent.

Comments

The development is for a holiday accommodation unit and sauna just north of Kirkmichael hotel. The applicant has indicated that they will use burn water to service the unit. To ensure the new development has an adequate and consistently wholesome supply of water please note the following informative. It should be noted that once the development is operational this Service will have statutory duties detailed in the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 to monitor the water quality. No public objections relating to the water supply were noted at the date above.

PWS - Informative 2

The applicant shall ensure the private water supply for the dwellinghouse/ development complies with the Water Scotland Act 1980 (Section 63), The Private Water Supplies (Scotland) Regulations 2006 and The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017. Detailed information regarding the private water supply, including the nature, location and adequacy of the source, any storage tanks/ pipework and the filtration and disinfection treatment proposed to ensure provision of an adequate and consistently wholesome water supply shall be submitted to Perth and Kinross Council Environmental Health in line with the above Act and Regulations.

Mrs Nicola Miskelly (Supports)

Comment submitted date: Fri 18 Feb 2022

This comment is given in full support of the proposed plans for 2200203. The unique aspect of the hut provides the village with an innovative variation on holiday accommodation, it's secluded, private location is in keeping with the environment and it provides an opportunity for visitors to enjoy the scenery and landscape that the village of Kirkmichael pride themselves on.

Financially it can positively impact on the local area for example the village shop. It will attract more footfall into the village and even encourage previous holiday makers back to enjoy something different.

In short we believe that this will have a positive effect on the village.

Mr Stephen Anderson (Supports)

Comment submitted date: Tue 22 Feb 2022

I believe this amenity to be a positive contribution to our community. It will provide work for the village, It will encourage people to the area who may not be able to afford the rates charged by the local Hotels. It blends in with its surroundings and is in keeping with a largely agricultural area.

I have testimony from those who have stayed, that this accommodation has already proven to be popular with young families who are keen to encourage their children to connect with the natural world and who have benefited from clear and unpolluted night skies.

So with a view to promoting this tranquil haven, I hope therefore that this application will be considered for approval.

Mr Shane Colgan (Supports)

Comment submitted date: Tue 22 Feb 2022

As someone who has stayed in the 'Kirky Hut' I have to commend how Eco friendly the 'Hut' is, as it is completely self sufficient with a low carbon footprint.

I was so impressed by it, that I have stayed it in several times since because of its beautiful, quite isolated location and the fact that I was not being overlooked by any of the properties in the village.

I feel this accommodation can only be a great asset as it must generate great tourism revenue for the village, particularly the shop and the surrounding area which I am sure is greatly welcomed.

I whole heartily support this application 2200203.

Memorandum

To Development Management & Building
Standards Service Manager

From Regulatory Services Manager

Your ref 22/00203/FLL

Our ref DAT

Date 25 February 2022

Tel No 01738 476481

Communities

Pullar House, 35 Kinnoull Street, Perth PH1 5GD

Consultation on an Application for Planning Permission

**22/00203/FLL RE: Siting of holiday accommodation unit and sauna unit (in retrospect)
Land 145 Metres North East Of Kirkmichael Hotel Main Street Kirkmichael for Mr Gary
Norwood**

I refer to your letter dated 14 February 2022 in connection with the above application and have the following comments to make.

Environmental Health Recommendation

**I have no objection in principle to the application but recommend the undernoted
informative be included in any given consent.**

Comments

The application is for the siting (in retrospect) of 1 unit (shepherd hut) for holiday accommodation use on land North East of Kirkmichael Hotel, Main Street, Kirkmichael. The plan also includes the erection (in retrospect) of a further wooden structure with flue utilised as a sauna.

Site Licence

To reiterate my previous comments (memorandum dated 17 December 2021 in relation to 21/01856/FLL).

Given the type of unit, I would remind the applicant that this falls under the definition of a caravan and therefore a site licence will be required. Standard model conditions are applied to such licences and therefore the applicant is required to demonstrate how these conditions will be met. It is my understanding that contact has already been made with the Private Water team with regards to the water supply being from the adjacent burn and with Scottish Fire and Rescue. The applicant is reminded that there are further requirements in relation to access, lighting etc. and I would encourage the applicant to engage with this Service further to ensure conditions can be met.

As such, whilst I have no objections in principle to the development, I would recommend the following informative be attached to any given consent and consideration be given as to how the site licence conditions will be met.

Informative

CARAV

Part of the approved development includes 'caravans'. The developer is advised that caravans require to be licensed under the terms of Section 1 of the Caravan Sites and Control of Development Act 1960 and therefore a licence application should be made to Environmental Health. Application forms are available at <https://www.pkc.gov.uk/article/15600/Licence-caravan-site>

Development Management

From: george wales [REDACTED]
Sent: 01 March 2022 11:20
To: Development Management
Subject: 22/00203/FLL Objection Planning permission

CAUTION: This email originated from an external organisation. Do not follow guidance, click links, or open attachments unless you have verified the sender and know the content is safe.

The two sheds in the planning for mr Norwood are an eyesore and over look my property which totally destroys any privacy I previously had and people going to these sheds day and night up and down the public footpath also his maintenance man uses the public footpath for maintenance driving his quad on footpath this is clear danger to walkers and their pets this hotel also has a large raised decking area in its car park which also had no permission. No approval for this eyesore.

George f Wales

[REDACTED]

Mr Andrew Brown (Supports)

Comment submitted date: Wed 02 Mar 2022

This development encourages tourism to the area and as a results improves the village as a whole. The overall effect will benefit small businesses locally and, due to the location of the village, businesses in the surrounding area such as Glenshee, Pitlochry and Blairgowrie. With social media being so prominent these days, this unique style of build will be perfectly suited for posts of the area and scenery meaning a wider audience can see and appreciate such a beautiful village.

Mr Andrew Housley (Supports)

Comment submitted date: Wed 02 Mar 2022

This is a chance to bring people into the area which in turn would help the local community.

Mr colin russell (Supports)

Comment submitted date: Wed 02 Mar 2022

I would like to voice my support for this planning application. I feel this type of holiday accommodation should be supported as it is environmental friendly and sustainable. Local businesses will be supported by the potential of increased trade, this at a time where rural businesses appear to be struggling.

From a visitors point of view, the location of the accommodation is an ideal opportunity to get back closer to nature and unwind. This would have a positive benefit on both the physical and mental health of those choosing to stay with no detrimental affect on the local community.

Miss Suzanne Russell (Supports)

Comment submitted date: Wed 02 Mar 2022

Unfortunately nearly all your Reason for Comment appear to be for the negative objections. I support this planning application as it is good to see holiday accommodation that doesn't take housing out of use for full time residents in an area that already struggles with affordable housing. In the time that the hut has been used I have heard no complaints regarding it and fully support it's continued use as somewhere for people to come and relax in a natural clean air environment.

Mrs Donna Aitken (Objects)

Comment submitted date: Thu 03 Mar 2022

I object to the planning application for the following reasons.

Planning laws are there to prevent anyone pitching up a spare shed, tent, caravan or shepherds hut and attaching it to the ground and ruining the countryside. Then to proceed and let it out for holidays and charge people all without planning permission. This kind of activity should be vigorously discouraged. Only once it came to the authorities attention was retrospective permission sought.

In the design statement it says that the applicant is the owner of the Kirkmichael Hotel. This is not the case, in fact the applicant does not even lease the hotel business now so the Kirky Hut has no connection whatsoever with the hotel. To say that car parking will be provided in the hotel car park is inaccurate and will not be the case. Also, the waste will not be dealt with via the hotel trade waste facilities either. The statement is an attempt to attach the Kirky Hut to an established business and pretend it is within policy.

It is intimated that a nearby application sets a precedent for this development. This is far from accurate. The application mentioned will be seen by no one and will have two high quality cabins in situ. Planning permission was sought from the start, conditions agreed to and reports completed and no attempt was made to bypass the laws of the land.

Planting a few trees and bushes will make no difference to this application as it is an eyesore and cannot be completely hidden. My impression is that supportive comments are usually given by those who are not directly affected by the situation. If they were perhaps their opinions would be different.

Comments to the Development Quality Manager on a Planning Application

Planning Application ref.	22/00203/FLL	Comments provided by	Lachlan MacLean Project Officer – Transport Planning
Service/Section	Transport Planning	Contact Details	TransportPlanning@pkc.gov.uk
Description of Proposal	Siting of holiday accommodation unit and sauna unit (in retrospect)		
Address of site	Land 145 Metres North East Of Kirkmichael Hotel, Main Street, Kirkmichael		
Comments on the proposal	<p>The applicant has erected a holiday accommodation unit and sauna on land north east of the Kirkmichael Hotel.</p> <p>The applicant is proposing to utilise the exiting car parking associated with the Kirkmichael Hotel and then for guests to walk up with a wheelbarrow to transfer their luggage to the site.</p> <p>Insofar as the Roads matters are concerned, I have no objections to this proposal.</p>		
Recommended planning condition(s)			
Recommended informative(s) for applicant			
Date comments returned	04 March 2022		

Mr Ken Thomson (Objects)

Comment submitted date: Sat 05 Mar 2022

Dear Planning Committee,

The hut in question sits on higher ground overlooking the village, and being visible from our house, mars the landscape and gives the feeling of being 'overlooked'. The hut is also not in keeping with the style of architecture in the area and, due to its prominence, creates an inconsistency to the design and feel of the village.

There is no direct vehicle access to the property, raising the question of transportation of luggage and belongings to the site. The only viable access, without crossing farmland, is by the public footpath which guests are using to access the site. However, we have witnessed a quad bike on the footpath which, we understand, was being used to service the hut.

Parking for the holiday accommodation is advertised as being either on the 'street' or at the Kirkmichael Hotel (which, we understand, is set to close within the next two to three weeks). This means that additional car(s) would be parked on the main public road, thereby reducing parking available for local residents.

In addition, we would be very concerned that by granting such retrospective planning for the holiday accommodation, a 'pandora's box' would be opened allowing further holiday accommodation to be built on or around the same site which would be entirely out of keeping and create an eyesore from within the village.

We, therefore, object to this planning application.

Mrs Petrina Menzies (Supports)

Comment submitted date: Sun 06 Mar 2022

I support this application because it brings something different into the area. It's eco friendly because people have to park their car in the local car park and walk up to it, this also means people booking it will not be able to have a supermarket delivering their food for their holiday, it will make them use the community interest local shop.

Mr Andrew Baxter
Planning officer,
Perth & Kinross Council
Pillar House
35 Kinross St
Perth
PH1 5GD

Mrs Donna Aitken

8th March 2022

Ref: 22/00203/FLL

Dear Mr Baxter

I hope you don't mind me writing to you but I wanted to let you know some additional facts regarding planning application 22/00203/FLL - the shepherds hut behind the Kirkmichael Hotel in Kirkmichael.

The applicant has told his agent that he is the owner of the hotel but as I have already mentioned in my online objection comment, this is not the case. The applicant has actually given up the lease of the hotel [REDACTED] at the latest. I have been given this information by [REDACTED] so it is accurate.

This may or may not be of relevance to you, but I wanted you, as the assessing officer to be in possession of all the facts. I feel it is relevant as it is not diversification, nor is it part of the hotel business as stated in the design statement.
Thank you + Kind Regards

Donna Aitken

Mr Simon Winton (Supports)

Comment submitted date: Wed 09 Mar 2022

Many people have supported this application for lots of good reasons and we also support it.

The landowner clearly is in favour, it is out of the way and would only ever bring one car into the village, easily parked.

The Hut brings tourism without using existing housing, enhances tourism without being in your face, but it really ticks the boxes as regards sustainability and being eco friendly. No noise, no traffic and out of the way.

From a tourism point of view, and I am on the committee of the local Tourist Association, we welcome this type of building giving back something and enhancing the local community, spending locally and at the same time being eco friendly. This has become a large part of tourism and important for all our futures with more and more people wanting holidays with less impact on their surroundings - what is being called circular tourism, symbiotic.

We fully support this application - Alex and Simon Winton

Mrs Sara Carruthers (Objects)

Comment submitted date: Thu 10 Mar 2022

While I think offgrid holiday accommodation like this development could have a positive place in Strathardle, I consider that this is the wrong site for it and I therefore object to this application. In particular:

- The development is not in accordance with the local development plan and the reasons cited by PKC to refuse the previous application are still valid.
- The development is inconsistent with the current settlement pattern of Kirkmichael and its environs.
- The development does not sit within an existing defined plot with its own boundary but is in the corner of a field with long established agricultural use.
- The development is clearly visible from the centre of the village and adversely affects the village setting.
- Parking at the hotel is already limited and staff and residents frequently park on the road outside the hotel, blocking the eastbound carriageway adjacent to a blind bend.
- The application indicates that access to the development for residents will only be on foot, but it is not clear in the application how the development will be serviced. The use of quad bikes etc to access the development is likely to cause damage to the Kirkmichael/Lair footpath, part of the mini-Cateran trail and which is already fragile.
- The design statement indicates that grey water and rubbish will be moved off site manually; a composting toilet used by holiday makers up to 52 weeks a year may also need to be emptied. This seems a situation that will be difficult to manage and is likely to cause significant loss of amenity to residents and holiday makers. The design of the sewage and grey water disposal of this development does not seem appropriate for a site so close to the village. The technology also seems inappropriate for holiday accommodation that could see a high turn-over of guests.
- Off grid and 'off-pipe' eco holiday accommodation is designed to be located in a remote setting, not on the edge of a village and would be much better if it could be moved to a more suitable location, established in advance by the submission of an appropriate planning application.

Mrs sandra cowan (Objects)

Comment submitted date: Thu 10 Mar 2022

this structure is the thin end of the wedge it overlooks my property and is an eyesore.this is the start of a down ward slide of wooden and ugly holiday accomodations which are only there to make quick bucks for the owner with no thought or respect for any neighbours. i 100% object to this monstrosity. s a cowan

Mr Joe Gribben (Objects)

Comment submitted date: Thu 10 Mar 2022

I have several reasons for objecting to this application these are:

- The development is out of character with the village, negatively impacts the view to the North, is inappropriately positioned in an agricultural field and overlooks the village. Contrary to the applicant's design statement the development can be seen clearly from most of the village and surrounding area negatively impacting the village setting.
- The development is contrary to the local plan and planning policies put in place to protect the villages amenity. There is no community benefit derived from the development which would justify providing it with an exemption from the agreed LDP and policies.
- Approving this development would encourage other similar poorly considered developments.
- The Kirkmichael Hotel has limited parking and is full on a regular basis causing guests and staff to park on the roadside creating a bottle neck and danger to other road users. Parking the cars of guests to the development would make matters considerably worse.
- Access to the development as proposed is via a publicly funded core footpath. Machinery used by the hotel to maintain the development site (cleaning, litter removal, grass cutting etc) will both damage the footpath and be detrimental to the footpaths amenity.
- The application does not clearly establish that the hotel business requires this new development to survive or that the hotel will continue to run and maintain the development if there is a change of ownership or management.

Mrs polly haworth (Supports)

Comment submitted date: Thu 10 Mar 2022

I support this 100%

Mr Philip Smith (Supports)

Comment submitted date: Thu 10 Mar 2022

Taking account of the The 2019 Perth & Kinross Local Development Plan, the Glenshee & Strathardle Tourist Association writes in support of this planning application. Specifically noting that:

"Policy 8: Rural Business and Diversification

The Council will give favourable consideration to the expansion of existing businesses and the creation of new ones in rural areas.

There is a preference that this will generally be within or adjacent to existing settlements. Sites outwith settlements may be acceptable where they offer opportunities to diversify an existing business, or are related to an existing site-specific resource or opportunity.

Proposals for new tourism-related developments, and the expansion of existing facilities, will be supported where it can be demonstrated that they improve the quality of new or existing visitor facilities, allow a new market to be exploited, or extend the tourism season. "

The Policy states that all proposals will be expected to meet all of the following criteria:

(a) The proposal will contribute to the local economy through the provision of permanent employment, visitor accommodation (see also Policy 9), additional tourism or recreational facilities, or the re-use of existing buildings.

The GSTA considers that the proposal will increase the number and type of visitors to Kirkmichael and the Glens and will create a unique accommodation type that is not at present provided in the village. This will in turn support other local businesses such as the village shop, food & drink producers, laundry, local pubs and outdoor and wildlife guides

(b) The proposal will not result in suburbanisation of the rural area or encourage unsustainable travel patterns

GSTA: This is a very small development and has minimal impact

(c) The proposed use is compatible with the surrounding land uses and will not detrimentally impact on the amenity of residential properties within or adjacent to the site.

GSTA: Tourism is a key industry in Kirkmichael and the Glens and there are a number of other small tourism businesses in the village and wide area, the Shepherd's Hut is complementary to these other businesses and surrounding land uses.

(d) The proposal can be satisfactorily accommodated within the landscape and environmental capacity of the site

GSTA: The location of the Shepherds Hut does not impact on the wider landscape.

(e) The proposal meets a specific need by virtue of its quality or location in relation to existing business or tourist facilities.

GSTA: Tourism accommodation in Glenshee & Strathardle is in high demand, which exceeds capacity at a number of times throughout the year, in addition the Shepherd's Hut accommodation will provide a different but appealing addition to the area's visitor accommodation offering.

(f) Where any new building or extensions are proposed they should achieve a high quality of design to reflect the rural nature of the site and be in keeping with the scale of the existing buildings.

GSTA: The inclusion of a traditional Shepherds Hut is in keeping with the surroundings, and does will not in any way dominate the site.

(g) The local road network must be able to accommodate, or be capable of upgrading in order to accommodate, the nature and volume of the traffic generated by the proposed development in terms of road capacity, safety and environmental impact.

GSTA: Users will park their car in the village and walk to the site and will not have any detrimental impact on the local road network.

All in all the Shepherd's Hut is a welcome addition to the tourism accommodation sector in the area.

CDS Planning Local Review Body

From: [REDACTED]
Sent: 02 May 2022 17:52
To: CDS Planning Local Review Body
Subject: Comment on application 22/00203/FLL

CAUTION: This email originated from an external organisation. Do not follow guidance, click links, or open attachments unless you have verified the sender and know the content is safe.

Hello

In response to the requested review of the refusal decision of planning ref 22/00203/FLL.

Fortunately there are regulations in place to control situations like this where individuals have the idea to rock up and erect a tent, caravan or similar in the corner of an agricultural field and start charging to let people stay there.

Their sole aim is to make money with no regard to planning regulations, locals affected by it and most of all to the beautiful countryside.

This is a shepherds hut, sauna shed and large hammock tent, which were erected approximately 2 years ago and very quickly rented out to holidaymakers. It is not part of an established business, contrary to the applicant's statement in the previous two planning applications. It has no access to and from it other than walking up part of the Cateran trail and then across a field and it has no infrastructure to support services that holiday accommodation requires.

The Kirkmichael Hotel has confirmed in writing that it has no connection with this development, nor will it allow use of the car park for car parking or use of the trade waste facilities. I can only imagine that the applicant will be carrying the waste generated from the site down the Cateran trail and disposing of it in his council house bin. This is of course illegal due to the strict rules in place regarding holiday accommodation businesses requiring duty of care waste transfer notes etc.

Letters of support have been highlighting the benefit to the local community. The benefit is minimal at best and contrary to beliefs, it is not offering a more economic choice of holiday accommodation. In fact it is a very expensive option.

I too, support tourism for the local area, but not at any cost. This is the wrong development in the wrong place. It is countryside vandalism and developments like this should not be allowed to ruin the beautiful scenery for locals and visitors.

Planning officers have a delicate balance to get right in maintaining tourism facilities in areas such as Strathardle. Allowing any manner of holiday accommodation because it 'benefits the community' is unsustainable and risks littering the natural beauty which draws so many visitors to the area.

Kirkmichael and the surrounding areas are already well served with holiday accommodation, therefore this hut, tent and sauna is not a much needed resource that would justify deviating from planning policy. The reasons for this application to have been refused twice are still valid and therefore the right decision has already been taken.

Thank you.

Regards.

Donna Aitken

CDS Planning Local Review Body

From: shane colgan [REDACTED]
Sent: 11 May 2022 15:39
To: CDS Planning Local Review Body
Subject: Re: LRB-2022-15 Notice of Review
Attachments: image001.jpg

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To Whom it may Concern

Having read the reason for refusal. I find it strange that a proposal such as this can be turned down on the basis that it does not blend in.

The Hut is currently sited in an indentation in the landscape which has mature trees towards one side and a steep grass slope behind.

As it sits, the Hut is not visible from the village itself nor from either of the approaching roads entering the village. Only the rooftops of the village are visible from the site itself.

The proposed landscaping for the site would mature in a very short space of time.

Business are suffering alot in these times, surely environmentally friendly proposals like this should be encouraged to help bring much needed tourism spend into the area which have a very small impact on the surrounding environment.

I wonder do any of the planning team carry out site visits to such proposals, as I feel this would give a truer perspective.

I urge you to reconsider you refusal and grant planning for this proposal.

Regards
Shane Colgan

CDS Planning Local Review Body

From: [REDACTED]
Sent: 12 May 2022 08:48
To: CDS Planning Local Review Body
Subject: RE: LRB-2022-15

CAUTION: This email originated from an external organisation. Do not follow guidance, click links, or open attachments unless you have verified the sender and know the content is safe.

Dear Lisa,

I would like to confirm my opposition to this planning application. I would add the following comments for consideration:

1. Part of the applicants justification for the development is that the business it generates will support the Kirkmichael Hotel. However it would appear that since the application was made the applicant no longer has a link to the hotel. This would mean that the development would not be part of the Hotel business or support its survival. The development would just be a commercial development for one individual at the expense of the community.
2. Given that there are a number of well-designed and sensitively positioned holiday accommodation developments around Kirkmichael either complete or in development this development adds very little economic benefit to the community.

Regards

Joe

