

LRB-2020-12
19/02087/FLL – Erection of 3 dwellinghouses, land 30 metres south west of Leiland House and 50 metres south east of Tillyochie Farmhouse, Balado

INDEX

- (a) Papers submitted by the Applicant (***Pages 691-850***)
- (b) Decision Notice (***Pages 707-708***)
 - Report of Handling (***Pages 709-719***)
 - Reference Documents (***Pages 729-751 and 767-821***)
- (c) Representations (***Pages 853-868***)
- (d) Further Information (***Pages 860-938***)

LRB-2020-12

19/02087/FLL – Erection of 3 dwellinghouses, land 30 metres south west of Leiland House and 50 metres south east of Tillyochie Farmhouse, Balado

**PAPERS SUBMITTED
BY THE
APPLICANT**



Pullar House 35 Kinnoull Street Perth PH1 5GD Tel: 01738 475300 Fax: 01738 475310 Email: 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 100241699-001

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:	Bidwells		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Mark	Building Name:	Broxden House
Last Name: *	Myles	Building Number:	
Telephone Number: *	01738 630666	Address 1 (Street): *	Lamberkine Drive
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Perth
Fax Number:		Country: *	Scotland
		Postcode: *	PH1 1RA
Email Address: *	mark.myles@bidwells.co.uk		

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"/>
First Name: *	<input type="text" value="Richard"/>	Building Number: <input type="text"/>
Last Name: *	<input type="text" value="Paterson"/>	Address 1 (Street): * <input type="text"/>
Company/Organisation	<input type="text"/>	Address 2: <input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: * <input type="text"/>
Extension Number:	<input type="text"/>	Country: * <input type="text"/>
Mobile Number:	<input type="text"/>	Postcode: * <input type="text"/>
Fax Number:	<input type="text"/>	
Email Address: *	<input type="text" value=""/>	

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

<input type="text" value="Tillyochie"/>			
Northing	<input type="text" value="702885"/>	Easting	<input type="text" value="307332"/>

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)

Erection of 3 dwellinghouses on land 30 metres south west of Lealand House and 50 metres south east of Tillyochie Farmhouse, Balado

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 refer to separate grounds of appeal 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)

In response to the 3rd reason for refusal, additional information (copies of drainage calculations and approved CAR licence) are provided in support of this appeal to confirm that proposed private drainage arrangements (which have already been installed) have already been accepted and approved by the council and SEPA, and are therefore compliant with the requirements of the Loch Leven Catchment Area policies 46A and 46B of the LDP2.

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)

Planning application forms, proposed plans and drawings, Report of Handling and decision notice, flood risk assessment, private drainage calculations and CAR Licence, Report of Handling and decision notices relating to the earlier 2009 and 2014 planning applications and our grounds of appeal statement.

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

19/02087/FLL

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

20/12/2019

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

18/02/2020

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

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

Please select a further procedure *

By means of inspection of the land to which the review relates

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

To view the site in the context of the wider building group and from surrounding vantage points including the A91 to the north

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 Mark Myles

Declaration Date: 23/03/2020

Refusal of Planning Permission to erect 3 dwellinghouses on land 30 metres South West of Lealand House and 50 metres South East of Tillyochie Farmhouse, Balado
Mr R Paterson
23 March 2020



NOTICE OF REVIEW APPEAL

1.0 Background

The council refused planning permission for the erection of 3 dwellinghouses (19/02087/FLL) on 18th February 2020, for three reasons, namely;

- 1) The proposal is considered to be contrary to Policy 19 Housing in the Countryside of the PKC Local Development Plan (LDP2) 2019 and the council's housing in the countryside guide 2020 as it failed to comply with any of the categories.
- 2) Plots 1 and 2 are considered to expand the existing building group on to an exposed area of land contrary to Policy 39 'Landscape' of LDP2.
- 3) No information had been submitted to demonstrate that total phosphorous from the development is compliant with the Loch Leven Catchment Area policies 46A and 46B of LDP2.

There is significant previous planning history in relation to the site and in terms of previous decisions that are considered material to the consideration of this appeal, focus is on the previous approvals dating from 2011 and 2016. Indeed, following our appointment to progress this Notice of Review appeal, it has become apparent that the 2016 approval was actually implemented, but to date this fact has never been raised with the planning department.

The original planning application (09/00848/FLL) for the erection of 3 houses was approved by the council in December 2011. That planning application had been approved on the basis that the proposed 3 house development was justified under the terms of the council's rural housing policy as it was agreed that this organic building group could accommodate new houses in principle. The Report of Handling for that application also states that additional native hard and soft landscaping will form a crucial and integral part of the scheme – to assist in providing a contained setting for each individual plot, and also to limit further expansion opportunities. As part of this consent a Section 75 Agreement was also signed and relates to the payment of education developer contributions and also ensuring private drainage arrangements took full account of the Loch Leven catchment area process and policy requirements in place at that time.

A planning application to then renew that permission was granted permission by the council in February 2016 under application reference (14/02062/FLL). The Report of Handling for the renewal application reiterated that the submission of planning application (09/00848/FLL) had addressed all outstanding conflicting policy items, with the proposals consisting of two detached plots on the north side of the minor public road (adjacent to an existing field ruin), with the remaining detached plot and combined soakaway area on the south side of the road (to the rear of the existing farmhouse). The Report of Handling on the renewal application also again highlighted that adequate open space and undeveloped land surrounds the plots and affords an opportunity to suitably landscape the units into the established area.

As part of the approval of that renewal application, further supporting information on the proposed drainage calculations and private drainage arrangements were provided as the Loch Leven Catchment Area policy position and protocol had altered from the time of the original application in 2009. The details submitted were subsequently accepted by SEPA. The sewage treatment plant was then installed in 2018/19 as per the approved drawings and a CAR licence was also issued by SEPA. Due to the changes in the protocol, the drainage details and their implementation were then able to be controlled by planning condition, so the S75 Agreement that had been signed as part of the original 2009 application was then able to be amended

(15/00819/MPO). The S75 Agreement as amended therefore related solely to the requirement for developer contributions towards education infrastructure.

Given the works that were undertaken during 2018/19 to install the sewage treatment plant at Tillyochie, and the fact that this work was implemented prior to the expiry of the planning permission (14/02062/FLL) in February 2019, then it would appear that the planning consent remains valid for this development. However, to date this has not been raised directly with PKC pending the outcome of this appeal.

A further flood risk assessment had been provided in support of planning application (19/02087/FLL) and it is noted that the council's flood risk team raised no objections. Given the previous planning history of approvals and the legal agreement relating to the site, the applicant and the agent involved at the planning application stage did not consider the need to provide a supporting planning statement as it was thought that the application would be determined favourably as per the previous assessments and in line with the earlier considerations against policy.

2.0 Grounds of Appeal

The drainage works that have been implemented as part of the previous planning consent 14/02062/FLL means that planning permission continues to remain valid for this development.

Notwithstanding this very significant point which has only been picked up following the submission and determination of application 19/02087/FLL, in order to fully protect our clients' position, we have had to submit this appeal against the refusal of application 19/02087/FLL.

The appeal is also based on the fact that, although LDP2 was adopted by the council in November 2019, and the council's Housing in the Countryside Guidance was adopted by the council in January 2020 (it is noted that the 2020 guidance still has to be formally approved by the Scottish Government) and there are therefore different policy references in place from the time when the original planning application was approved in 2011, the key point is that the detailed policy criteria on which to assess and determine this proposal have not fundamentally changed since that time. i.e. the building groups category and the category relating to conversion or replacement of non-domestic buildings have not altered significantly over the last 10 years.

Therefore, while the planning officer states in his report that he fails to see on what basis the previous applications were approved (even though the Reports of Handling for the 2009 and 2014 applications clearly do explain why those applications were supported and approved), this just confirms that there are simply different interpretations of the same policy between different planning officers within the council's planning department.

The Report of Handling for this proposal recognises and accepts that there is a building group at Tillyochie and suggests that Plots 1 and 2 have definable boundaries to the west and east but not to the north or south where there are post and wire fences and no boundary treatments respectively. The Report of Handling underplays the robust boundaries that do exist. Thick woodland is located along the western boundary and frames the site when viewed from any eastern vantage point. The 2 storey property (Leiland house) and its strong landscaped curtilage provide robust and strong boundaries to the east thus sandwiching the site between the western and eastern boundaries. The northern and southern boundaries are long established and also tie in with the established building line and boundaries already set by the adjacent properties.

In terms of the conversion or replacement of non-domestic buildings, the Report of Handling confirms that the existing ruin is not worthy of restoration and could be replaced.

We would concur that the ruinous building has no architectural integrity and that the external appearance of the original building is not worthy of retention particularly when there is already a complete mix and range of architectural styles and plot sizes present at Tillyochie (as confirmed in the Report of Handling). The proposed boundaries for Plots 1 and 2 pay greater cognisance to the wider site boundaries and the immediate adjacent boundaries. If redevelopment of the site of the ruin was restricted to the footprint only, then any new build in this location would sit in isolation and could not benefit from any of these defined boundaries. Accordingly, it is considered that the proposed 2 houses in this location (which do benefit from clearly defined boundaries) are a more appropriate layout and form of development encompassing the replacement of the existing ruin, and therefore providing a suitable response to forming part of the existing building group.

Plot 3 also benefits from strong defined boundaries to the north and west and long established boundaries to the south which are not just post and wire fencing, but fencing that is characteristic of the surrounding area but also forming the curtilages of the immediately adjacent properties. Again Plot 3 was previously considered an appropriately defined extension to the established building group 10 years ago and nothing has changed since that time to reach a different conclusion. The position and layout of Plot 3 also ties in with the immediate adjacent properties at Tillyochie Bungalow to the south west and Tillyochie Farmhouse to the north west. The eastern boundary is linked to and aligned with the defined eastern boundary of Tillyochie Farmhouse.

As highlighted above the Report of Handling considers that none of the dwellings would be out of character as there are already a range of different architectural styles and plot sizes present at Tillyochie.

In response to the 2nd reason for refusal, Plots 1 and 2 would be viewed and read as forming part of the wider and larger building group (adjacent residential properties and farm buildings) when viewed from any direction including from the A91 situated on higher ground to the north. When viewed from the east, Plots 1 and 2 would be viewed against the backdrop of woodland that is located immediately to the west. The proposed houses on Plots 1 and 2 would have no adverse visual impact on the wider landscape as the houses would not be viewed in isolation and would be seen as part of the cluster of buildings within the wider building group.

Due to the siting and location of the house on Plot 3 it would also be read and considered as part of the wider building group particularly when approaching Tillyochie along the public road from the east. It is noted that the council's 2nd reason for refusal does not apply to Plot 3.

In terms of the 3rd reason for refusal it is evident that private drainage and phosphate reduction measures have been extensively considered and assessed in the past. Indeed, as part of the 2014 renewal planning application further details had to be provided which in turn allowed SEPA to provide their approval. The proposed details were then applied as a condition to the renewed planning consent (no. 6) and this had also allowed the S75 Agreement to be modified accordingly. The drainage infrastructure mitigation requirements have already been installed at Tillyochie Farm and as highlighted above SEPA have also issued a CAR licence. It is therefore evident that the implementation of these works has kept the planning permission 14/02062/FLL alive.

It was an oversight by the applicant and the agent to the planning application that they did not consider this further prior to submission of the application that is now subject to this appeal.

Furthermore the drainage information could have been submitted again and it would have been helpful if this had been raised by the planning officer prior to determination of the application as it would have helped to remove this issue and avoid the need for this appearing as a reason for refusal of the application.

The Report of Handling states that no evidence had been submitted or mitigation is proposed so SEPA have not been consulted. It's unfortunate that the planning officer did not fully consider the previous planning history and take on board the fact that this matter had already been addressed in detail or even request additional information from the agent prior to simply refusing the application.

We have therefore provided copies of the previously submitted drainage details and calculations which were approved by SEPA (as well as a copy of their CAR licence) and photographs confirming that the treatment plant has since been installed at Tillyochie Farmhouse. As part of this Notice of Review process it may therefore be necessary for the LRB to re-consult SEPA to obtain an up to date response to confirm their position on this matter.

We also note that there is a typo in the Report of Handling stating that matters relating to drainage and flooding are not able to be controlled by condition but when reading the consultation response from the council's flood risk team we believe that is meant to have said can be controlled.

3.0 Conclusions

The applicant has spent considerable time and expense on this project and appointing engineers to provide an additional up to date flood risk assessment including the necessary hydrological analysis as part of this further application process.

The applicant has also already spent in excess of £10,000 installing the sewage treatment works at Tillyochie Farm which is in accordance with the approved details from the previous application 14/02062/FLL. It is therefore considered that planning permission remains in place for the 3 house development and that it should not have been necessary to submit a further planning application and also no requirement for this subsequent appeal.

The proposed private drainage details are the same as was proposed in the 2014 renewal planning application and those were deemed to be satisfactory and meet with the council's and SEPA's approval. A further copy of these are provided in order to specifically address reason for refusal number 3. It is unfortunate that this matter couldn't have been resolved as part of the planning application process and further consultation with SEPA may be required by the LRB, but it is hoped that this could help to resolve this matter quickly.

The main issue raised with this proposal is therefore whether or not the application can comply with any of the relevant criteria of the housing in the countryside policy.

Based on the fact that 2 previous approvals had been allowed for the same development and were founded on an assessment of the same policy criteria, it is highly unusual that this significant material consideration was dismissed and not given significantly greater weight in the determination of the application.

If the updated 2020 (SG) is approved by Scottish Government and it is then formally adopted by the council in advance of when the LRB come to consider this Notice of Review Appeal, then it is evident that the 2020 (SG) also provides strong support towards this proposal

For the reasons set out in section 2 above, it is considered that Plots 1 and 2 comply with categories 1 and 5 of the housing in the countryside policy, and Plot 3 with category 1 of the policy, and also the detailed guidance set out in the current adopted 2012 (SG) as well as the proposed replacement 2020 (SG).

Each of the 3 plots would also be viewed and read as forming part of the larger building group and as such would have no adverse visual impact on the wider landscape.

The proposal is also consistent with the policy guidance on promoting rural development set out in Scottish Planning Policy as well as the Governments stated aim of increasing rural population as set out in the Planning (Scotland) Act 2019.

In light of the background circumstances to this case, the previous history and implementation of the planning permission (14/2062/FLL), it is therefore respectfully requested that the LRB allow this appeal subject to any conditions considered necessary, as the proposal complies with category 1 and 5 of Policy 19 from LDP2 and the associated (SG), is not contrary to Policy 39 or 46 of LDP2, and there are no other policy considerations or material considerations that would indicate otherwise.

PERTH AND KINROSS COUNCIL

Mr R Paterson
c/o Greenfields Design Ltd
FAO Gordon Porter
2B Bank Street
Alloa
FK10 1HP

Pullar House
35 Kinnoull Street
PERTH
PH1 5GD

Date 18th February 2020

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT

Application Number: **19/02087/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 20th December 2019 for permission for **Erection of 3 dwellinghouses Land 30 Metres South West Of Leiland House And 50 Metres South East Of Tillyochie Farmhouse Balado** for the reasons undernoted.

Head of Planning and Development

Reasons for Refusal

- 1 The proposal is contrary to Policy 19 'Housing in the Countryside' of the Perth and Kinross Local Development Plan 2 (2019) and the Council's Housing in the Countryside Guide 2020, as it does not comply with any of the categories of the policy guidance where a residential development would be acceptable in principle at this location.
- 2 The proposal is contrary to Policy 39 'Landscape' of the Perth and Kinross Local Development Plan 2 (2019) as Plots 1 and 2 erode the local distinctiveness, diversity and quality of Perth and Kinross's landscape character through the expansion of the existing building group on to an exposed area of land.

- 3 The proposal is contrary to Policies 46A and 46B 'Loch Leven Catchment Area' of the Perth and Kinross Local Development Plan 2 (2019) as no information has been submitted to demonstrate that the total phosphorus from the proposed development is compliant with requirements of the policy.

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

19/02087/1

19/02087/2

19/02087/3

19/02087/4

19/02087/5

19/02087/6

19/02087/7

19/02087/8

19/02087/9

19/02087/10

19/02087/11

19/02087/12

19/02087/13

REPORT OF HANDLING

DELEGATED REPORT

Ref No	19/02087/FLL	
Ward No	P8- Kinross-shire	
Due Determination Date	19.02.2020	
Report Issued by		Date
Countersigned by		Date

PROPOSAL: Erection of 3 dwellinghouses.

LOCATION: Land 30 Metres South West of Leiland House
& 50 Metres South East of Tillyochie
Farmhouse, Balado.

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: 13th January 2020

SITE PHOTOGRAPHS



BACKGROUND AND DESCRIPTION OF PROPOSAL

The application site is on land 30metres South West of Leiland House and 50metres South East of Tillyochie Farmhouse, Balado. The application seeks detailed planning permission for the erection of 3 dwellinghouses. Each plot is a detached 5 bedroomed unit with a detached double garage with a storage room above.

The site has extensive history. The most relevant application is application 09/00848/FLL for the erection of 3 dwellinghouses which was approved in 2010. This consent was then renewed in 2015 under application 14/02062/FLL, although this was not implemented and has now expired. At present, there is no live consent on the site. The current application therefore seeks a fresh consent for 3 dwellinghouses.

SITE HISTORY

07/01127/FUL - Erection of two houses and garages 2 June 2007: Application Withdrawn

08/00980/FUL - Erection of 3 houses and garages 29 October 2008: Application Refused

09/00848/FLL - Erection of 3 dwellinghouses and garages 8 December 2011: Application Approved

14/02062/FLL - Renewal of permission (09/00848/FLL) erection of 3 dwellinghouses 11 February 2016: Application Approved

15/00819/MPO - Modification of planning obligation (09/00848/FLL - Erection of 3 dwellinghouses and garages) relating to section 75 agreement 8 July 2015: Application Approved

PRE-APPLICATION CONSULTATION

No formal pre-application consultation 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.

DEVELOPMENT PLAN

The Development Plan for the area comprises the TAYplan Strategic Development Plan 2016-2036 and the Perth and Kinross Local Development Plan 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 (2019) – Adopted November 2019

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

The principal policies are, in summary:

- Policy 1A – Placemaking
- Policy 1B- Placemaking
- Policy 5 – Infrastructure Contributions
- Policy 6 – Settlement Boundaries
- Policy 19 – Housing in the Countryside
- Policy 39 – Landscape
- Policy 41 – Landscape
- Policy 46A – Loch Leven Catchment Area
- Policy 46B – Loch Leven Catchment Area
- Policy 50 – Prime Agricultural Land
- Policy 52 – New Development and Flooding
- Policy 58A – Contaminated and Unstable Land: Contaminated Land
- Policy 60B – Transport Standards and Accessibility Requirements: New Development Proposals

OTHER POLICIES

Housing in the Countryside Guide 2020

In accordance with Scottish Planning Policy, Planning Advice Note 72: Housing in the Countryside, and Planning Advice Note 68: Design Statements, the Council’s objective is to strike a balance between the need to protect the outstanding landscapes of the Perth & Kinross area, and encourage appropriate housing development in rural areas including the open countryside and out-with settlements. The Council seeks to encourage sustainable development in rural areas which means guiding development to places where existing communities and services can be supported, and the need to travel minimised. It also means encouraging the sympathetic reuse of existing traditional buildings of character and beauty and to ensure that new buildings are located correctly and constructed to the highest standards of design and finish.

Local Development Plan 2 Policy 19 ‘*Housing in the Countryside*’ aims to: safeguard the character of the countryside; support the viability of communities; meet development needs in appropriate locations; and ensure that high standards of siting and design are achieved. Central to achieving this is harnessing the potential of the numerous redundant traditional rural buildings which contribute to the character and quality of the countryside.

These buildings represent a significant resource both architecturally and from a sustainability point of view and have the potential to be reused and adapted to help meet present and future rural housing needs.

CONSULTATION RESPONSES

External

Scottish Water:

No objection to the proposed development as there is currently sufficient capacity in the Glendevon Water Treatment Works to service the development. There is however no public waste water infrastructure available.

Internal

Transport Planning:

Transport Planning initially requested further information in relation to visibility splays. This information was consequently received and Transport Planning now have no objection to the proposed development, subject to conditional control regarding vehicular access.

Development Negotiations Officer:

No contributions required.

Environmental Health (Noise Odour):

No objection to the proposed development subject to conditional control regarding the operation of the proposed stove.

Structures & Flooding:

No objection to the proposed development subject to conditional control regarding the detailing of the proposed soakaways.

REPRESENTATIONS

1 letter of representation was received objecting to the proposed development. In summary, the letter highlighted the following concerns:

- Lack of information in relation to drainage (reference to Loch Leven Catchment)
- Contrary to Housing in the Countryside Policy
- Houses are out of character with the surrounding environment

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	Submitted (Flood Risk Assessment)

APPRAISAL

Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for the area comprises the approved TAYplan 2016 and the adopted Perth and Kinross Local Development Plan 2 (2019).

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

As previously mentioned, the site has extensive history. The most relevant application is application 09/00848/FLL for the erection of 3 dwellinghouses which was approved in 2010. This consent was then renewed in 2015 under application 14/02062/FLL, although this was not implemented and has now expired. At present, there is no live consent on the site. In looking at the previous permissions, I find it difficult to see where the proposal complied with the housing in the countryside policy, however that was the decision at the time. The current application therefore seeks a fresh consent for 3 dwellinghouses. The current application will therefore be determined against the most up to date Local Development Plan and Supplementary Guidance. It should be noted that this is now a different LDP from the assessment of the previous applications.

The site is not located within a designated settlement boundary. As such, Policy 6 '*Settlement Boundaries*' is directly applicable. Policy 6 specifies that development will not be permitted, except within the defined settlement boundaries which are defined by a settlement boundary in the Plan.

However, through Policy 19 '*Housing in the Countryside*', it is acknowledged that opportunities do exist for housing uses in rural areas to support the viability of communities, meet development needs in appropriate locations while safeguarding the character of the countryside as well as ensuring that a high standard of siting and design is achieved. Thus the development of single units or groups of units which fall within the six identified categories will be supported. The Council will support proposals for the erection, or creation through conversion, of single units and groups of units in the countryside which fall into at least one of the following categories:

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

In this case, for the purposes of assessment against Policy 19, the site can essentially be divided into 2 components. Plots 1 and 2 can be considered as one component and Plot 3 as a second component. These components will be discussed below.

Plots 1 and 2

Plots 1 and 2 can be considered against 2 elements of Policy 19. These elements are (a) building groups and (e) conversion or replacement of non-domestic dwellings.

Building Groups

The building group criteria states that a building group is defined as 3 or more existing buildings of a size at least equivalent to a traditional cottage and which, when viewed within their landscape setting, appear as a group. The majority of the buildings in the group should be either residential or be suitable for conversion to residential under Category 5 of this guidance. Premises which are smaller than a traditional cottage, such as small domestic garages and outbuildings, will not count towards the requirement for at least 3 buildings.

In this instance, the existing grouping adjacent the site can be considered as a building group as there are more than 3 buildings of an equivalent size. However, for a proposal to be accepted under this category, it must also be comply with the siting criteria. In this case, the field in which plots 1 and 2 are located only has definable boundaries on the Western and Eastern Boundaries. It does not have definable boundaries on the Northern and Southern sides. The Northern boundary only has a post and wire fence and the Southern boundary has nothing at present. As the site is not considered a definable extension to the existing grouping, plots 1 and 2 cannot be considered under the building group category.

Conversion or replacement of non-domestic dwellings

The development site currently has a small ruinous building present as seen in the photograph below:



Due to the presence of this building, the proposal can be assessed against criteria (e) conversion or replacement of redundant traditional non-domestic buildings. In order for a replacement building to be considered it must be demonstrated that the building is no longer in use, and that the building cannot be sold or let on the open market for another employment use. In this instance, whilst no evidence has been submitted as part of the application, it is clear that the existing building is no longer in use and cannot be used for any employment use. As such, its replacement is considered justified.

However, for a replacement building to be considered, any replacement building should reinforce the architectural integrity and external appearance of the original building and its grounds. The Supplementary Guidance states that it is very unlikely that the entire 'brownfield' area of a site will be suitable for housing; in general, no more than 25% of the total units or footprint should comprise new build development.

In this instance, two 5 bedroomed detached dwellinghouses with large detached garages are proposed on the site which is well in excess of the footprint of the existing building. As such, plots 1 and 2 cannot be accepted under the conversion or replacement of non-domestic dwellings category.

Plot 3

Building Groups

Similarly to Plots 1 and 2, Plot 3 can be assessed against the building group category. However, Plot 3 is also not considered to be a definable extension to the existing grouping. The Eastern and Southern boundaries are only a post and wire fence at present which does not comply with the siting criteria. The below photograph shows the existing post and wire fence along the Eastern Boundary. As seen, this plot would clearly not be a definable extension to the existing grouping.



Design and Layout

Although the principle of the development is considered to be contrary to the relevant provisions of the aforementioned Local Development Plan, consideration must be given to the design and layout of the proposed units. Whilst the comments in the letter of representation received are noted, it is not considered that the proposed units will be out of character with the existing building group where there are already a range of different architectural styles and plot sizes present. Each unit is designed to respect the rural environment in which it is located and is sufficiently sited to provide suitable amenity space.

Landscape and Visual Amenity

The area of land where plots 1 and 2 are to be located is slightly raised and thus the development of dwellinghouses in this location would be highly visible from the surrounding rural environment, particularly when viewed from the A91 to the North. There is little screening or landscaping available to soften the visual impact of the development therefore the dwellinghouses would be intrusive upon the landscape.

Residential Amenity

Each of the plots has been appropriately sited and designed to ensure that there is no adverse overlooking or overshadowing to existing neighbouring residential receptors. There is a sufficient distance between each of the properties and sufficient amenity space has been achieved for each of the plots. I therefore have no adverse concerns in relation to residential amenity.

Roads and Access

Each of the plots have a large driveway and parking area providing turning facilities to allow for the vehicles to exit each plot in a forward gear. This is considered sufficient for the level of traffic likely to be generated by the proposed development. My colleagues in Transport Planning were consulted as part of this application and initially requested further information in relation to visibility splays. This was consequently received and Transport Planning have no objection to the proposed development, subject to conditional control

regarding vehicular access. I therefore have no adverse concerns in relation to roads and access that could not be controlled via suitably worded planning conditions.

Loch Leven Catchment

The site is located within the Loch Leven Catchment Area. As such, evidence must be provided to demonstrate that the total phosphorus from built development must not exceed the current level permitted by the discharge consents for Kinross and Milnathort waste water treatment works together with the current contribution from built development within the rural area of the catchment. No evidence has been submitted or mitigation proposed as part of this application. This was also raised within the letter of representation received. As such, this will be included as reasons for refusal on this report.

At this point it should be noted that SEPA were not consulted as part of this application due to no evidence or mitigation being submitted. Should any information regarding this have been received, SEPA would have been required to be consulted due to the presence of the site within the Loch Leven Catchment.

Drainage and Flooding

A Flood Risk Assessment (FRA) was submitted as part of this application. My colleagues in the Structures and Flooding Team were consulted to assess the proposed development and the submitted FRA. My colleagues have no objection to the proposed development, subject to conditional control regarding the detailing of the proposed soakaways. I therefore have no adverse concerns in relation to drainage and flooding which could not be adequately controlled via suitably worded planning conditions.

Conservation Considerations

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

Developer Contributions

Primary Education

The Council's Developer Contributions Supplementary Guidance requires a financial contribution towards increased primary school capacity in areas where a primary school capacity constraint has been identified. A capacity constraint is defined as where a primary school is operating at over 80% and is likely to be operating following completion of the proposed development, extant planning permissions and Local Development Plan allocations, at or above 100% of total capacity.

This proposal is within the catchment of Fossoway Primary School.

Education & Children's Services have no capacity concerns in this catchment area at this time, therefore no education contributions are required.

Economic Impact

The development of this site would account for short term economic investment through the construction period and indirect economic investment of future occupiers of the associated 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 2 (2019). 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.

Reasons for Recommendation

- 1 The proposal is contrary to Policy 19 '*Housing in the Countryside*' of the Perth and Kinross Local Development Plan 2 (2019) and the Council's Housing in the Countryside Guide 2020, as it does not comply with any of the categories of the policy guidance where a residential development would be acceptable in principle at this location.
- 2 The proposal is contrary to Policy 39 '*Landscape*' of the Perth and Kinross Local Development Plan 2 (2019) as Plots 1 and 2 erode the local distinctiveness, diversity and quality of Perth and Kinross's

landscape character through the expansion of the existing building group on to an exposed area of land.

- 3 The proposal is contrary to Policies 46A and 46B '*Loch Leven Catchment Area*' of the Perth and Kinross Local Development Plan 2 (2019) as no information has been submitted to demonstrate that the total phosphorus from the proposed development is compliant with requirements of the policy.

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

Not Applicable.

Procedural Notes

Not Applicable.

PLANS AND DOCUMENTS RELATING TO THIS DECISION

19/02087/1
19/02087/2
19/02087/3
19/02087/4
19/02087/5
19/02087/6
19/02087/7
19/02087/8
19/02087/9
19/02087/10
19/02087/11
19/02087/12
19/02087/13

Date of Report 13th February 2020



Pullar House 35 Kinnoull Street Perth PH1 5GD Tel: 01738 475300 Fax: 01738 475310 Email: 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 100126301-002

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

Type of Application

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

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

Description of Proposal

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

Erection of 3 dwellinghouses and separate garages

Is this a temporary permission? *

☐ Yes ☒ No

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

☐ Yes ☒ No

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

☒ No ☐ Yes – Started ☐ Yes - Completed

Applicant or Agent Details

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

☐ Applicant ☒ Agent

Agent Details

Please enter Agent details

Company/Organisation:	Greenfields Design Ltd		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Gordon	Building Name:	2b
Last Name: *	Porter	Building Number:	
Telephone Number: *	+44 1259216500	Address 1 (Street): *	Bank Street
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Alloa
Fax Number:		Country: *	United Kingdom
		Postcode: *	FK10 1HP
Email Address: *	jb@greenfieldsdesign.co.uk		

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

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	
First Name: *	R	Building Number:	
Last Name: *	Paterson	Address 1 (Street): *	
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	
Extension Number:		Country: *	
Mobile Number:		Postcode: *	
Fax Number:			
Email Address: *			

Site Address Details

Planning Authority:

Perth and Kinross Council

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

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Tillyochie Farm, Balado, Kinross

Northing

702885

Easting

307332

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

☐ Yes ☒ No

Site Area

Please state the site area:

12580.00

Please state the measurement type used:

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

Existing Use

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

vacant land

Access and Parking

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

☐ Yes ☒ No

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

Are you proposing any change to public paths, public rights of way or affecting any public right of access? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.	
How many vehicle parking spaces (garaging and open parking) currently exist on the application Site?	<div style="border: 1px solid black; padding: 2px 10px;">0</div>
How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? *	<div style="border: 1px solid black; padding: 2px 10px;">12</div>
Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).	
<h2 style="margin: 0;">Water Supply and Drainage Arrangements</h2>	
Will your proposal require new or altered water supply or drainage arrangements? * <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Are you proposing to connect to the public drainage network (eg. to an existing sewer)? * <div style="margin-top: 5px;"> <input type="checkbox"/> Yes – connecting to public drainage network <input checked="" type="checkbox"/> No – proposing to make private drainage arrangements <input type="checkbox"/> Not Applicable – only arrangements for water supply required </div>	
As you have indicated that you are proposing to make private drainage arrangements, please provide further details. What private arrangements are you proposing? * <div style="margin-top: 5px;"> <input type="checkbox"/> New/Altered septic tank. <input checked="" type="checkbox"/> Treatment/Additional treatment (relates to package sewage treatment plants, or passive sewage treatment such as a reed bed). <input type="checkbox"/> Other private drainage arrangement (such as chemical toilets or composting toilets). </div>	
Please explain your private drainage arrangements briefly here and show more details on your plans and supporting information: * <div style="border: 1px solid black; padding: 10px; height: 100px; margin-top: 5px;"> Sewage Treatment Plant for foul water with discharge to land via soakaway. Surface water to soakaway. </div>	
Do your proposals make provision for sustainable drainage of surface water?? * <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (e.g. SUDS arrangements) *	
Note:- Please include details of SUDS arrangements on your plans Selecting 'No' to the above question means that you could be in breach of Environmental legislation.	
Are you proposing to connect to the public water supply network? * <div style="margin-top: 5px;"> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, using a private water supply <input type="checkbox"/> No connection required </div> If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).	

Assessment of Flood Risk

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

☒ Yes ☐ No ☐ Don't Know

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

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

☐ Yes ☐ No ☒ Don't Know

Trees

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

☐ Yes ☒ No

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

Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? *

☒ Yes ☐ No

If Yes or No, please provide further details: * (Max 500 characters)

A hardstanding will be provided to accommodate wheelie bins

Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? *

☒ Yes ☐ No

How many units do you propose in total? *

3

Please provide full details of the number and types of units on the plans. Additional information may be provided in a supporting statement.

All Types of Non Housing Development – Proposed New Floorspace

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

☐ Yes ☒ No

Schedule 3 Development

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

☐ Yes ☒ No ☐ Don't Know

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

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

Planning Service Employee/Elected Member Interest

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

☐ Yes ☒ No

Certificates and Notices

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

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

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

☒ Yes ☐ No

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

☐ Yes ☒ No

Certificate Required

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

Certificate A

Land Ownership Certificate

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

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

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

Signed: Gordon Porter

On behalf of: Mr R Paterson

Date: 16/12/2019

☒ Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

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

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

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

☐ Yes ☐ No ☒ Not applicable to this application

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

☐ Yes ☐ No ☒ Not applicable to this application

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

☐ Yes ☐ No ☒ Not applicable to this application

Town and Country Planning (Scotland) Act 1997

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

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

☐ Yes ☐ No ☒ Not applicable to this application

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

☐ Yes ☐ No ☒ Not applicable to this application

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

☐ Yes ☐ No ☒ Not applicable to this application

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

☒ Site Layout Plan or Block plan.

☒ Elevations.

☒ Floor plans.

☐ Cross sections.

☐ Roof plan.

☐ Master Plan/Framework Plan.

☐ Landscape plan.

☐ Photographs and/or photomontages.

☐ Other.

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

Provide copies of the following documents if applicable:

A copy of an Environmental Statement. *

☐ Yes ☒ N/A

A Design Statement or Design and Access Statement. *

☐ Yes ☒ N/A

A Flood Risk Assessment. *

☐ Yes ☒ N/A

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

☐ Yes ☒ N/A

Drainage/SUDS layout. *

☐ Yes ☒ N/A

A Transport Assessment or Travel Plan

☐ Yes ☒ N/A

Contaminated Land Assessment. *

☐ Yes ☒ N/A

Habitat Survey. *

☐ Yes ☒ N/A

A Processing Agreement. *

☐ Yes ☒ N/A

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

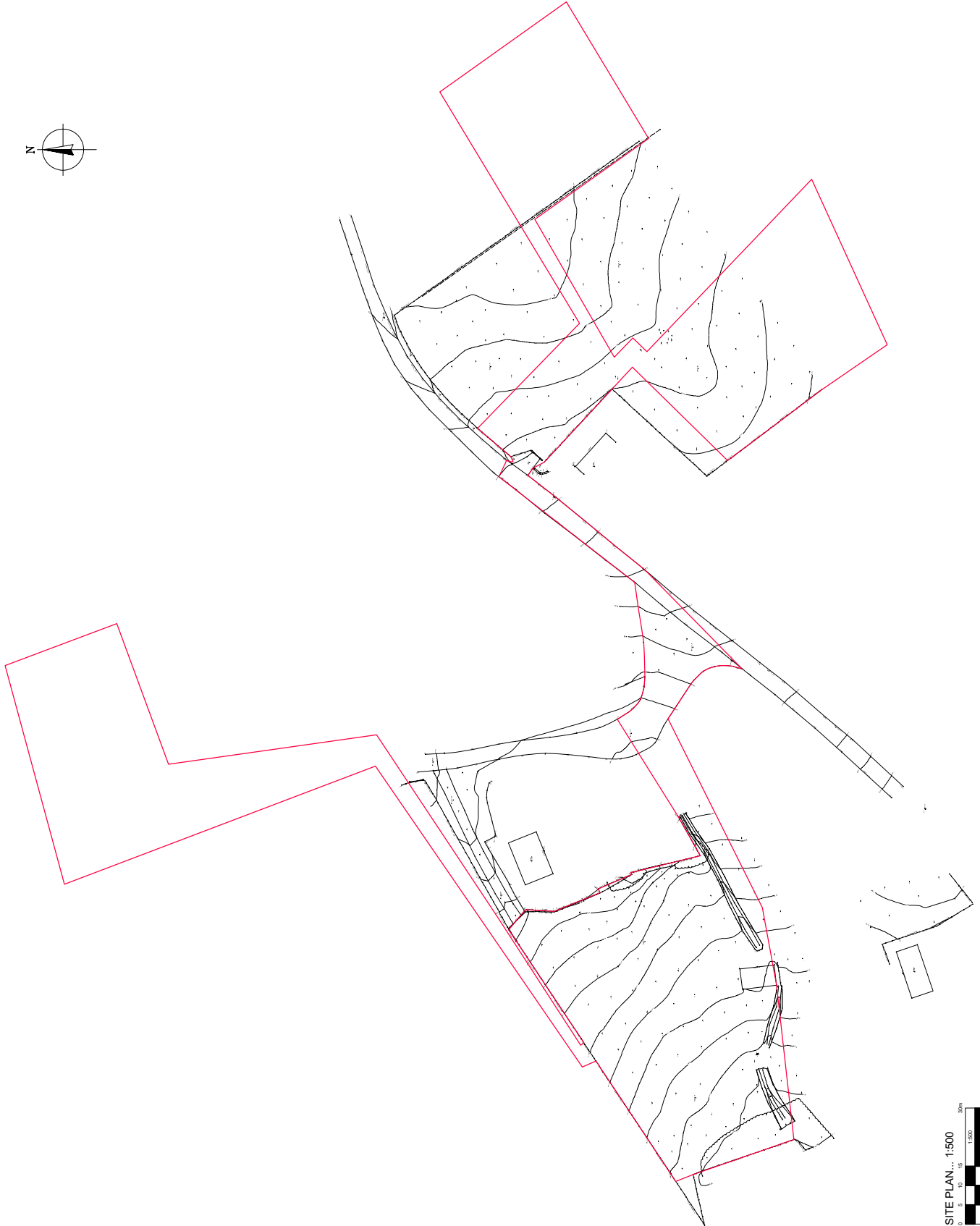
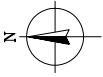
Declare – For Application to Planning Authority

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


Declaration Name: Mr John Blair

Declaration Date: 17/12/2019

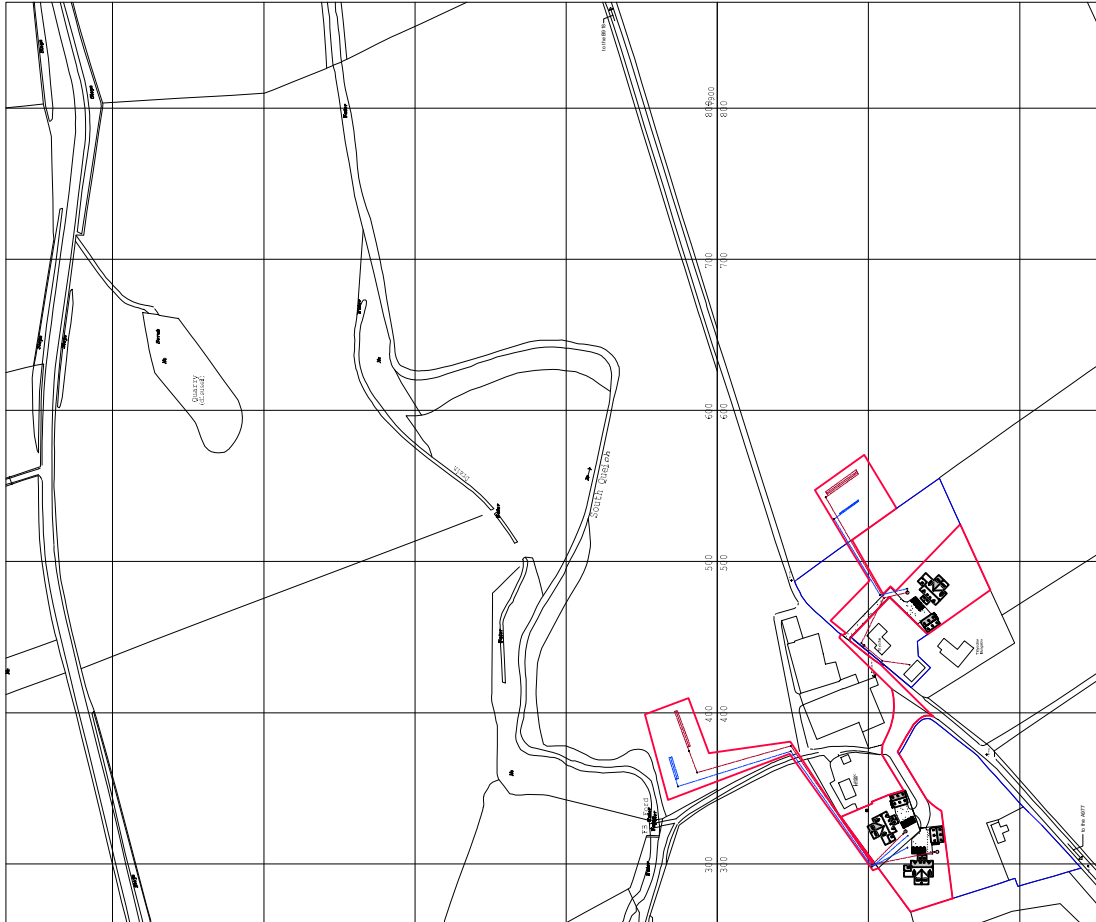
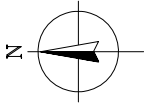
Payment Details



SITE PLAN... 1:500
0 5 10 15 20m
1:500

REVISION	BY	DATE
 Greenfields Design Ltd Landscape Architecture & Planning 28 Bank Street, Alderley, Cheshire WA15 9JF Tel: 01293 210500 Email: g.d@greenfieldsdesign.co.uk		
Title: Existing Site Plan Project: Development at Thyrone near Kinnaird		
Drawn	1:500	GP
Rev	20-Dec-19	A1
Sheet		1999-9-11v
Sheet		Page1

DO NOT SCALE FOR CONSTRUCTION PURPOSES - IF IN DOUBT ASK - DRAWINGS NOT FOR CONSTRUCTION PURPOSES



Rev. B - Title box
Rev. A - site layout
REVISION

GP 2012/19
GP 11/12/19
INT DATE



Greenfields Design Ltd.
architectural and landscape design consultants

28 Bank Street, Alcester, Warwickshire CV34 1HP
tel. 01295 216500
email. gpd@greendesign.co.uk

Title - Location Plan
Project - Proposed Development
at Tillyoche
near Kinross

SCALE	1:2500	DRAWN BY	GP
DATE	08-Nov-19	CHECKED BY	11995-S-120
HEET	A2	PROJECT NAME	Palet

DO NOT SCALE FOR CONSTRUCTION PURPOSES - IF IN DOUBT ASK - DRAWING NOT FOR CONSTRUCTION PURPOSES

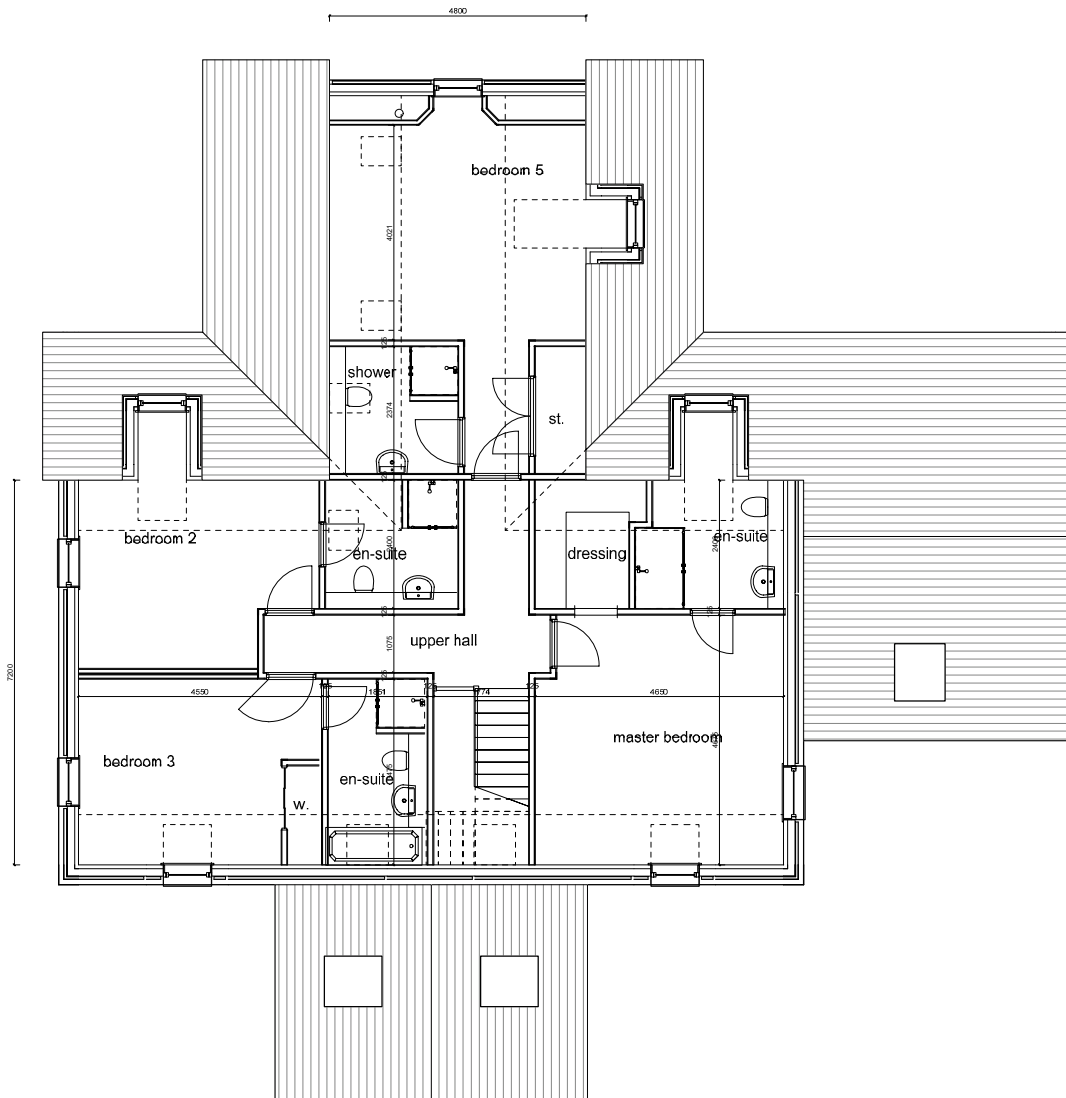


WEST ELEVATION... 1:100

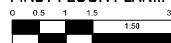


SOUTH ELEVATION... 1:100

EXTERNAL FINISHES
 Slate roof finish,
 Natural stone to walls as shown,
 Timber cladding to walls as shown,
 White wet dash render to external walls,
 Smooth cement and natural stone base course,
 PVCu fascia and bargeboard,
 Stained redwood windows,
 Black PVCu outlets and downpipes.



FIRST FLOOR PLAN... 1:50



Rev. B - Title box GP 2012/18
 Rev. A - General amendments GP 11/13/18
 REVISION INT DATE



28 Bank Street, Alton, Cambridgeshire FK10 1HP
 Tel: 01223 216500
 Email: gfd@greenfieldsdesign.co.uk

Title - First Floor Plan
 Project - Plot 1
 MR Palencia
 at Tillydrie
 near Kinross

DATE	1:50	DATE	GP
DATE	11-Jun-18	DATE	11595-1-12B
DATE	A1	DATE	Page1

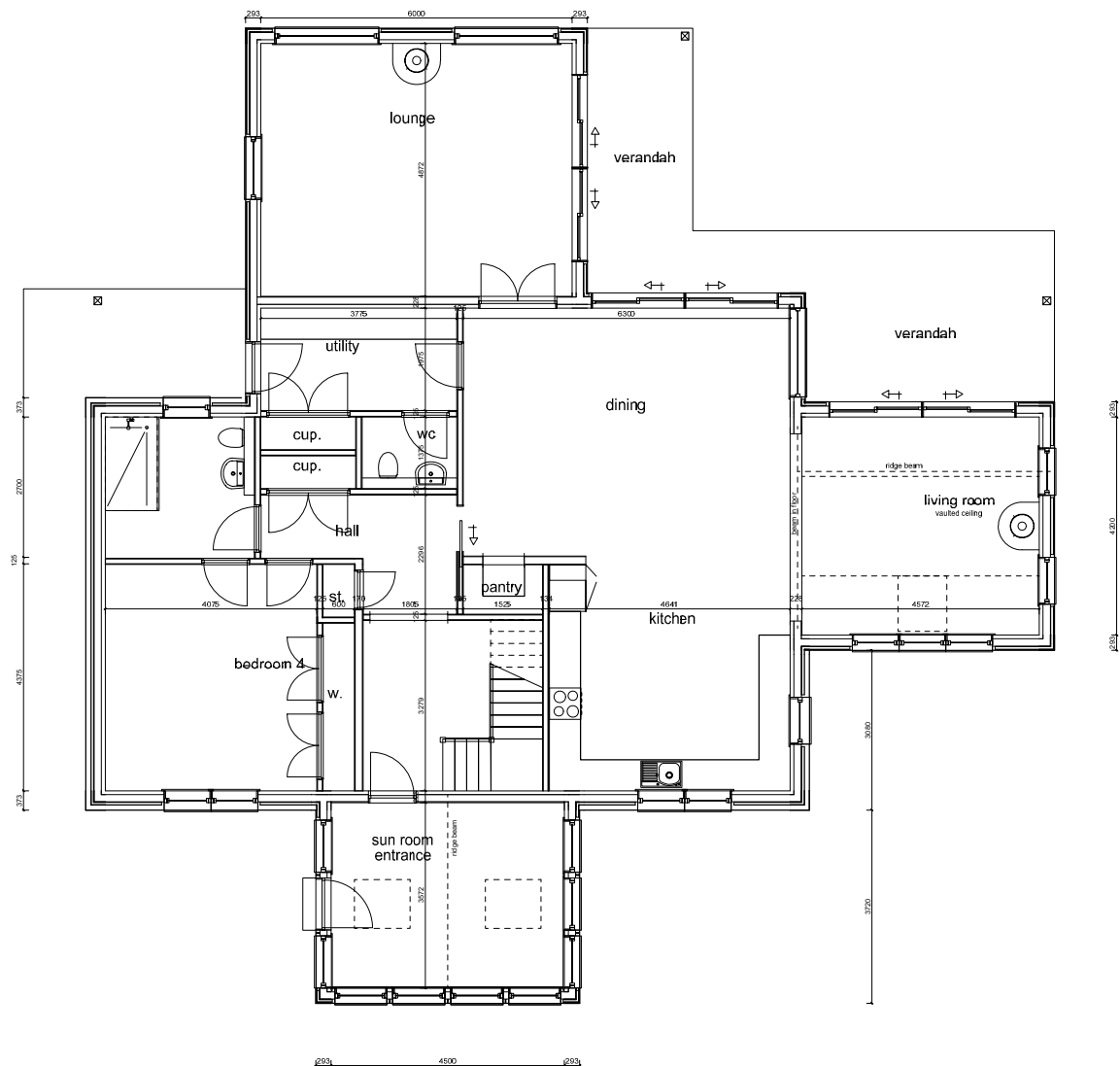


EAST ELEVATION... 1:100

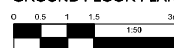


NORTH ELEVATION... 1:100

EXTERNAL FINISHES
 Slate roof finish,
 Natural stone to walls as shown,
 Timber cladding to walls as shown,
 White wet dash render to external walls,
 Smooth cement and natural stone base course,
 PVCu fascia and bargeboard,
 Stained rewood windows,
 Black PVCu gutters and downpipes.



GROUND FLOOR PLAN... 1:50



Rev. B - Title box GP 2012/18
 Rev. A - General amendments GP 11/13/18
 REVISION INT. DATE



Title - Ground Floor Plan
 Project - Plot 1
 181 Palencia
 at Tillydrie
 near Kinross

DATE	1:50	DATE	GP
11-Jun-18		11555-1-11b	
A1		Page 1	

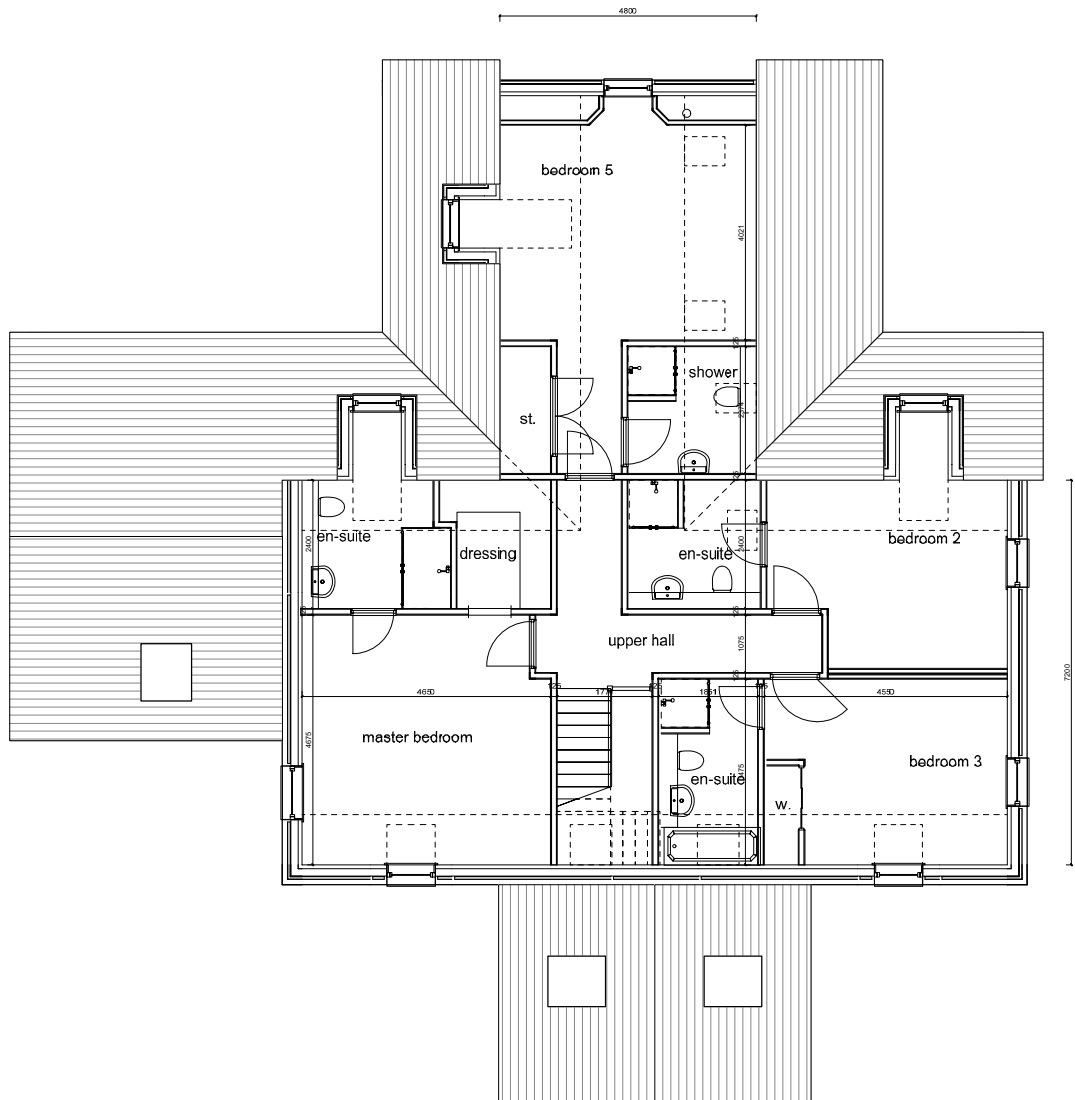


NORTH WEST ELEVATION... 1:100



SOUTH WEST ELEVATION... 1:100

EXTERNAL FINISHES
 Slate roof finish,
 Natural stone to walls as shown,
 Timber cladding to walls as shown,
 White wet dash render to external walls,
 Smooth cement and natural stone base course,
 PVCu fascia and bargeboard,
 Stained redwood windows,
 Black PVCu outters and downpipes.



FIRST FLOOR PLAN... 1:50



Rev. B - lift box GP 20/12/15
 Rev. A - general amendments GP 11/10/15
 REVISION INT. DATE



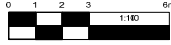
28 Bank Street, Alton, Cambridgeshire FK10 1HP
 Tel: 01223 216500
 email: gfd@greenfieldsdesign.co.uk

Title - First Floor Plan and Elevations
 Project - Plot 2
 MR Paterson
 At Tibbyholm
 Near Kinross

DATE	1:50	DATE	GP
DATE	29-Oct-19	DATE	11595-2-12b
DATE	A1	DATE	Page1

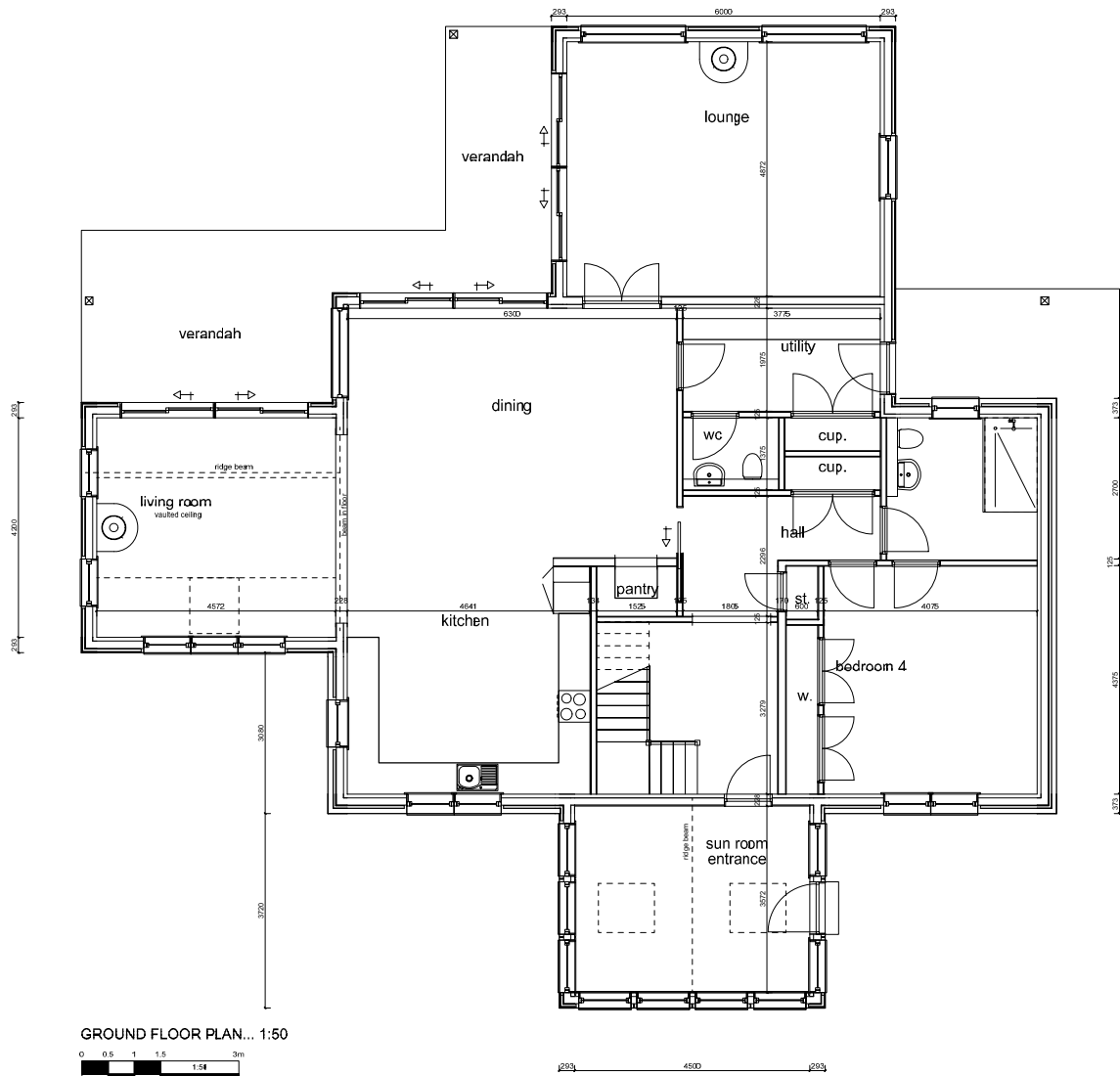


SOUTH EAST ELEVATION... 1:100



NORTH EAST ELEVATION... 1:100

EXTERNAL FINISHES
 Slate roof finish,
 Natural stone to walls as shown,
 Timber cladding to walls as shown,
 White wet dash render to external walls,
 Smooth cement and natural stone base course,
 PVCu fascia and bargeboard,
 Stained rewood windows,
 Black PVCu gutters and downpipes.



Rev. B - lift box GP 2012/15
 Rev. A - general amendments GP 11/13/15
 REVISION INT. DATE

Greenfields Design Ltd.
 architectural and interior design consultants

28 Bank Street, Alton, Cambridgeshire FK10 1HP
 tel: 01223 216500
 email: info@greenfieldsdesign.co.uk

Title - Ground Floor Plan & Elevations
 Project - Plot 2
 M. Paterick
 At Tibbyshie
 Near Kinross

DATE	1:50	GP
DATE	29-Oct-19	11595-2-11b
DATE	A1	Page1

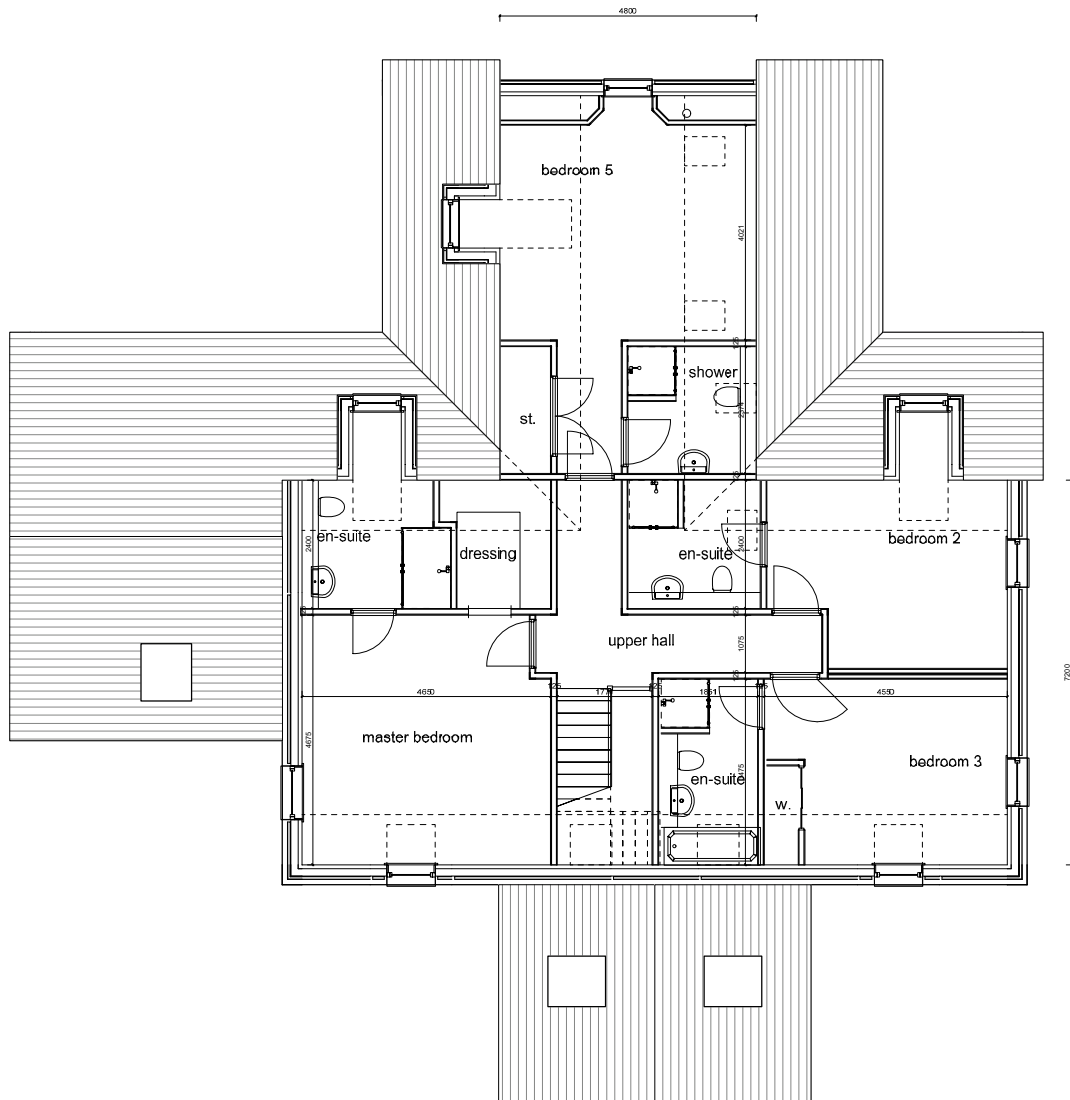


SOUTH EAST ELEVATION... 1:100



NORTH EAST ELEVATION... 1:100

EXTERNAL FINISHES
 Slate roof finish,
 Natural stone to walls as shown,
 Timber cladding to walls as shown,
 White wet dash render to external walls,
 Smooth cement and natural stone base course,
 PVCu fascia and bargeboard,
 Stained redwood windows,
 Black PVCu outlets and downpipes.



FIRST FLOOR PLAN... 1:50



Rev. B - Title box GP 2012/18
 Rev. A - General amendments GP 11/13/18
 REVISION INT. DATE



28 Bank Street, Alton, Cambridgeshire FK10 1HP
 Tel: 01223 216500
 email: gfd@greenfieldsdesign.co.uk

Title - First Floor Plan
 Project - Plot 3
 MR Paterson
 At Tilbury
 Near Kinross

DATE	1:50	SCALE	GP
DATE	28-Oct-19	SCALE	11595-3-12B
DATE	A1	SCALE	Page1

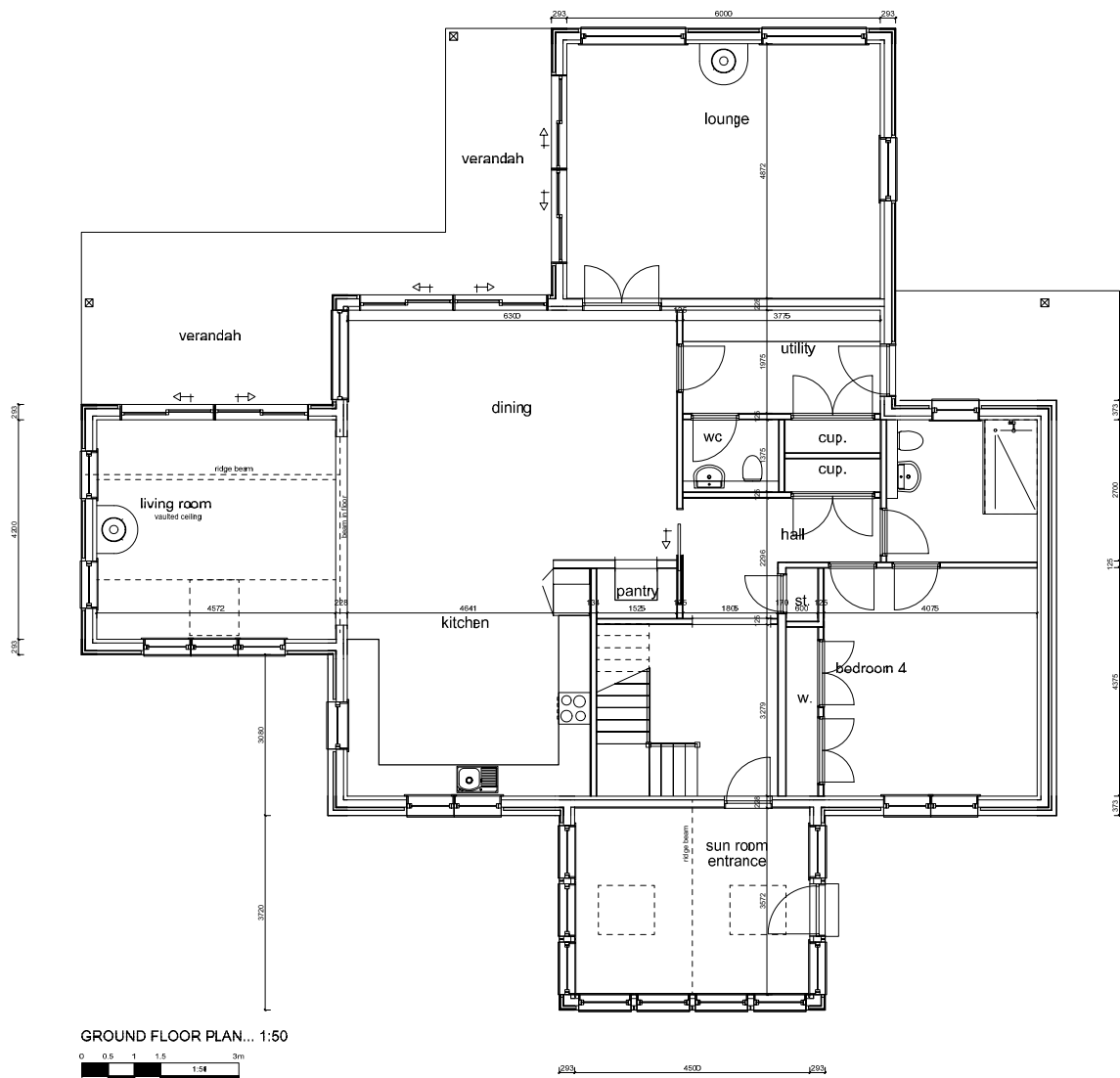


NORTH WEST ELEVATION... 1:100



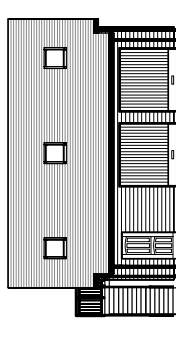
SOUTH WEST ELEVATION... 1:100

EXTERNAL FINISHES
 Slate roof finish,
 Natural stone to walls as shown,
 Timber cladding to walls as shown,
 White wet dash render to external walls,
 Smooth cement and natural stone base course,
 PVCu fascia and bargeboard,
 Stained rewood windows,
 Black PVCu gutters and downpipes.

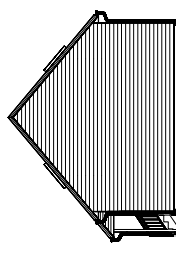


Rev. B - Title box	GP	2012/19
Rev. A - General amendments	GP	11/13/19
REVISION	INT	DATE
Greenfields Design Ltd. architectural and interior design consultants		
28 Bank Street, Alton, Cambridgeshire FK10 1HP tel: 01223 216500 email: info@greenfieldsdesign.co.uk		
Title - Ground Floor Plan Project - Plot 3 M. Paterick At Tillythorpe Near Kinross		
DATE	1:50	GP
DATE	29-Oct-19	11595-3-11b'
DATE	A1	Page1

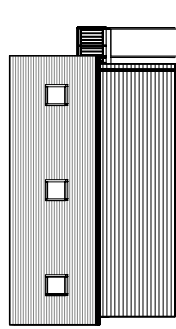
EXTERNAL FINISHES
Natural stone finish to roof
Plaster finish to external walls
Natural stone finish to walls
Natural stone finish to floors
Natural stone finish to stairs and landings
Black UPVC gutters and downpipes



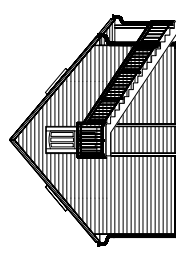
FRONT ELEVATION... 1:100
PLOT 1 - NORTH
PLOT 2 - WEST
PLOT 3 - NORTH EAST



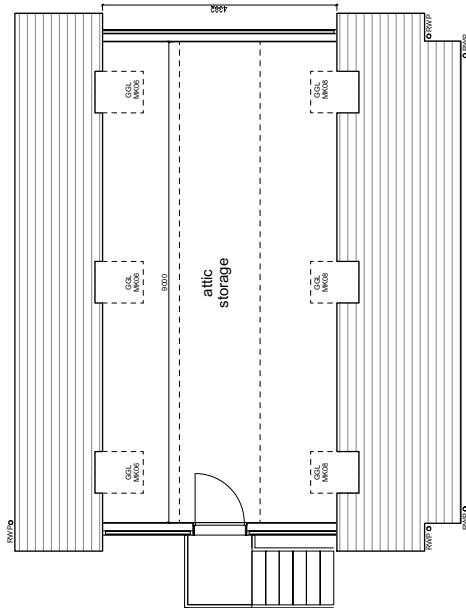
SIDE ELEVATION... 1:100
PLOT 1 - EAST
PLOT 2 - SOUTH
PLOT 3 - NORTH WEST



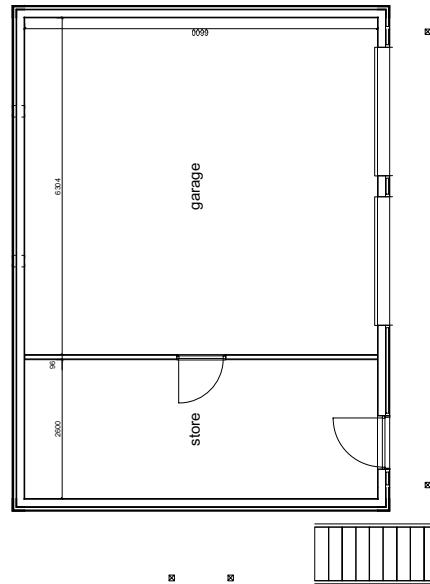
REAR ELEVATION... 1:100
PLOT 1 - SOUTH
PLOT 2 - EAST
PLOT 3 - SOUTH WEST



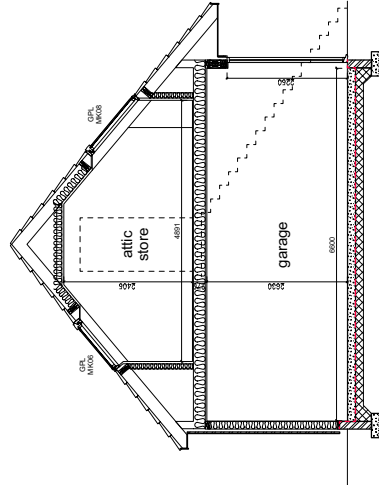
SIDE ELEVATION... 1:100
PLOT 1 - WEST
PLOT 2 - NORTH
PLOT 3 - SOUTH EAST



FIRST FLOOR PLAN... 1:50



GROUND FLOOR PLAN... 1:50



SECTION A-A... 1:50

Rev: C - Title box
Rev: B - External stair removed
Rev: A - External stair removed
REVISION
DATE
DATE

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Tel: 01293 210500
Email: info@greenfieldsdesign.co.uk

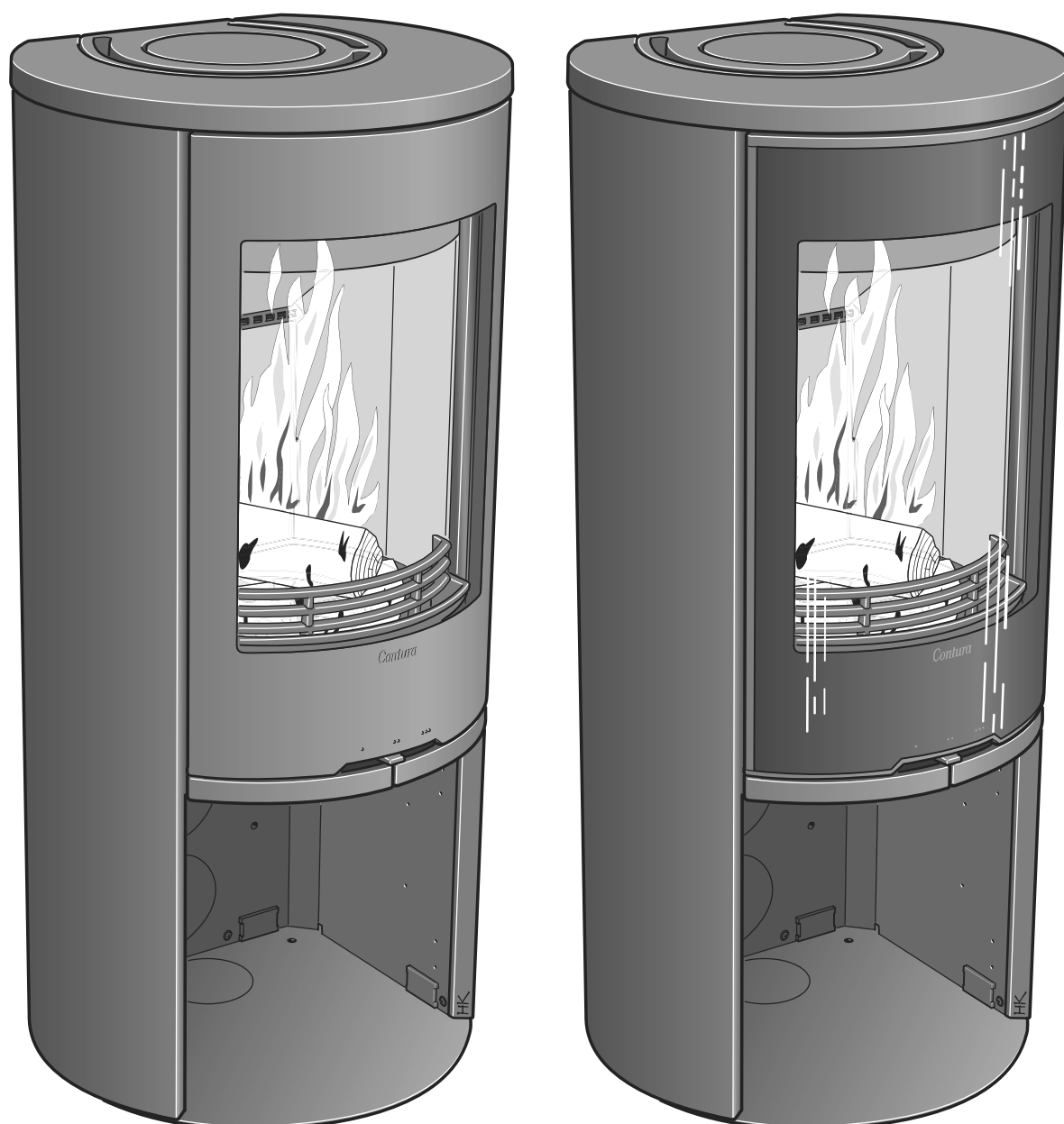
Greenfields Design Ltd.
28 Belford Street, Alderley Edge, Cheshire WA15 9JF
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Greenfields Design Ltd.
28 Belford Street, Alderley Edge, Cheshire WA15 9JF
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Tel: 01293 210500
Email: info@greenfieldsdesign.co.uk

DO NOT SCALE FOR CONSTRUCTION PURPOSES - IF IN DOUBT ASK! DRAWINGS NOT FOR CONSTRUCTION PURPOSES

Installation Instructions



C 510

Contura

DECLARATION OF PERFORMANCE

No. C510-CPR-130601-SE-2

Contura

PRODUCT

Product type Stove lit with solid biofuels
 Type designation Contura 510
 Manufacturing number See rating plate on the stove
 Intended area of use Heating of rooms in residential buildings
 Fuel Wood

MANUFACTURER

Name NIBE AB / Contura
 Address Box 134, Skulptörvägen 10
 SE-285 23 Markaryd, Sweden

CHECKS

According to AVCP System 3
 European standard EN 13240:2001 / A2:2004
 Test institute Rein-Ruhr Feuerstätten Prüfstelle, NB 1625,
 has checked declared performance and issued test report no. RRF-40 15 3859

DECLARED PERFORMANCE

Essential characteristics	Performance	Harmonised technical specification
Reaction to fire	A1 WT	EN 13240:2001 / A2:2004
Minimum distance to combustible material	100 mm to rear 500 mm to side Other safety distances according to the installation instructions	
Risk of falling embers	Approved	
Emissions from combustion	CO 0.09 % NOx 94 mg/m ³ OGC 73 mg/m ³ PM 12 mg/m ³	
Surface temperatures	Approved	
Cleaning options	Approved	
Mechanical durability	Approved	
Emissions of hazardous substances	Approved	
Nominal output	5 kW	
Efficiency	80 %	
Flue gas temperature in connector at nominal output	299°C	

The undersigned is responsible for the manufacture and conformity with the declared performance.



Niklas Gunnarsson, Business area manager NIBE STOVES
 Markaryd, March 17, 2015



A warm welcome to Contura.

A warm welcome to the Contura family. We hope you will get a great deal of pleasure from your new stove. As a new owner of a Contura stove you have secured a product with timeless design and long service life. Contura also has combustion that is both environmentally friendly and efficient for the best heat production.

Read through these installation instructions carefully before installation. Read how to best light your stove in the lighting instructions.

Table of contents

Technical details	52
Prior to installation	53
Connection to chimney	54
Supply of combustion air	55
Installation distances	56
Assembly	57
Installation of the door	58
Removing the hearth surround	59

Technical details

Effect	3-7kW
Nominal effect	5 kW
Efficiency	up to 80%

Model	510
Height (mm)	1066
Width (mm)	495
Depth (mm)	440
Weight (kg)	105

Type approved in accordance with:
 European standard EN-13240
 Swedish environmental marking
 NS 3059 (Norway)
 DIN Plus (Germany)
 Art. 15a B-VG (Austria)
 Clean Air Act. (UK)

Important to remember!

Installation by authorised technician

This manual contains instructions about how the stoves must be assembled and installed. To ensure the function and safety of the stove, we recommend that the installation is carried out by an authorised technician. Contact one of our dealers who can recommend suitable technicians.

Building application

These main instructions may give guidance which would contravene national building regulations. Please refer to supplementary instructions or ask your local authority for advice regarding building regulations. Before installing a stove or erecting a chimney it is necessary for you to make a building application permission to your local authority.

Structural support

Check that the wood joists are strong enough to bear the weight of the stove and chimney. The stove and chimney can usually be placed on a normal wooden joist in a single occupancy house if the total weight does not exceed 400 kg.

Hearth plate

Due to the risk of falling embers, a flammable floor must be protected by a hearth plate. It must extend 300 mm in front of the stove and 100 mm on each side of the stove, or have a 200 mm extension on each side of the opening. The hearth plate can consist of natural stone, concrete, metal plate or glass. A painted metal or glass hearth plate is available as an accessory for these models.

NOTE!

Report the installation of a stove to your local authority.

The owner of the house is personally responsible for ensuring compliance with the mandatory safety requirements and must have the installation approved by a qualified inspector. Your local chimney sweep must also be informed about the installation as this will affect the routines for regular chimney-sweeping services.

WARNING!

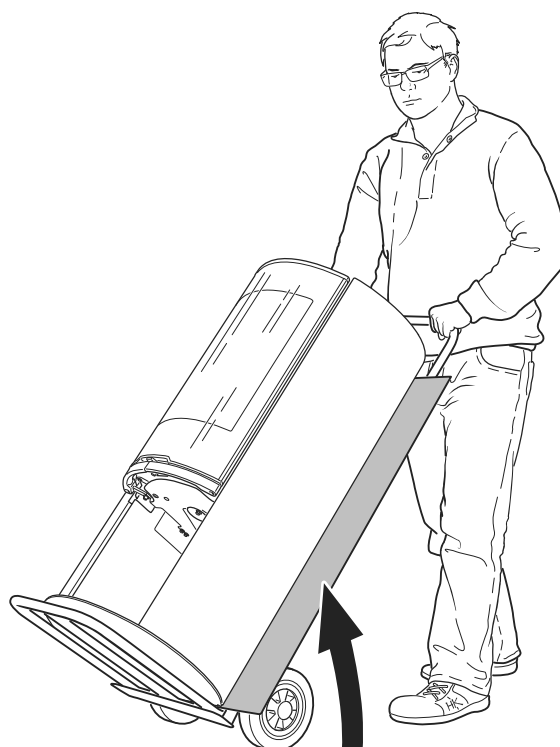
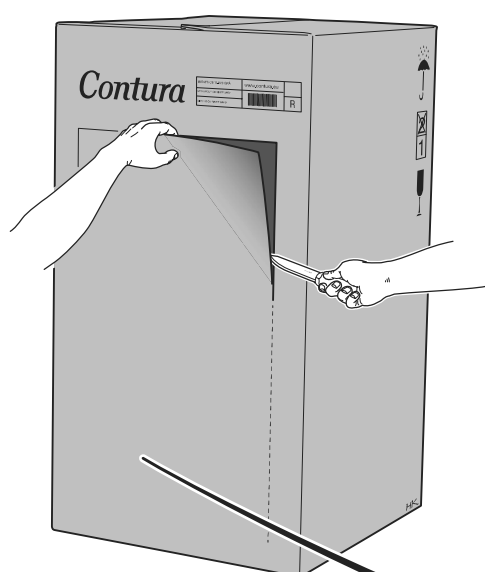
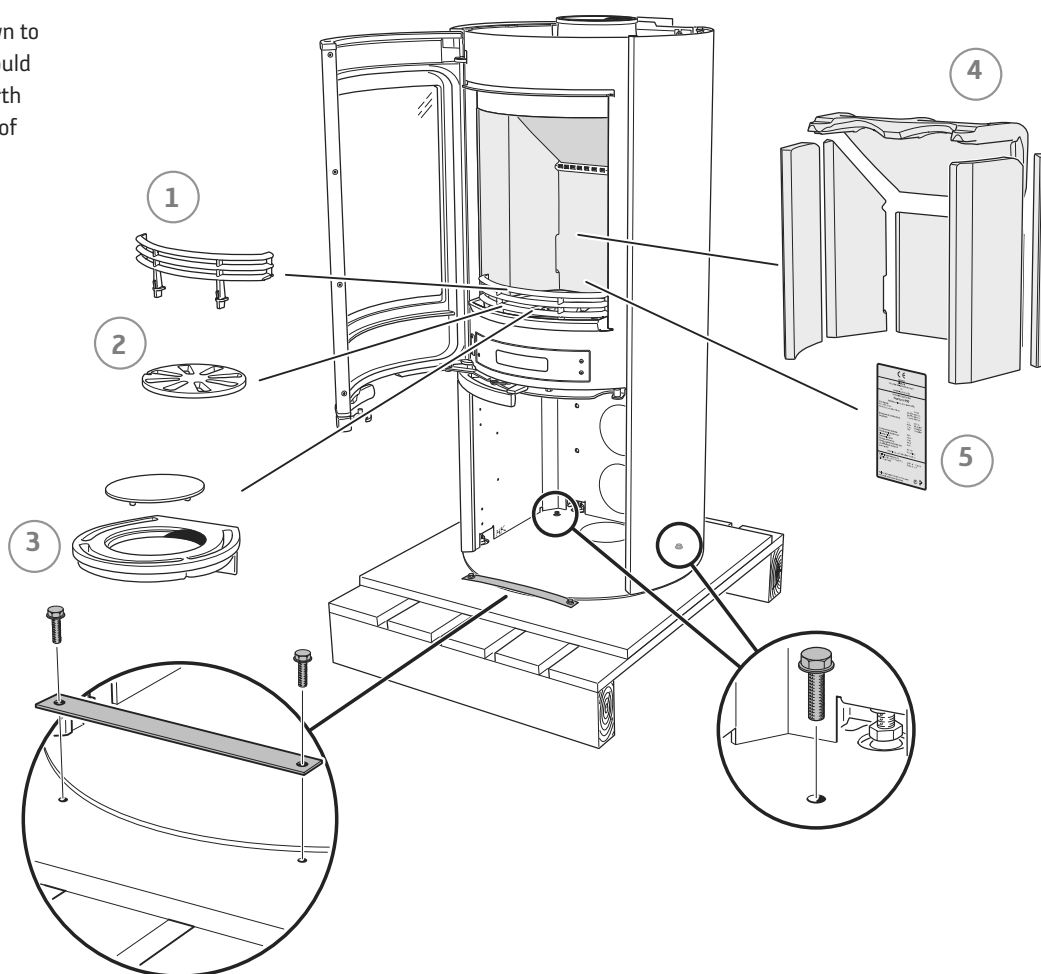
The stove becomes very hot

During operation, certain surfaces of the stove become very hot and can cause burn injury if touched. Be aware of the strong heat radiated through the hatch glass. Placing flammable material closer than the safe distance indicated may cause a fire. Pyre lighting can cause quick gas ignition with the risk of damage to property and personal injury.

Prior to installation

If the insert needs to be put down to be moved, loose components should be removed. Removal of the hearth cladding is described at the end of these installation instructions.

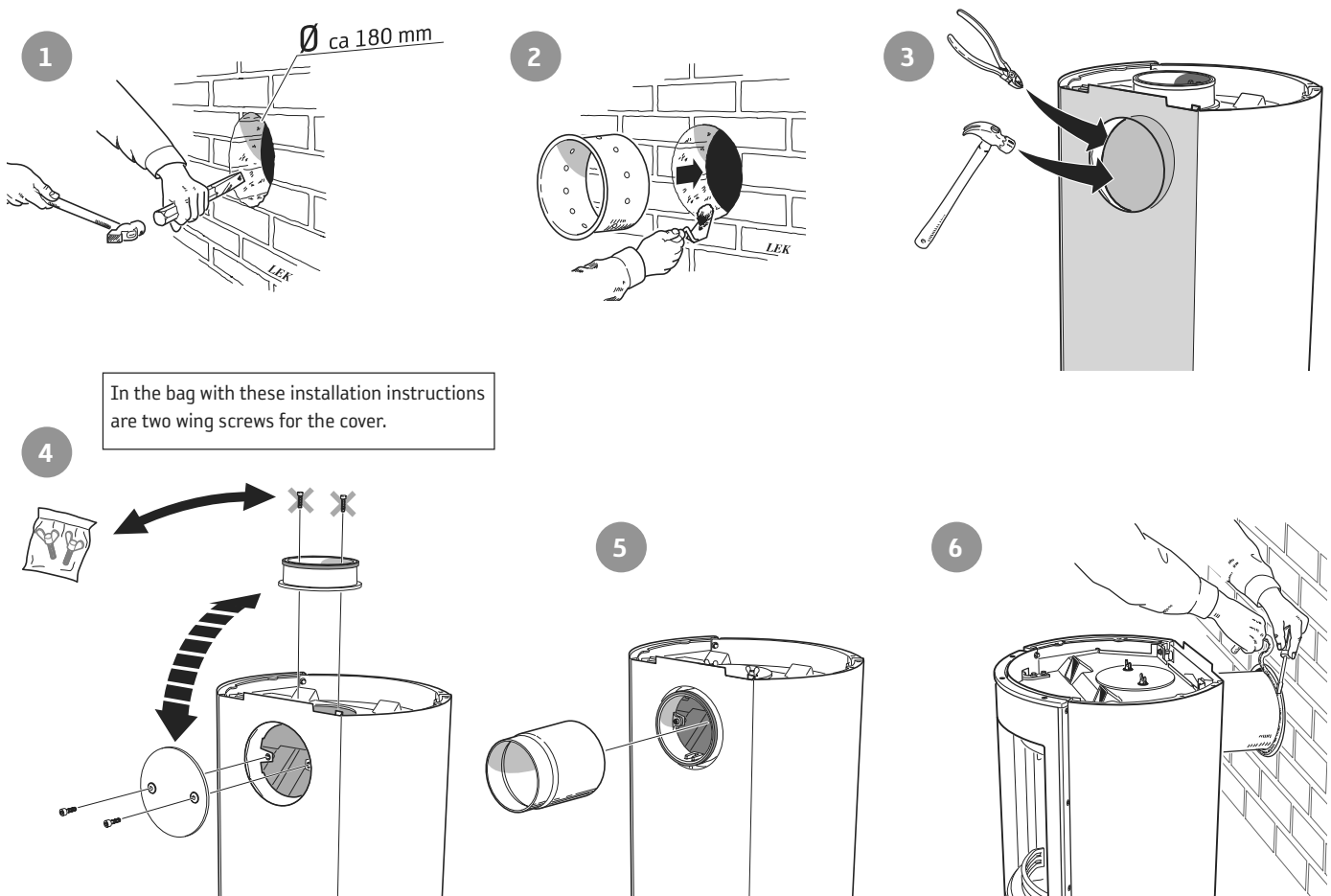
- 1 Fire bars
- 2 Grate disc
- 3 Hot air grate
- 4 Fire bricks (Vermiculite)
- 5 Type plate



Connection to chimney

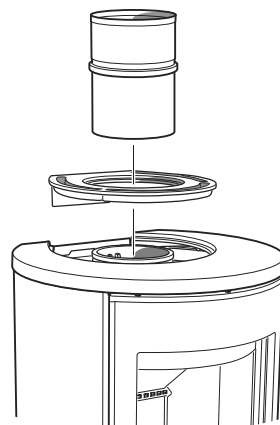
- The stove meets the requirements for connecting to chimneys dimensioned for 350°C flue gas temperature.
- The external diameter of the connection sleeve is 150 mm.
- The stove requires a draft in the chimney of at least -12 Pa. The draft is affected both by the length and area of the chimney, and by how well sealed it is. Minimum recommended chimney length is 3.5 m and suitable cross section area is 150-200 cm² (140-160 mm in diameter).
- A flue with sharp bends and horizontal routing reduces the draught in the chimney. Maximum horizontal flue is 1 m, on the condition that the vertical flue length is at least 5 m.
- It must be possible to sweep the full length of the flue and the soot hatches must be easily accessible.
- Carefully check that the chimney is sealed and that there is no leakage around soot hatches and flue connections.

Rear connection to a masonry chimney



Top connection to the chimney

The hot air grille must be installed before chimney top connection.



Make sure that the connector gasket does not work loose when the connection pipe is placed on the connector. If further sealing material is required, heat-resistant sealant may be used.

Supply of combustion air

When a stove is installed in a room, the demand for air supply to the room increases. Air can be provided indirectly via a vent in the outer wall or via a duct from the outside that is connected to the connector on the underneath of the stove. The amount of air needed for combustion is 15 m³/h.

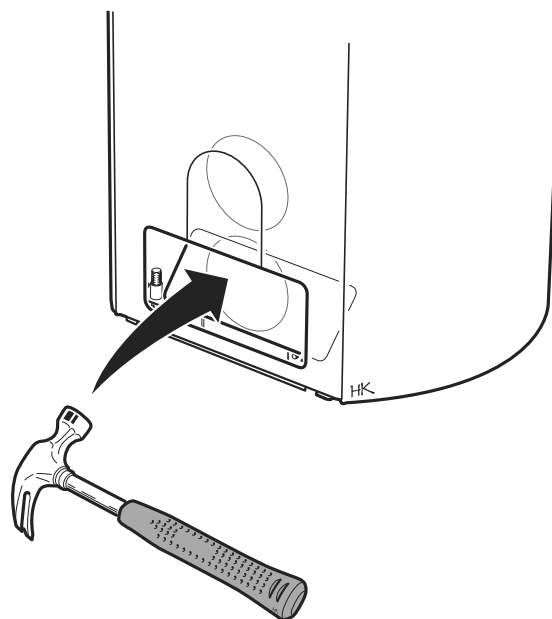
The connector has an external diameter of 67 mm. When duct routing further than 1 m the pipe diameter must be increased to 100 mm and a correspondingly larger wall vent must be selected.

In hot areas the duct should be insulated with 30 mm mineral wool covered with a moisture inhibitor (plastic). It is important that the lead-in between the pipe and the wall (or floor) is sealed using jointing compound.

A 1 m length of condensation insulated ducting for combustion air is available as an accessory.

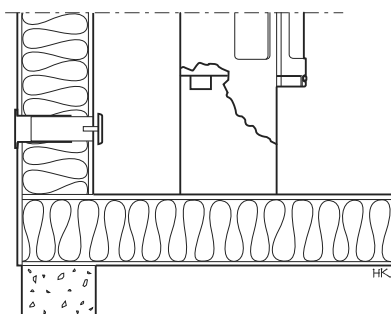


Leave a 40 mm gap between the condensation insulation and the bottom of the stove.

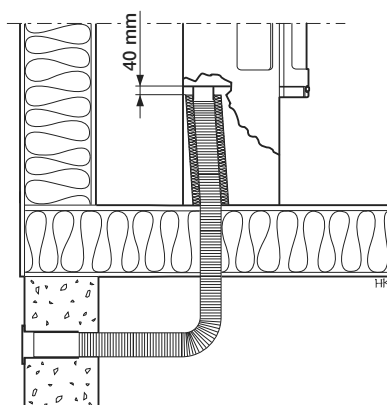


Outside air can be connected through the floor plate or at two different heights through the two panels in the back of the stove. Tap out the knockout using a hammer.

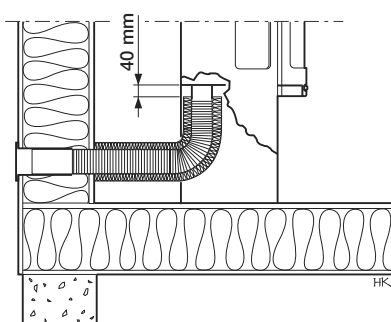
Installation variants



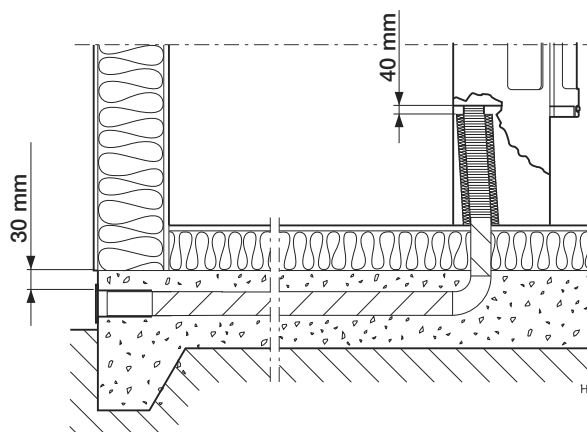
Indirect air supply through the external wall.



Through floor and wall-and-cavity foundation.



Through the external wall.



Through floor and foundation slab.

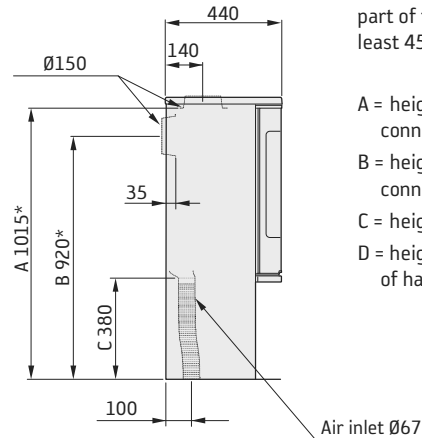
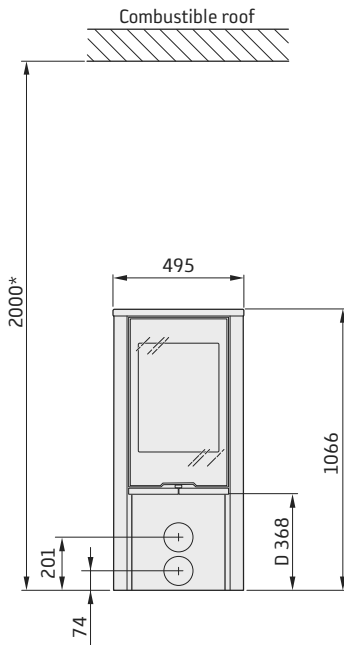
Installation distances

C 510

WHEN INSTALLING TURNABLE (OPTION) the following installation distances do not apply. See the separate turntable installation instructions.



A separate glass hearth plate (accessory) increases the connection height to the chimney by 10 mm. The spacers supplied with the hearth plate are installed on the stove before connection.



The minimum distance in front of the stove opening to combustible parts of the building or interior decoration must be at least 1 m.

The dimension diagrams only show the minimum permitted installation distances for the stove. When connecting to a steel flue, also note the safety distance requirements of the flue. The safety distance between an un-insulated flue and a combustible part of the building should be at least 450 mm.

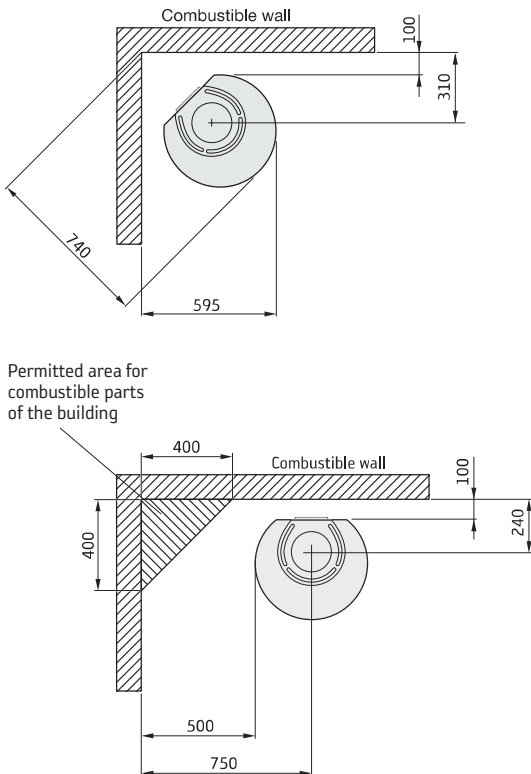
A = height from floor to chimney connection upwards

B = height from floor to c/c chimney connection rear

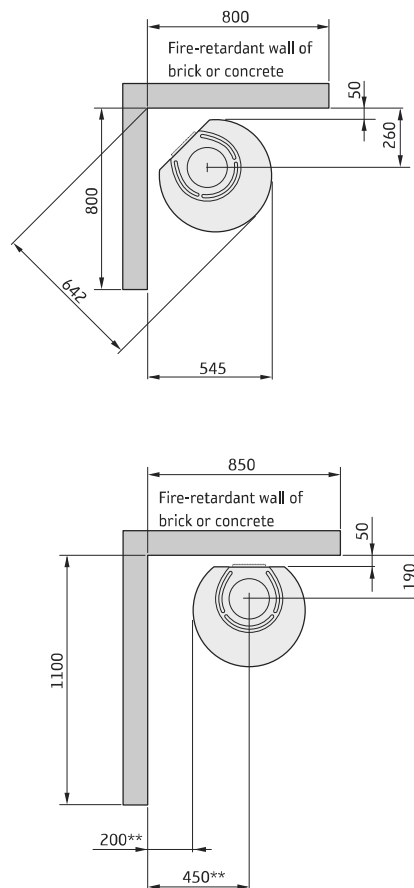
C = height from floor to air inlet

D = height from floor to lower edge of hatch

INSTALLATION AGAINST COMBUSTIBLE WALLS



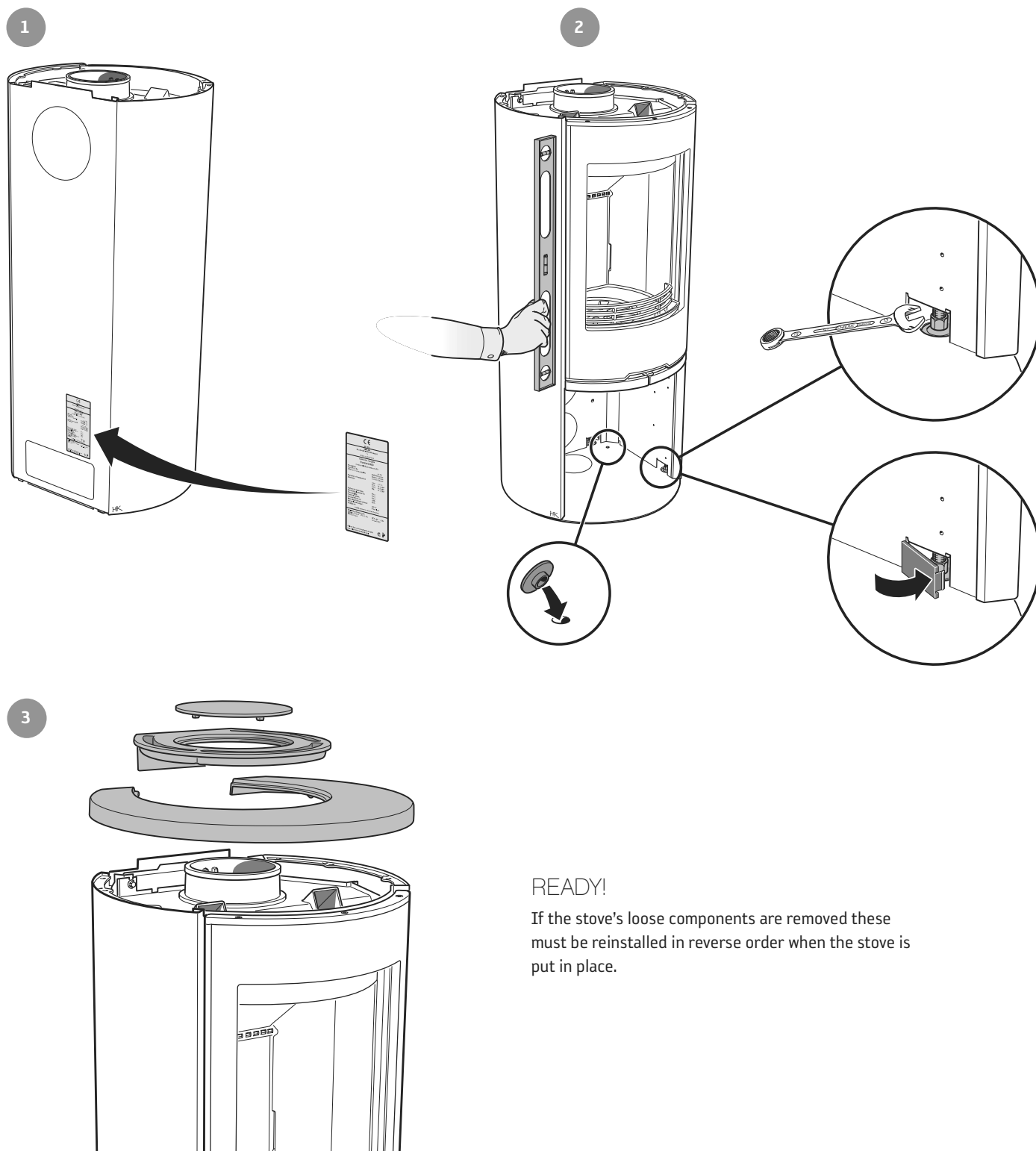
INSTALLATION AGAINST FIREWALLS



* If the stove is placed on a hearth plate made of glass for example (accessory), the height from the floor is affected by a distance corresponding to the thickness of the hearth plate, for a free standing glass hearth plate this is 10 mm.

** To prevent discolouration of painted non-flammable walls we recommend that the same side distance is used to combustible walls is used.

Assembly



READY!

If the stove's loose components are removed these must be reinstalled in reverse order when the stove is put in place.

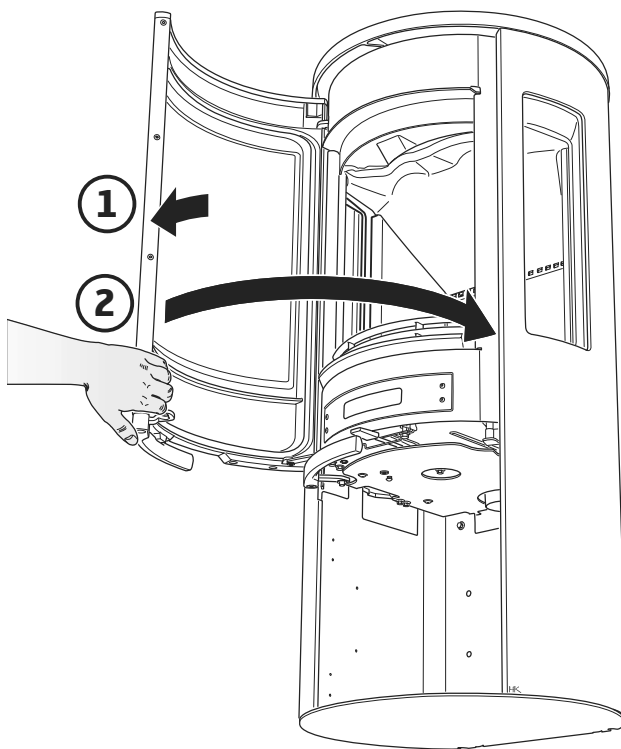
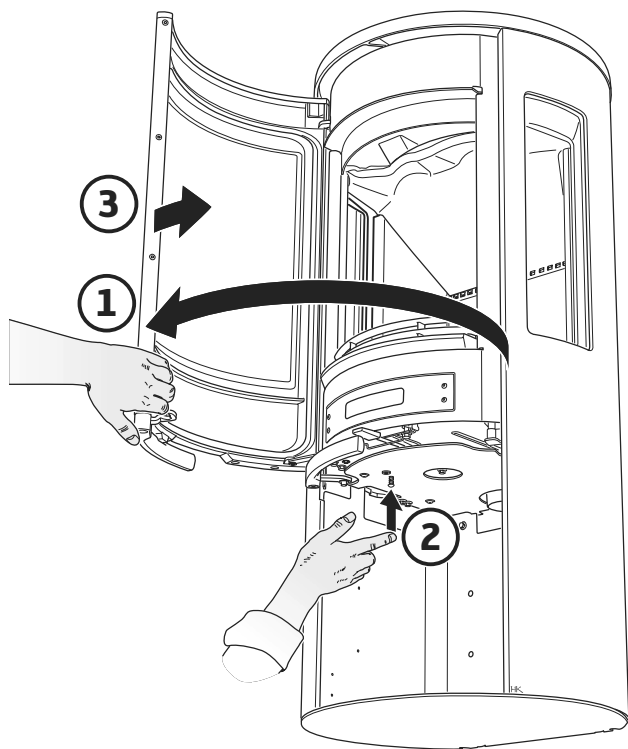
Final inspection of the installation

It is extremely important that the installation is inspected by an authorised chimney sweep before the stove is used. Also read the "Lighting instructions", before lighting for the first time.



Installation of the door

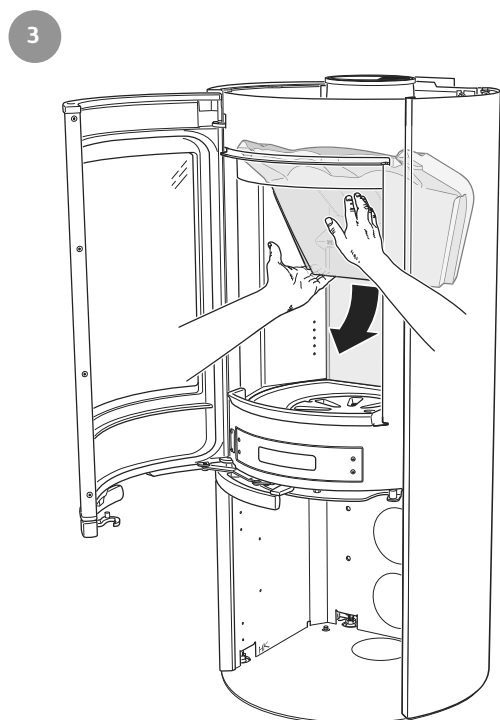
The door can be held in the open position using the push button on the underside of the stove.



Removing the hearth surround

How to remove the hearth surround (Vermiculite)

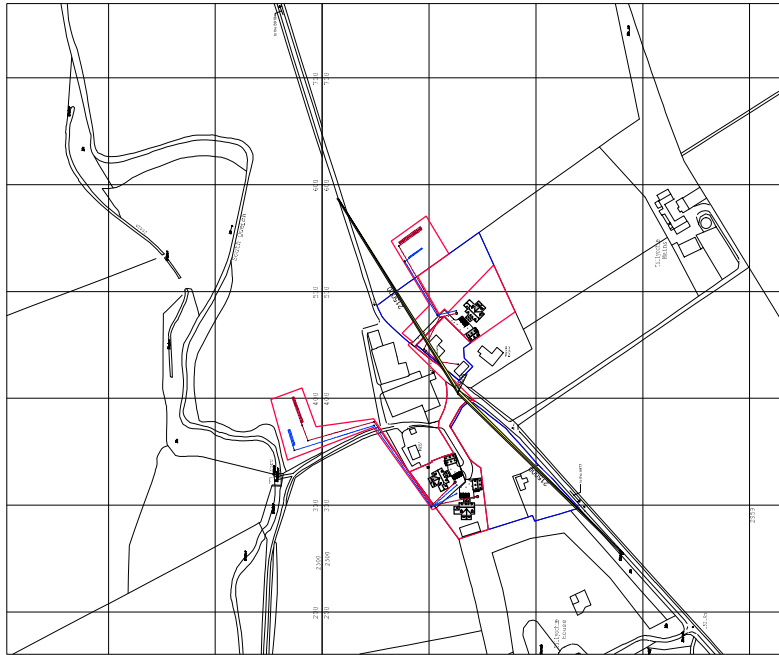
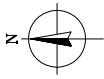
Handle the vermiculite with care. Lift the smoke baffle with one hand whilst removing the sides pieces. Reinstall in reverse order



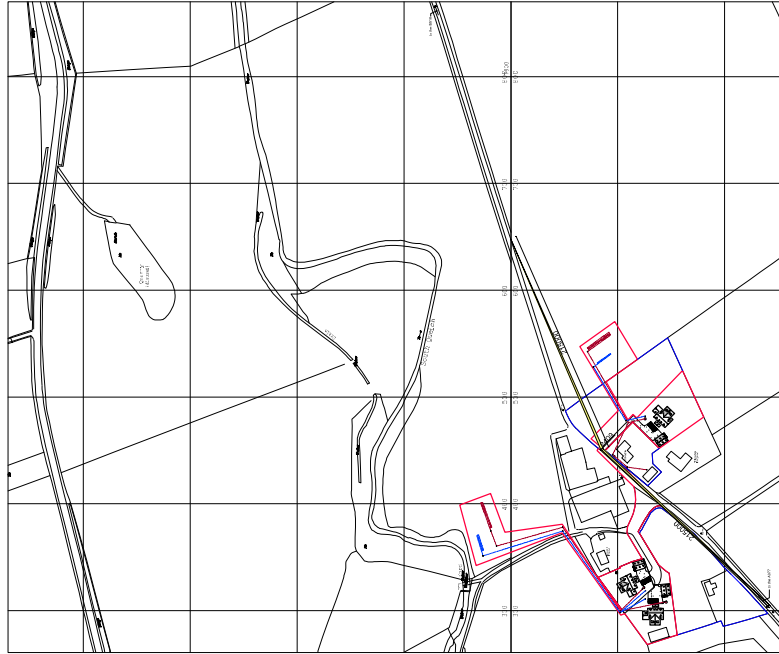
Contura

NIBE AB · Box 134 · 285 23 Markaryd · Sweden
www.contura.eu

Contura reserves the right to change dimensions and procedures described in these instructions at any time without special notice. The current edition can be downloaded from www.contura.eu



PLOT 1 & 2 VISIBILITY SPLAYS... 1:2500



PLOT 3 VISIBILITY SPLAYS SPLAY... 1:2500

SCOTTISH ENVIRONMENT PROTECTION AGENCY
WATER ENVIRONMENT AND WATER SERVICES (SCOTLAND) ACT 2003
WATER ENVIRONMENT (CONTROLLED ACTIVITIES) (SCOTLAND) REGULATIONS
2011 ("THE REGULATIONS")
WATER USE LICENCE

Licence Number: CAR/S/1174300

Responsible Person: Richard Paterson

Site or Location of Activity/Activities Tillyochie
Tillyochie Road
Balado
Perthshire
KY13 0NN

The Scottish Environment Protection Agency, in accordance with regulations 8 and 15 of the Regulations, hereby authorises the carrying on of the controlled activity or activities set out in Schedule 1 of this licence, at or near or in connection with the site or location set out above, subject to the requirements of the Regulations and to the conditions contained in the schedules attached to and forming part of this licence.

The person responsible for securing compliance with this licence and its conditions ("the responsible person") shall be Richard Paterson, of Tillyochie Farm House, Kinross, Kinross-shire, KY13 0NL.

This licence and its conditions shall, except where otherwise provided in any of those conditions, take effect on 07 March 2019.

Signed:
[Redacted Signature]

Date: 07 March 2019

Authorised to sign on behalf of the
Scottish Environment Protection Agency

Right of Appeal

You are entitled to appeal to the Scottish Ministers, within three months of the date of this licence, if you have been granted a form of authorisation which is different from the form of authorisation which you believe ought to have been granted (under regulation 50(b) of the Regulations) or against any condition or conditions of this licence (under regulation 50(c) of the Regulations). The bringing of an appeal against a condition will not have the effect of suspending the operation of the condition. The procedures for the making of an appeal are set out in Schedule 9 of the R

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CONTENTS

INTERPRETATION OF TERMS	2
SCHEDULE 1. CONTROLLED ACTIVITY	4
1.1. Description of Controlled Activity.....	4
1.2. Location of Controlled Activity	4
SCHEDULE 2. GENERAL CONDITIONS	5
2.1. Responsible person.....	5
2.2. Records	5
2.3. Incidents	5
2.4. Environmental Harm	5
SCHEDULE 3. CONDITIONS APPLYING TO THE POINT SOURCE DISCHARGE AS A WHOLE	6
3.1. Nature of Discharge	6
3.2. Discharge Point.....	6
3.3. Sample Point	6
3.4. Operation of Works	6
3.5. Unusual Situations.....	6
3.6. Records and Provision of Information	6
3.7. Treatment Design Standards.....	6
APPENDIX A LOCATION OF CONTROLLED ACTIVITY	8

INTERPRETATION OF TERMS

For the purposes of this licence, and unless the context requires otherwise, the following definitions shall apply:

Generic

"the Act" means the Water Environment and Water Services (Scotland) Act 2003;

"controlled activity" means an activity to which the Regulations apply, in accordance with regulation 3(1) of the Regulations;

"incident" means:

- any accident which has had or could have an adverse impact on the water environment; or
- any malfunction, breakdown or failure of plant or techniques which has had or could have an adverse impact on the water environment; or
- any event, such as force majeure or action taken to save human life or limb, which results, or is likely to result, in a breach of any condition of this licence;

"pollution", in relation to the water environment, means the direct or indirect introduction, as a result of human activity, of substances or heat into the water environment, or any part of it, which may give rise to any harm, and "harm" shall have the same meaning as in the Act;

"the Regulations" means the Water Environment (Controlled Activities) (Scotland) Regulations 2011;

"responsible person" means the person who is responsible for securing compliance with the terms of this licence and has been identified as such by SEPA in accordance with regulation 8(6) of the Regulations, and in this context 'person' includes a body corporate, limited liability partnership and Scottish partnership;

"SEPA" means the Scottish Environment Protection Agency;

"SEPA officer" means a person authorised by SEPA under regulation 31(4) of the Regulations or, pursuant to paragraph 6(c) of Schedule 10 of the Regulations, under regulation 27(4) of the Water Environment (Controlled Activities) (Scotland) Regulations 2005;

"the water environment" means all surface water, groundwater and wetlands; and "surface water", "groundwater" and "wetlands" shall have the same meanings as in the Act;

"watercourse" shall have the same meaning as in the Act;

Point source pollution control

"parameter" means any defined chemical constituent or measurable physico-chemical characteristic of a sample;

"point source discharge" means a discharge of an effluent or other matter to the water environment or land by a fixed installation, pipe, outlet or otherwise;

"sewage" has the same meaning as in section 59 of the Sewerage (Scotland) Act 1968;

"sewage fungus" means a visible microbiological growth usually consisting of a mixture of bacteria, fungus, protozoa and algae;

"sewage treatment works" means any works, apparatus or plant used for the treatment or disposal of sewage and includes a septic tank;

"the STW" means the sewage treatment works at or near to or in connection with which the controlled activities authorised by this licence are carried out;

Any reference to a numbered condition, numbered paragraph, group of conditions, group of paragraphs, schedule, table, appendix or figure or is a reference to the condition, paragraph, group of conditions, group of paragraphs, schedule, table, appendix or figure bearing that number in this licence.

Except where specified otherwise in this licence:

- "day" means any period of 24 consecutive hours,
- "week" means any period of 7 consecutive days,
- "month" means a calendar month,
- "quarter" means a calendar quarter,
- "year" means any period of 12 consecutive months;

and any derived words (e.g. "monthly", "quarterly") shall be interpreted accordingly.

Except where specified otherwise in this licence, any reference to an enactment or statutory instrument includes a reference to it as amended (whether before or after the date of this licence) and to any other enactment, which may, after the date of this licence, directly or indirectly replace it, with or without amendment.



SCHEDULE 1. CONTROLLED ACTIVITY**1.1. Description of Controlled Activity**

- 1.1.1. The controlled activity shall be the discharge of treated sewage effluent to the water environment.

1.2. Location of Controlled Activity

- 1.2.1. The following controlled activity described in Table 1.1 is authorised under licence and shown on plan attached as Appendix A.

Table 1.1 Authorised Activity

Controlled Activity	NGR	Affected Waters	Name/Reference
Discharge of treated effluent	NO 0757 0294	Groundwater	Discharge of treated sewage effluent from Tillyochie development

SCHEDULE 2. GENERAL CONDITIONS**2.1. Responsible person**

- 2.1.1. The responsible person to whom this licence is issued shall secure compliance with the conditions contained in the licence.

2.2. Records

- 2.2.1. A copy of this licence shall be kept such that it is readily accessible for examination by all relevant staff.
- 2.2.2. Unless otherwise specified in a condition of this licence, every record made in compliance with a condition of this licence shall be preserved for not less than 5 years from the date of its being made. Every such record shall be kept as set out in condition 2.2.1 above for not less than one year from the date of its being made and thereafter preserved at a location, previously notified to SEPA in writing, if that location is not the site or location of the authorised activity.
- 2.2.3. All records shall be legible, and any amendment made to any record made in compliance with a condition of this licence shall be made in such a way as to leave the original entry clear and legible. The reason for each amendment shall be explained in the said record.

2.3. Incidents

- 2.3.1. In the event of an incident, the responsible person shall notify SEPA without delay and in any case by the next working day after identification of the incident, using the contact details in the explanatory notes. This notification shall include: the time and duration of the incident, a description of the cause of the incident, any effect on the environment as a result of the incident and any measures taken to minimise or mitigate the effect and prevent a recurrence.
- 2.3.2. Where requested by SEPA, a written report following any incident notified to SEPA should be sent to SEPA at the contact address in the explanatory notes within 14 days of the occurrence of the incident.

2.4. Environmental Harm

- 2.4.1. Other than as specifically permitted or limited by any condition of this authorisation, the authorised activities shall not have a significant adverse impact on, or cause pollution of, the water environment.

SCHEDULE 3. CONDITIONS APPLYING TO THE POINT SOURCE DISCHARGE AS A WHOLE**3.1. Nature of Discharge**

- 3.1.1. The discharge shall consist solely of treated sewage effluent not exceeding a maximum daily volume of 4.2 cubic metres.

3.2. Discharge Point

- 3.2.1. There shall be no direct connection from any foul drain, the treatment facility or the sub-surface irrigation system to any watercourse, ditch, land drain or surface water without prior consent from SEPA.
- 3.2.2. The discharge shall be to land via an infiltration system of minimum surface area 102 m².

3.3. Sample Point

- 3.3.1. A sample point as shown on plan attached as Appendix A shall be constructed, maintained and appropriately identified as a sample point so that a representative sample of the sewage effluent may be safely obtained. All constituents of the discharge shall pass through the said sample point.

3.4. Operation of Works

- 3.4.1. The STW shall be operated and maintained in accordance with the manufacturer's instructions such that:

it remains fully operational, except at times of unavoidable mechanical or electrical breakdown; and

following any such mechanical or electrical breakdown all reasonably practicable means shall be used to return the STW to a fully operating condition.

- 3.4.2. An alarm system shall be provided and maintained to ensure visible/audible notification of failure or breakdown of the treatment plant.

3.5. Unusual Situations

- 3.5.1. On any occasion where unusual weather conditions adversely affect the operation of the treatment system, all reasonably practicable means shall be used to mitigate that adverse effect.

3.6. Records and Provision of Information

- 3.6.1. A record of maintenance work carried out shall be maintained and kept available for inspection by SEPA Officers on request.

3.7. Treatment Design Standards

- 3.7.1. Prior to discharge, the sewage effluent shall be treated by a system designed to produce an effluent of mean quality not exceeding:

10 milligrams per litre of biochemical oxygen demand (determined in the presence

of excess allyl-thiourea after 5 days at 20°C); and

5 milligrams per litre of ammoniacal nitrogen.

15 milligrams per litre of suspended solids (measured after drying at 105°C).

2 milligrams per litre of phosphorous



[illegible]

EXPLANATORY NOTES

(These explanatory notes do not form part of the licence)

The Water Framework Directive

The Water Framework Directive (WFD) is a wide-ranging piece of European environmental legislation which became law in Scotland at the end of 2003 through the Water Environment and Water Services (Scotland) Act 2003 and in April 2006 through the Water Environment (Controlled Activities) (Scotland) Regulations 2005. In March 2011, the Water Environment (Controlled Activities) (Scotland) Regulations 2005 were replaced with the Water Environment (Controlled Activities) (Scotland) Regulations 2011 ("the Regulations", also known as CAR).

The WFD establishes a legal framework for the protection, improvement and sustainable use of the water environment across Europe by requiring member states to:

- Prevent deterioration and enhance status of aquatic ecosystems, including groundwater;
- Promote sustainable water use;
- Reduce pollution; and
- Contribute to the mitigation of floods and droughts.

The Regulations set out the regulatory framework for achieving some of the aims of the WFD in Scotland, through a regime for authorising "controlled activities", e.g. point source discharges, abstractions, impoundments and engineering activities. They provide for three levels of authorisation, dependent on the risks associated with a controlled activity. A licence is the highest level of authorisation.

Having differing levels of authorisation allows for proportionate and cost-effective controls, so that environmental protection can be achieved whilst minimising the regulatory burden.

Water Efficiency

Regulation 5 of the Regulations imposes a general duty to use water efficiently:

"It is the duty of any person carrying out a controlled activity authorised under these Regulations to take all reasonable steps to secure efficient and sustainable water use."

For example, water efficiency could be the management of the total quantity of water abstracted from a source of supply using measures to minimise wastage, optimise use and reduce consumption.

The means of achieving this can be varied but may include good housekeeping, management systems and procedures, reusing and recycling water and the redesign of operations.

Water audits are the first step to using water efficiently. Water audits develop an understanding of the water system, enable detection of leakages and areas of water wastage and are a means of identifying opportunities for reduced water use.

Appeals

If you are aggrieved by any of the conditions of the licence or the level of authorisation, you may appeal to the Scottish Ministers. Further information on your right of appeal and the appeals procedure is contained in regulations 50 to 53 and Schedule 9 of the Regulations.

Formal notice of appeal under regulation 50(b) or (c) is to be given within three months of the date that the licence is issued. Paragraph 2 of Schedule 9 lists the documents that the appellant has to submit to the Scottish Ministers.

Subsistence Charges

An annual subsistence charge may be payable in respect of the licence in terms of the current Water Environment (Controlled Activities) Fees and Charges (Scotland) Scheme, copies of which are available from SEPA. Where a subsistence charge is payable, an invoice will be sent to you.

The charging scheme provides that it is a condition of every authorisation that the fees and charges prescribed in the scheme are paid in accordance with the scheme. Failure to pay such charges may therefore constitute an offence.

General Statutory Requirements

A licence under the Regulations does not disapply any other statutory requirements applicable to the licence holder or his/her operations, such as any need to obtain planning permission or a building warrant, or any responsibilities under legislation for health, safety and welfare in the workplace.

Contact Details for Notifications

The contact address and telephone number for notifications in terms of condition 2.3.1 and/or conditions **Error! Reference source not found./Error! Reference source not found.** of the licence is as follows:

Scottish Environment Protection Agency
Pentland Court
The Saltire Centre
Glenrothes
Fife
KY6 2DA

During office hours

Tel No: 01592 776 910
Fax No: 01698 738 155

Out of office hours and public holidays

Tel No: 0800 80 70 60

Address for Reports and Submissions

The contact address for all information to be reported or submitted in terms of condition 2.3.2 of the licence is as follows:

The Registry
Scottish Environment Protection Agency
Angus Smith Building
6 Parklands Avenue
Eurocentral
Holytown
North Lanarkshire
ML1 4WQ
registryangussmith@sepa.org.uk

SEPA Review and Variation of Conditions

The conditions of the licence will be periodically reviewed by SEPA and may be varied under regulation 22 of the Regulations as a result of that review.

Operator-Initiated Variation of Conditions

The responsible person may apply to SEPA under regulation 24 for a variation of the conditions of the licence.

Transfer of Authorisation

A responsible person may apply to transfer the licence to another person under regulation 25 by making a joint application with the other person.

Surrender of Authorisation

Where the controlled activities authorised by the licence have ceased, or it is intended that the controlled activities will cease, the responsible person may apply to SEPA to surrender the licence under regulation 27.

Suspension and Revocation of Authorisation

SEPA may at any time suspend or revoke an authorisation (in whole or in part) by serving a notice on the responsible person under regulation 29.

Enforcement Notices

Where SEPA is of the opinion that an activity

- a) has contravened, is contravening or is likely to contravene any condition of the licence or
- b) has caused, is causing or is likely to cause significant adverse impacts on the water environment or
- c) has caused, is causing or is likely to cause a direct or indirect discharge into groundwater of any hazardous substance (as determined pursuant to Schedule 2 of the Regulations) or any other pollutant

SEPA may serve an enforcement notice on the responsible person under regulation 32.

This notice will specify the steps to be taken by the responsible person which SEPA considers to be necessary or appropriate to prevent, mitigate or remedy the contravention, the impact on the environment or the discharge into groundwater.

Offences

It is an offence to carry on, or cause or permit others to carry on, any controlled activity except insofar as it is authorised under the Regulations and carried on in accordance with that authorisation.

It is an offence to fail to comply with or contravene, or cause or permit others to fail to comply with or contravene, a water use licence, including any condition imposed.

It is an offence to fail to comply with, or cause or permit others to fail to comply with, the requirements of an enforcement notice.

It is an offence to intentionally make, or cause or permit others to make, a false entry in any record required to be kept under a condition of an authorisation.

Further details on these and other offences and on penalties liable to be imposed upon conviction for an offence are provided in regulation 44 of the Regulations.

Directors, managers and other individuals within a company may be held personally liable for offences under the Regulations.

All personnel who are responsible for fulfilling any condition of the licence should be made aware of these facts.

Please note that your licence authorises you to carry out the activity or activities outlined in your application to SEPA in accordance with the licence and its conditions. Be aware, however, that any activity outwith the terms of the licence is prohibited under regulation 4 of the Regulations. Should you undertake any activity which does not conform to the terms of your licence, you may be subject to criminal proceedings in accordance with regulation 44(1)(a) and/or (d) of the Regulations. This prohibition encompasses any activity which is liable to cause pollution of the water environment. Section 20 of the Water Environment and Water Services (Scotland) Act 2003 includes definitions of "pollution" and "water environment".

The statutory definition of pollution, as set out in that section, is as follows:-

"Pollution", in relation to the water environment, means the direct or indirect introduction, as a result of human activity, of substances or heat into the water environment, or any part of it, which may give rise to any harm, and "harm" means –

- a) harm to the health of human beings or other living organisms,*
- b) harm to the quality of the water environment, including-*
 - i) harm to the water environment taken as a whole,*
 - ii) other impairment of or interference with, the quality of aquatic ecosystems or terrestrial ecosystems directly depending on aquatic ecosystems,*
- c) offence to the senses of human beings,*
- d) damage to property, or*
- e) impairment of, or interference with, amenities or other legitimate uses of the water environment.'*

Population Equivalent (PE)

The discharge quality and flow conditions attached to this licence are based on a design PE of 28 as stated in the licence application.

In this context, "population equivalent" means a measure of the organic biodegradable load calculated on the basis of the maximum weekly load entering the STW during the year, excluding unusual events such as those due to high rainfall, where one population equivalent is the organic biodegradable load that has a 5-day biochemical oxygen demand (BOD5) of 60g oxygen per day.

Discharges to Land

For sewage discharges to land, the design and construction of the infiltration system or soakaway should be in accordance with the current Building (Scotland) Regulations 2004. Section 3 of the Technical Handbook, Scottish Building Standards Agency (available at <http://www.scotland.gov.uk/Topics/Built-Environment/Building/Building-standards/publications/pubtech>) provides guidance on achieving compliance with the Building (Scotland) Regulations 2004. The Building Control section of your local authority should be contacted for advice.

Date:- 25/03/2019
 By:- GF
 Project No:- 601393
 Rev: P1

Project title:- Tillyochie Housing Development

Average amount of water per person per day	150	litres
Primary treatment (septic tank - standard discharge)	10	mg P/litre
Daily discharge of phosphorus (per person) from primary treatment	1,500	mg P
Tertiary treatment (SBR with phosphate precipitation)	2	mg P/litre
Daily discharge of phosphorus (per person) from treatment	300	mg P / person

Proposed Development		
3No. 5 Bedroom House + Detached Garages (Considered 2No. P.E. per Garage)	27	P.E.
10% reduction factor for PE 12-24, 20% reduction factor for PE 25-50	22	P.E.
Tertiary treatment (SBR with phosphate precipitation)	2	mg P/l
Daily discharge of phosphorus	6,480	mg P / day

Phosphorus Mitigation		
Mitigation requires a reduction of 125% of the amount of phosphorus to be discharged from the new development	8,100	mg P / day
Mitigation is proposed by upgrading an existing 5 bedroom property with tertiary treatment (Biodisc with phosphate precipitation)		
Required P.E. to be Mitigated Against	7	P.E.
Existing phosphorus discharge	10,500	mg P / day
Phosphorus discharge after upgrade	2,100	mg P / day
Mitigation offered is by proposals	8,400	mg P / day
Mitigation exceeds the requirements, therefore OK		



Millard

More than civil engineers



Proposed Development at
Tillyochie, Perth and
Kinross

Flood Risk Assessment

Ref: 15634/AB/681
January 2020



CLIENT: Mr R. Paterson

ENGINEER: Millard Consulting
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CONTENTS

1.0	Introduction
2.0	General Description of Site
3.0	General Observations
4.0	Estimation of Flood Flows.....
5.0	Predicted Flood Levels.....
6.0	Proposed Mitigation and Management of Flood Risk
7.0	Conclusions
8.0	References

Appendix A: WINFAP output

Appendix B: Flood Modeller output

Appendix C: Results from ReFH2 Flow Analysis (Revitalised Flood Hydrograph Method – Version 2)

Appendix D: Output from HECRAS Model

Appendix E: FRA Checklist

PLANS

15634/21/001	Predicted Q200 Flood Extent and Cross Section Location Plan
570/1	Site 1 Topographic Survey (survey of eastern site area by Benchmark Land Surveys)
570/2	Site 2 Topographic Survey (survey of western site area by Benchmark Land Surveys)
11595-S-11c	Site Plan (Greenfields Design Ltd drawing)

1.0 Introduction

Millard Consulting have been instructed to carry out a Flood Risk Assessment in relation to a proposed residential development on land at Tillyochie in Perth and Kinross. The site is split into two areas, both of which currently consist of open ground.

For a development such this, it is normal to assess flood risk for a 1 in 200 year flood event. The potential impact of climate change should also be quantified as part of the assessment.

1.1 Scope and Methodology

The scope of this Flood Risk Assessment is to assess and quantify flood risk to the proposed development. Flood risk to the development will be assessed for a 1 in 200 year flood event. The potential impact of climate change will also be quantified as part of the assessment.

To assess flood risk to the development a topographical survey has been undertaken by Benchmark Land Surveys. They have also surveyed cross sections through the South Queich in the vicinity of the site to enable a hydraulic model to be constructed. The survey was preceded by a site walkover to confirm the extent of survey required.

Using several methods, the Q200 flood flow for the South Queich will be assessed and applied in the hydraulic model. The results provided by the hydraulic model will then be utilised with the topographical survey to assess flood risk to the site.

Once flood risk to the site has been assessed and quantified, recommendations for the site from the perspective of flood risk will then be made.

The assessment is prepared using our best engineering judgement but there are levels of uncertainty implicit in the historical data and methods of analysis. Details of the range of possible error in the methods of flood estimation are given in the Flood Estimation Handbook (FEH).

An FRA checklist has been prepared, and is enclosed within Appendix E.

This Flood Risk Assessment is carried out in accordance with the requirements of the Scottish Planning Policy (SPP) (Scottish Government, 2014). This assessment uses a set of procedures originally set out in the Flood Estimation Handbook (Institute of Hydrology, 1999) and embodied in the FEH and WINFAP software packages currently used.

2.0 General Description of Site

The proposed development site is located within the small, rural settlement of Tillyochie, approximately 3.5km to the west of Kinross. Irregular in shape, the site comprises two areas, bisected by a main road, which runs from south west to north east. The area to the west of the road slopes from west to east, and is approximately 3000m². The area to the east of the road covers approximately 3,500m² and is generally flat. The site is centred on National Grid Reference NO 074 028. The site location is shown in red, in Figure 1 below:

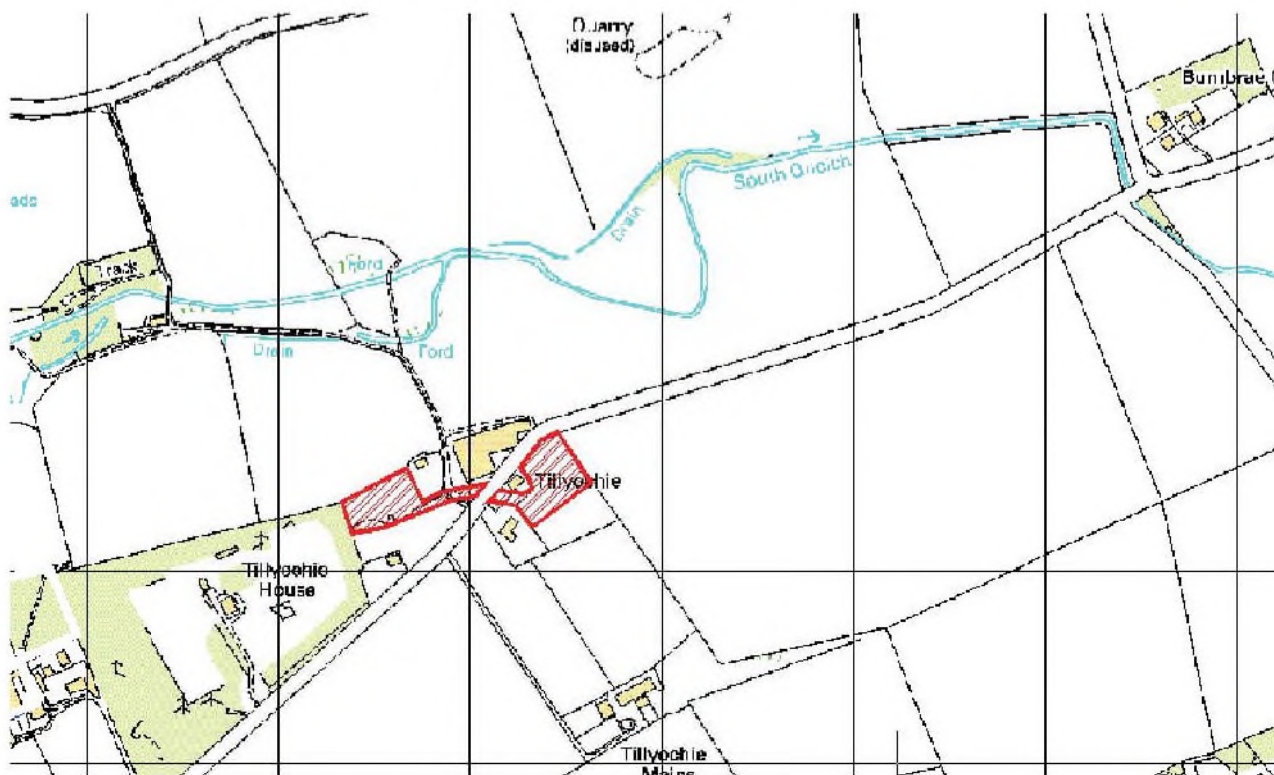


Figure 1 – Site location plan

The site areas are currently open, grassed fields, while the immediate surrounding area comprises four residential properties, arable farmland and various farm buildings. The site areas are approximately 100m apart, and both have sloping topography. The most westerly site area is at a higher elevation than the easterly site, with its lowest level approximately 4m higher than the highest level on the eastern site.

The main flood risk to the sites is from the South Queich, which flows generally in an easterly direction to the north of the site. At its closest point, the watercourse is some 130m from the lower site. In the vicinity of the site the South Queich has a gently meandering course. The watercourse could be described as clean, winding, with some pools and shoals. There are also man made drains located in the vicinity of the watercourse, however these are at a similar level to the South Queich, and do not need to be separately considered in this assessment. In the vicinity of the site the flood plain consists of farmland, generally grassed fields, however there are areas of cropped fields.

There are two structures located on the South Queich in the vicinity of the site; the first is approximately 110m upstream of the western site area, and the second is some 880m downstream of the eastern site area. Both bridges are old masonry arch bridges. The hydraulic model begins just downstream of the upstream bridge, but includes the bridge downstream of the site. This bridge is on the road which runs through Tillyochie, and is located immediately adjacent to the junction between this road and the B918.



Photograph 1 – looking downstream from the road bridge to the east of the site.



Photograph 2 – looking upstream from the road bridge downstream of the site.



Photograph 3 – taken from the road bridge downstream of the site, looking in a south westerly direction along the road towards the site. The site is located adjacent to the buildings in the distance in the centre of the photograph. Road levels drop from the bridge in a south westerly direction, before rising again before reaching the site.



Photograph 4 – a view of the downstream side of the road bridge downstream of the site.



Photograph 5 – looking downstream on the South Queich from approximately the location of cross section 6.



Photograph 6 – looking upstream on the South Queich from approximately the location of cross section 8.



Photograph 7 – looking downstream on the South Queich from approximately the location of cross section 12.



Photograph 8 – looking upstream on the South Queich from a location between cross sections 13 and 14.



Photograph 9 – taken from a similar location to Photograph 8, looking in a south easterly direction. The western site area is located at the top of the hill, beyond the end of the trees in the top left of the photograph.



Photograph 10 – looking in a north easterly direction along the north western boundary of the western site area.



Photograph 11 – taken from the same location as Photograph 10, looking in an easterly direction across the western site area.



Photograph 12 – looking in a south westerly direction across the eastern site area.

3.0 General Observations

The objective of this flood risk assessment is to analyse the flows in the watercourse and define the appropriate flood levels and flood envelope affecting the site.

The proposed layout of the housing development should not occupy floodplain or constitute landraising/loss of flood storage. It is also important to demonstrate that there will be safe access/egress from the site during times of severe flooding.

Current site proposals show two new properties on the western site area, and a third property on the eastern site area. For the current site layout proposals, please refer to Greenfields Design Ltd drawing 11595-27, enclosed within the "Plans" section of this report.

The site is located within the Forth area in the latest climate change guidance produced by SEPA. An uplift of 40% should therefore be applied to estimated flood flows to account for the potential impact of climate change.

4.0 Estimation of Flood Flows

In order to define the extent and water surface level of the 200 year (0.5% annual probability) floodplains, we have made an assessment of flood flows and flood levels in the South Queich using both the FEH Statistical Method and the FEH Rainfall Runoff Methods, which are outlined in the Flood Estimation Handbook (FEH), and the Revitalised Flood Hydrograph Method (Version 2). The estimated flowrate has then been factored up by 40% to allow for the potential influence of climate change (following established practice, and in line with guidance from the UK Climate Impacts Programme).

4.1 FEH Statistical Method

4.1.1 Estimation of Index Flood Q_{MED}

In order to define the extent and water surface level of the 0.5% annual probability floodplain, we must first estimate the Index Flood, Q_{MED} , using the methods outlined in the Flood Estimation Handbook (FEH). For the subject site, the flood flows need to be estimated for the South Queich.

There is a gauging station on the South Queich, some distance downstream of the site at Kinross. SEPA were approached for the latest annual maxima data for the station, however SEPA hydrology have advised that the station is currently under review, with results unreliable, and have recommended flood flows are estimated without using data from the South Queich gauge.

Following the above information from SEPA, flood flows will therefore be estimated using Catchment Descriptors method, and adjusted using flow records from donor sites. This method is described in Volume 3, Chapter 13, of the FEH. The catchment descriptors define various physical and hydrological properties and characteristics of the land that forms the catchment upstream of the point of interest. The formula also includes variables that define the statistical rainfall pattern within the catchment. There is a further adjustment to the formula that accounts for the degree of urbanisation of the catchment.

The method produces the mean annual flood Q_{MED} – the index flood – which is the flood flow along the river or floodplain that is statistically “exceeded on average every other year”. It is roughly equivalent to the two-year flood. The exercise is done using the FEH and WINFAP software.

The extent of the watercourse catchment upstream of the site, as defined by the FEH Web Service, is shown together with a listing of the catchment descriptors in Figures 2 and 3 below. The catchment size derived by the FEH Web Service is 16.83km². This has been checked on OS mapping and confirmed as appropriate.

The WINFAP-FEH estimation of Q_{MED} from catchment descriptors is 9.495m³/s.

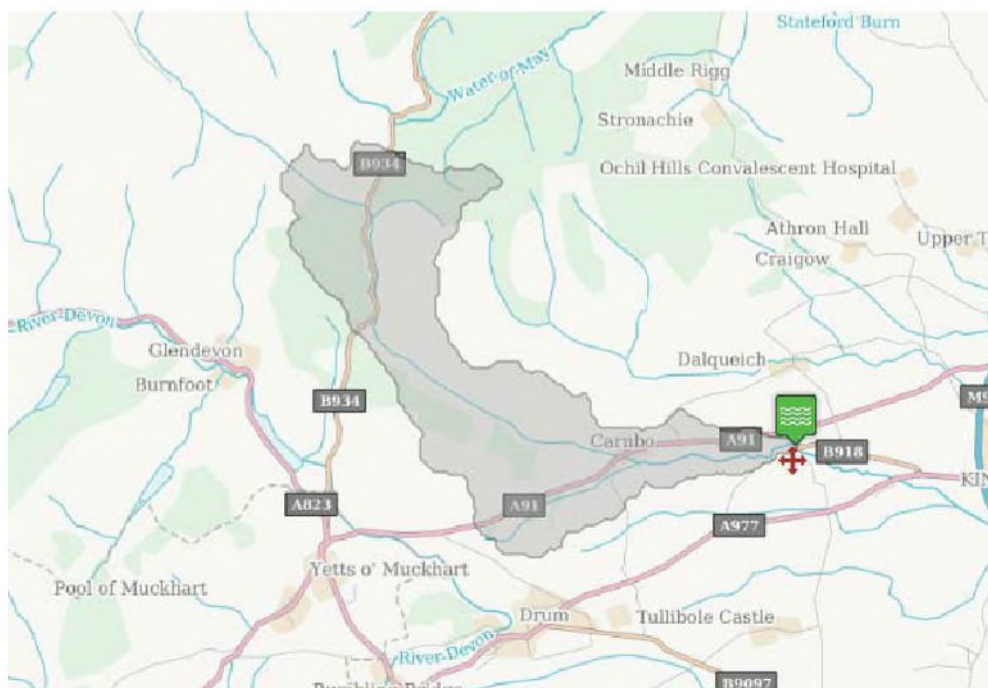


Figure 2 – Catchment of South Queich at Tillyochie (FEH Web Service, 2019)

AREA	16.825		
ALTBAR	275		
ASPBAR	141		
ASPVAR	0.21		
BFIHOST	0.517		
BFIHOST19	0.394		
DPLBAR	7.11		
DPSBAR	162.8		
FARL	1		
FPEXT	0.0506		
FPDBAR	0.549		
FPLOC	0.629		
LDP	12.63		
PROPWET	0.45		
RMED-1H	9.4		
RMED-1D	41.2		
RMED-2D	56.4		
SAAR	1296		
SAAR4170	1286		
SPRHOST	40.51		
URBCONC1990	-999999		
URBEXT1990	0.0007		
URBLOC1990	-999999		
URBCONC2000	-999999		
URBEXT2000	0.0008		
URBLOC2000	-999999		
C	-0.01531		
D1	0.48537		
D2	0.42746		
D3	0.36719		
E	0.24414		
F	2.2861		
C(1km)	-0.016		
D1(1km)	0.483		
D2(1 km)	0.423		
D3(1 km)	0.346		
E(1 km)	0.244		
F(1km)	2.219		

Figure 3 – Catchment Descriptors for South Queich at Tillyochie

4.1.2 Adjustment to Q_{MED} from a Donor Site

In order to make the estimation of Q_{MED} more accurate, it is necessary to use flow data from donor sites with similar hydrological characteristics, where gauged information does exist for an adequate number of years. An appropriate local adjustment to the estimate of Q_{MED} at the subject site is then made. The procedure uses several donor sites to estimate an adjusted Q_{MED} value which is then applied to the subject site.

Using WINFAP software, the adjusted Q_{MED} value for the South Queich at the site becomes 10.68m³/s.

4.1.3 Flood Growth Curves

In order to estimate the magnitude of the range of possible statistical flood events which will occur in this catchment, for example the flood that will statistically occur once in 100 years (the flood flow which has a 1% chance of occurring in any one year) or the flood which will occur once in 200 years (the 0.5% flood) etc., it is necessary to determine a flood growth curve and a flood frequency curve. This is done by forming a "Pooling Group", i.e. by selecting a group of other catchments across the UK which have very similar characteristics to the subject site and which have existing gauged flow records covering a statistically adequate number of years, and subjecting this group to statistical analysis.

The catchment descriptors from the FEH Web Service are entered as a data file to the WINFAP software, which collates a pooling group of similar catchments, subjects these to a statistical analysis, and calculates a range of flows representing floods of different probabilities at the subject site.

The results can vary slightly, depending upon the chosen weighting of the statistical analysis, but adopting the recommended "Generalised Logistic" (GL) technique, the flow is estimated to be 37.4m³/s.

The data and results for the WINFAP growth curve derivations are shown in Appendix A.

4.2 Rainfall Runoff Method

The FEH Rainfall Runoff method was also used to estimate the 1 in 200 year flow rate. The Rainfall Runoff method relies on plentiful rainfall records rather than sometimes scarce river flow records. Hence, if catchment characteristics are known or estimated, the method converts the theoretical design rainfall event of a known return period into a design flood event, with a peak of a known return period.

By selecting the catchment on the FEH Web Service, the catchment descriptors unique to the catchment can be established. Also, by selecting the catchment the design rainfall for the catchment can be established as the software determines the depth-duration-frequency (DDF) relationships for the catchment.

The catchment descriptors are subsequently entered into the Flood Modeller routing software to produce a hydrograph showing the peak flow rate during a specified flood return period. A storm duration is also required, and involves trial and error to determine the duration of the peak flow.

The flood flow was estimated using the FEH Rainfall Runoff method to be 28.5m³/s (see Flood Modeller output, Appendix B).

4.3 Revitalised Flood Hydrograph Method (ReFH2) – Version 2

The third method utilised for the assessment of flood flows was the Revitalised Flood Hydrograph Method. This method is the second version of a method which was originally established as an update to the FEH Rainfall Runoff method.

The ReFH2 model is comprised of three components; a loss model, a routing model and a baseflow model. The total rainfall, less the losses is input into the routing model, with results from the routing and baseflow models combined to provide a prediction of flow. The ReFH2 model is used in conjunction with a depth-duration-frequency model, either the FEH99 model or FEH13 model. In this instance, the FEH13 model was used to provide the rainfall input.

Using the ReFH2 software, the flood flow for the South Queich was estimated to be 24.3m³/s.

Output from the ReFH2 analysis is enclosed within Appendix C.

4.4 Applicable Flowrates

To ensure adherence with the precautionary principle, the largest of the estimated flood flows will be applied in the hydraulic model. The applicable flood flows are therefore as follows:

Q200	37.4m³/s
Q200 + 40%	52.4m³/s.

Table 4.1 Applicable Flowrates

5.0 Predicted Flood Levels

5.1 Initial Model

Having estimated the flood flows in the watercourse adjacent to the site, it is necessary to analyse the watercourse channel to see what level the floodwater would reach during the critical 0.5% annual probability flood event.

The watercourse between the sections is analysed using the HEC-RAS river analysis software. The watercourse has been surveyed on site over the length adjacent to the site and for some distance upstream and downstream (see drawing 15634/21/001).

Manning's n coefficients were selected for the site based on inspection of existing conditions, and comparison with tabulated descriptors in tables of Manning's values. Hence the following were selected:

- Main channels: Clean, winding, some pools and shoals (normal value of $n = 0.04$)
- Flood plains: short grass (normal value of $n = 0.03$); high grass (normal value of $n = 0.035$), mature field crops (normal value of $n = 0.04$), scattered brush, heavy weeds (normal value of $n = 0.05$), light brush and trees, in summer (normal value of $n = 0.06$), smooth asphalt (normal value of $n = 0.013$), heavy stand of timber, few down trees, little undergrowth, flow below branches (normal value of $n = 0.1$)

Once appropriate Manning's values had been selected, boundary conditions at the downstream and upstream ends of the modelled length were modelled based on normal depth commensurate with the average channel gradient.

Results of the analysis are contained in Appendix D.

The initial analysis shows the level of the 0.5% (Q200) flood level using the flood flow derived above:

Location	Q200 Flood Level (m AOD)
Section 1	136.29
Section 2	137.6
Section 3	138.03
Section 4	138.11
Section 5	138.31
Section 6	138.98
Section 7	139.91
Section 8	140.88
Section 9	141.28
Section 10	141.81
Section 11	142.07
Section 12	142.94
Section 13	143.86
Section 14	144.33
Section 15	144.91

Table 5.1 - Flood levels (0.5% (Q200) flow)

The analysis shows that both site areas are outwith the functional floodplain of the South Queich.

It is acknowledged there are glass walls in the model. At cross sections 4 and 5, the glass wall on the right of the cross sections ensure no cross sections overlap. At cross section 8, flood water would flow over the road, and across the adjacent field in a south easterly direction. The cross section has been extended to the point where flood levels are shown just overtopping the road, as is expected to happen in reality.

Appendix D contains details of the HECRAS analysis, including plots of the watercourse cross-sections and the water surface levels appropriate to the values above.

5.2 Sensitivity Analysis

Sensitivity analyses were carried out to check the effect of a variation in flow rate, of variation in Manning's 'n' values, and of variation on downstream boundary conditions.

Location (River Station)	Level (m)		Variation in level (m)
	Flow = Q200	Flow = Q200 + 10%	
Section 1	136.29	136.32	0.03
Section 2	137.6	137.63	0.03
Section 3	138.03	138.18	0.15
Section 4	138.11	138.22	0.11
Section 5	138.31	138.33	0.02
Section 6	138.98	139	0.02
Section 7	139.91	139.93	0.02
Section 8	140.88	140.88	0
Section 9	141.28	141.29	0.01
Section 10	141.81	141.83	0.02
Section 11	142.07	142.09	0.02
Section 12	142.94	142.97	0.03
Section 13	143.86	143.88	0.02
Section 14	144.33	144.36	0.03
Section 15	144.91	144.94	0.03

Table 5.2 Sensitivity Analysis: Variation in Flowrate

The above indicates a limited variation in levels with flow variation, with the largest variation indicated immediately upstream of the bridge.

It should be noted that there are additional glass walls in the model with the application of the Q200+10% flood flow. These are just downstream of the bridge at cross section 2, and beyond the left bank of cross section 4. Beyond both of these location floodwater is predicted to flow across land as overland flow. The presence of the glass walls results in conservative results being stated.

As discussed above, sensitivity of the model to changes in Manning's n were tested, by increasing the initial (normal) values by 0.01. This was carried out for all cross sections.

Location	Level (m)		Variation in level (m)
	Q200	Q200 with n + 0.01	
Section 1	136.29	136.35	0.06
Section 2	137.6	137.60	0
Section 3	138.03	138.08	0.05
Section 4	138.11	138.17	0.06
Section 5	138.31	138.34	0.03
Section 6	138.98	138.98	0
Section 7	139.91	140	0.09
Section 8	140.88	140.88	0
Section 9	141.28	141.27	0.01
Section 10	141.81	141.88	0.07
Section 11	142.07	142.11	0.04
Section 12	142.94	142.93	0.01
Section 13	143.86	143.95	0.09
Section 14	144.33	144.39	0.06
Section 15	144.91	144.91	0

Table 5.3 Sensitivity Analysis: Variation in Manning's n

The above indicates a limited variation in levels with variation in Manning's n, with a maximum variation adjacent to the site of 0.09m indicated.

As discussed above, sensitivity of the model to changes in the downstream boundary conditions were tested, by increasing the initial value by 0.010. This was carried out for all cross sections, and the results of this analysis are shown in Table 5.4 below.

Location	Level (m)		Variation in level (m)
	Initial Gradient (Q200)	Initial Gradient + 0.010	
Section 1	136.29	136.29	0
Section 2	137.6	137.6	0
Section 3	138.03	138.03	0
Section 4	138.11	138.11	0
Section 5	138.31	138.31	0
Section 6	138.98	138.98	0
Section 7	139.91	139.91	0
Section 8	140.88	140.88	0
Section 9	141.28	141.28	0
Section 10	141.81	141.81	0
Section 11	142.07	142.07	0
Section 12	142.94	142.94	0
Section 13	143.86	143.86	0
Section 14	144.33	144.33	0
Section 15	144.91	144.91	0

Table 5.4 Sensitivity Analysis: Variation in Downstream Boundary Conditions

5.3 Flood Levels including Climate Change

The potential for climate change to impact flood risk in the vicinity of the site has been assessed in line with latest guidance, which requires an uplift to the Q200 flood flow of 40%.

The flood levels predicted by the hydraulic model including the potential impact of climate change are outlined in the table below.

Location	Level (m)		Variation in level (m)
	Q200 Flood Level	Q200 + 40% Flood Level	
Section 1	136.29	136.39	0.1
Section 2	137.6	137.7	0.1
Section 3	138.03	138.35	0.33
Section 4	138.11	138.37	0.26
Section 5	138.31	138.46	0.15
Section 6	138.98	139.06	0.08
Section 7	139.91	139.99	0.08
Section 8	140.88	140.88	0
Section 9	141.28	141.35	0.07
Section 10	141.81	141.88	0.07
Section 11	142.07	142.14	0.07
Section 12	142.94	143.02	0.08
Section 13	143.86	143.97	0.11
Section 14	144.33	144.45	0.12
Section 15	144.91	145.06	0.15

Table 5.6 Comparison between predicted Q200 and Q200 + 40% Flood Levels

The above table compares the Q200 flood level, with Q200 + climate change flood levels. As can be seen, the predicted increase in flood levels with the impact of climate change is limited.

Glass walls are present in the Q200+40% model run at the same locations as for the Q200+10% model run. The results stated are therefore conservative. HECRAS output for the Q200+40% model run is enclosed within Appendix D.

5.4 Flood Levels including Bridge Blockage

The potential for blockage of the bridge downstream of the site has been considered in the assessment and therefore the effect of a large blockage of 50% of the span has been modelled. To ensure adherence with the precautionary principle, the bridge blockage has been modelled with the Q200 + 40% flood flow.

The flood levels predicted by the hydraulic model for the above noted blockage are outlined in the table below.

Location	Level (m)		Variation in level (m)
	Q200 + 40% Flood Level	Q200 + 40% Flood Level with 50% Bridge Blockage	
Section 1	136.39	136.39	0
Section 2	137.7	137.7	0
Section 3	138.35	138.4	0.05
Section 4	138.37	138.43	0.06
Section 5	138.46	138.5	0.04
Section 6	139.06	139.06	0
Section 7	139.99	139.99	0
Section 8	140.88	140.88	0
Section 9	141.35	141.35	0
Section 10	141.88	141.88	0
Section 11	142.14	142.14	0
Section 12	143.02	143.02	0
Section 13	143.97	143.97	0
Section 14	144.45	144.45	0
Section 15	145.06	145.06	0

Table 5.5 Predicted Q200+40% Flood Levels with 50% Bridge Blockage

The results above show the model prediction that a 50% blockage of the bridge would only result in a limited increase in predicted Q200 + 40% flood levels, while there was no measurable impact on predicted Q200 + 40% flood levels adjacent to the site.

6.0 Proposed Mitigation and Management of Flood Risk

The results of the flow modelling exercise discussed in Section 5 are summarised on drawing 15634/21/001.

The analysis shows that the banks of the South Queich would be overtopped during a 1 in 200 year flood event, while floodwater is also predicted to overtop the road between the site and the downstream bridge, and flow overland in a south easterly direction. Both areas of the site however are outwith the 1 in 200 year flood extent of the South Queich. The site areas are also outwith the 1 in 200 year flood extent, including climate change.

The new houses proposed on both site areas should be constructed with a finished floor level a minimum of 0.6m above the adjacent 1 in 200 year flood level, including an allowance for climate change (i.e. 0.6m above the adjacent Q200 + 40% flood level).

For the higher (western) site area, the flood levels of all new houses should be constructed with a finished floor level at, or above a level of 144.57mAOD. In reality it is likely any new houses in this area will be constructed with finished floor levels higher than this, given the current lowest level within this area is approximately 148.35mAOD.

The eastern area of the site is lower than the western area. The western extent of this area is located between cross section 11 and 12 in the hydraulic model. Interpolating between the predicted Q200 + 40% flood levels at these cross sections, an applicable Q200 + 40% flood level of 142.64mAOD has been calculated. As such, the finished floor level of the new house proposed for the eastern site area should be set at, or above a level of 143.24mAOD.

Flood free vehicular access/egress to and from both site areas can be maintained during a 1 in 200 year flood event (including climate change uplift). The public road which runs between the site areas is predicted to be flood free at the location of the site(s), and although flooding is expected on the road to the north east, access is available in a south westerly direction where the road joins the A977.

Surface water drainage for the site should be designed in accordance with latest recommended sustainable drainage practices.

7.0 Conclusions

The results of the flow modelling exercise undertaken as part of this report show that both areas of the proposed development site are outwith the 1 in 200 year flood extent of the South Queich. They are also outwith the 1 in 200 year flood extent with a climate change allowance of 40% applied. It is concluded that the site is developable with respect to flood risk.

The new houses proposed on the western site area should be constructed with finished floor levels at, or above a level of 144.57mAOD. In reality it is likely any new houses in this area will be constructed with finished floor levels higher than this, given the current lowest level within this area is approximately 148.35mAOD.

The proposed house on the eastern site area should be constructed with a finished floor level at, or above a level of 143.24mAOD.

Flood free vehicular access to and from both site areas can be maintained during a 1 in 200 year flood event.

Drainage of the site should be designed in line with good practice, and in accordance with the principles of SUDs.

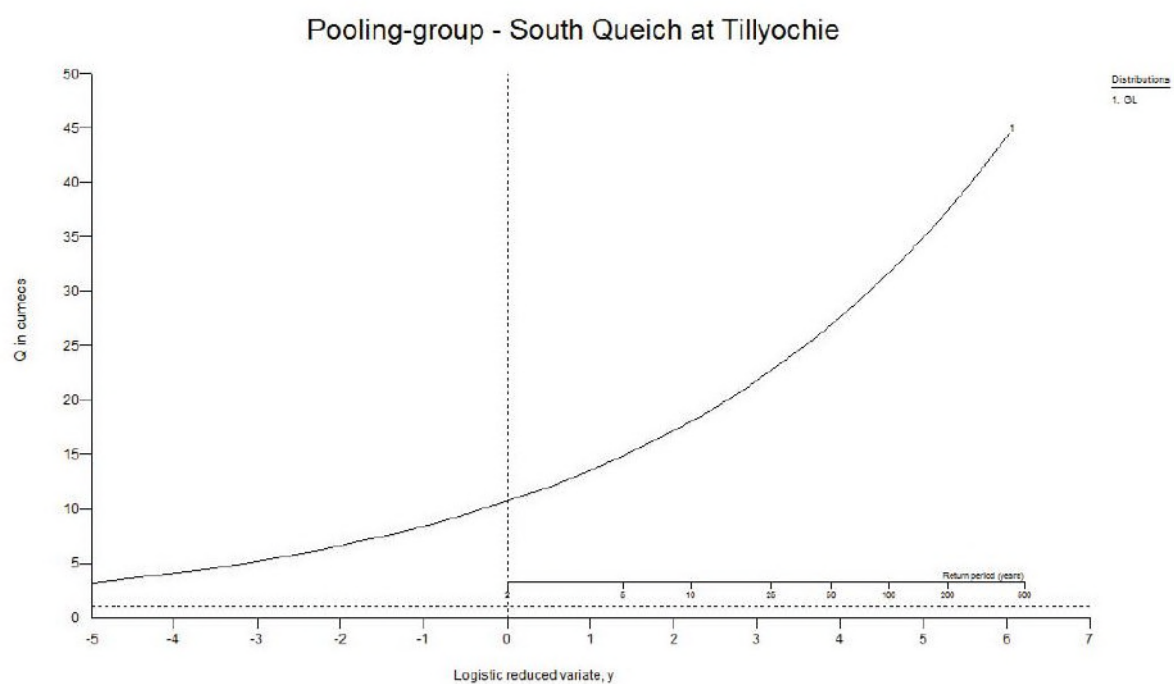
We have used our best engineering judgement in this Assessment, and our calculations have been carried out using the Flood Estimation Handbook, WINFAP, HEC-RAS and other standard hydrological methods. We note that as with all such Flood Risk Assessments the accuracy of the results is only as good as the data and statistical techniques used.

8.0 References

- i. Flood Estimation Handbook, Duncan Reed, CEH Institute of Hydrology, Wallingford, 1999.
- ii. WINFAP-FEH, Version 4, Wallingford Hydrosolutions and NERC
- iii. HEC-RAS, Version 5.0.3, September 2016, US Army Corps of Engineers Hydrologic Engineering Centre.
- iv. Flood Modeller, CH2M
- v. Guidance on Climate Change Allowances for Flood Risk Assessment in Land Use Planning, SEPA, 2019
- vi. Scottish Planning Policy, Scottish Government, Crown Copyright, June 2014

**Appendix A:
WINFAP OUTPUT**

Return periods	
GL	
2	10.680
5	14.846
10	17.991
25	22.690
50	26.858
100	31.708
200	37.385
500	46.432



Appendix B: Flood Modeller Output

Q200 Data.txt

FILE=7514.dat Flood Modeller VER= 4.0.0.156

Flood Modeller

HYDROLOGICAL DATA

Catchment: SouthQueich

Catchment Characteristics

Easting	:	308050	Northing	:	703200
Area	:	16.825	km2		
DPLBAR	:	7.110	km		
DPSBAR	:	162.800	m/km		
PROPWET	:	0.450			
SAAR	:	1296.000	mm		
Urban Extent	:	0.001			
c	:	-0.015			
d1	:	0.485			
d2	:	0.427			
d3	:	0.367			
e	:	0.244			
f	:	2.286			
SPR	:	40.510	%		

Summary of estimate using Flood Estimation Handbook rainfall-runoff method

Estimation of T-year flood

=====

Unit hydrograph time to peak	:	3.959	hours
Instantaneous UH time to peak	:	3.909	hours
Data interval	:	0.100	hours
Design storm duration	:	9.100	hours
Critical storm duration	:	9.089	hours
Return period for design flood	:	200.000	years
requires rain return period	:	246.667	years
ARF	:	0.955	
Design storm depth	:	87.315	mm
CWI	:	124.643	
Standard Percentage Runoff	:	40.510	%
Percentage runoff	:	47.125	%
Snowmelt rate	:	0.000	mm/day
Unit hydrograph peak	:	0.935	(m3/s/mm)
Quick response hydrograph peak	:	27.871	m3/s
Baseflow	:	0.653	m3/s
Baseflow adjustment	:	0.000	m3/s
Hydrograph peak	:	28.524	m3/s
Hydrograph adjustment factor	:	1.000	

Flags

=====

Unit hydrograph flag	:	FSRUH
Tp flag	:	FEHTP
Event rainfall flag	:	FEHER
Rainfall profile flag	:	WINRP
Percentage Runoff flag	:	FEHPR
Baseflow flag	:	F16BF
CWI flag	:	FSRCW

Q200 Hydrograph Data.txt

FILE=7514.dat Flood Modeller VER= 4.0.0.156

Flood Modeller

Catchment: SouthQueich

Rainfall Profile - Unit and Flow Hydrograph Using

FEH rainfall-runoff method

Hydrograph adjustment factor = 1.000

=====

TABULAR RESULTS

time	areal	net	unit	flow
(hours)	rainfall	rainfall	hydrograph	hydrograph
	(mm)	(mm)	(m3/s/mm)	(m3/s)
0.000	0.182	0.086	0.000	0.653
0.100	0.194	0.091	0.024	0.655
0.200	0.206	0.097	0.047	0.659
0.300	0.219	0.103	0.071	0.666
0.400	0.234	0.110	0.094	0.675
0.500	0.249	0.117	0.118	0.686
0.600	0.264	0.125	0.142	0.701
0.700	0.282	0.133	0.165	0.718
0.800	0.299	0.141	0.189	0.738
0.900	0.318	0.150	0.213	0.762
1.000	0.341	0.160	0.236	0.789
1.100	0.362	0.171	0.260	0.820
1.200	0.385	0.182	0.283	0.855
1.300	0.410	0.193	0.307	0.894
1.400	0.436	0.205	0.331	0.938
1.500	0.463	0.218	0.354	0.987
1.600	0.493	0.232	0.378	1.041
1.700	0.524	0.247	0.402	1.100
1.800	0.557	0.262	0.425	1.166
1.900	0.592	0.279	0.449	1.237
2.000	0.632	0.298	0.472	1.315
2.100	0.672	0.317	0.496	1.400
2.200	0.714	0.337	0.520	1.493
2.300	0.759	0.358	0.543	1.593
2.400	0.806	0.380	0.567	1.702
2.500	0.857	0.404	0.590	1.820
2.600	0.910	0.429	0.614	1.947
2.700	0.966	0.455	0.638	2.085
2.800	1.026	0.484	0.661	2.233
2.900	1.089	0.513	0.685	2.393
3.000	1.160	0.547	0.709	2.565
3.100	1.233	0.581	0.732	2.750
3.200	1.308	0.617	0.756	2.948
3.300	1.388	0.654	0.779	3.161
3.400	1.471	0.693	0.803	3.390
3.500	1.560	0.735	0.827	3.635
3.600	1.653	0.779	0.850	3.897
3.700	1.751	0.825	0.874	4.177
3.800	1.853	0.873	0.898	4.478
3.900	1.960	0.924	0.921	4.798
4.000	2.077	0.979	0.929	5.140
4.100	2.198	1.036	0.913	5.500
4.200	2.317	1.092	0.898	5.882
4.300	2.443	1.151	0.882	6.286
4.400	2.552	1.203	0.866	6.712
4.500	2.587	1.219	0.851	7.163
4.600	2.552	1.203	0.835	7.637
4.700	2.443	1.151	0.820	8.135
4.800	2.317	1.092	0.804	8.655
4.900	2.198	1.036	0.789	9.195

Q200 Hydrograph Data.txt

5.000	2.077	0.979	0.773	9.754
5.100	1.960	0.924	0.758	10.329
5.200	1.853	0.873	0.742	10.919
5.300	1.751	0.825	0.727	11.522
5.400	1.653	0.779	0.711	12.137
5.500	1.560	0.735	0.696	12.763
5.600	1.471	0.693	0.680	13.397
5.700	1.388	0.654	0.664	14.037
5.800	1.308	0.617	0.649	14.684
5.900	1.233	0.581	0.633	15.334
6.000	1.160	0.547	0.618	15.987
6.100	1.089	0.513	0.602	16.641
6.200	1.026	0.484	0.587	17.294
6.300	0.966	0.455	0.571	17.946
6.400	0.910	0.429	0.556	18.593
6.500	0.857	0.404	0.540	19.236
6.600	0.806	0.380	0.525	19.871
6.700	0.759	0.358	0.509	20.499
6.800	0.714	0.337	0.494	21.117
6.900	0.672	0.317	0.478	21.723
7.000	0.632	0.298	0.462	22.316
7.100	0.592	0.279	0.447	22.894
7.200	0.557	0.262	0.431	23.455
7.300	0.524	0.247	0.416	23.998
7.400	0.493	0.232	0.400	24.521
7.500	0.463	0.218	0.385	25.021
7.600	0.436	0.205	0.369	25.497
7.700	0.410	0.193	0.354	25.946
7.800	0.385	0.182	0.338	26.367
7.900	0.362	0.171	0.323	26.757
8.000	0.341	0.160	0.307	27.114
8.100	0.318	0.150	0.292	27.436
8.200	0.299	0.141	0.276	27.719
8.300	0.282	0.133	0.260	27.963
8.400	0.264	0.125	0.245	28.163
8.500	0.249	0.117	0.229	28.319
8.600	0.234	0.110	0.214	28.431
8.700	0.219	0.103	0.198	28.498
8.800	0.206	0.097	0.183	28.524
8.900	0.194	0.091	0.167	28.511
9.000	0.182	0.086	0.152	28.460
9.100			0.136	28.374
9.200			0.121	28.252
9.300			0.105	28.097
9.400			0.090	27.910
9.500			0.074	27.694
9.600			0.058	27.449
9.700			0.043	27.178
9.800			0.027	26.882
9.900			0.012	26.562
10.000			0.000	26.220
10.100				25.859
10.200				25.480
10.300				25.084
10.400				24.672
10.500				24.245
10.600				23.805
10.700				23.352
10.800				22.888
10.900				22.413
11.000				21.928
11.100				21.435
11.200				20.933
11.300				20.425
11.400				19.910
11.500				19.389
11.600				18.864
11.700				18.334

Q200 Hydrograph Data.txt

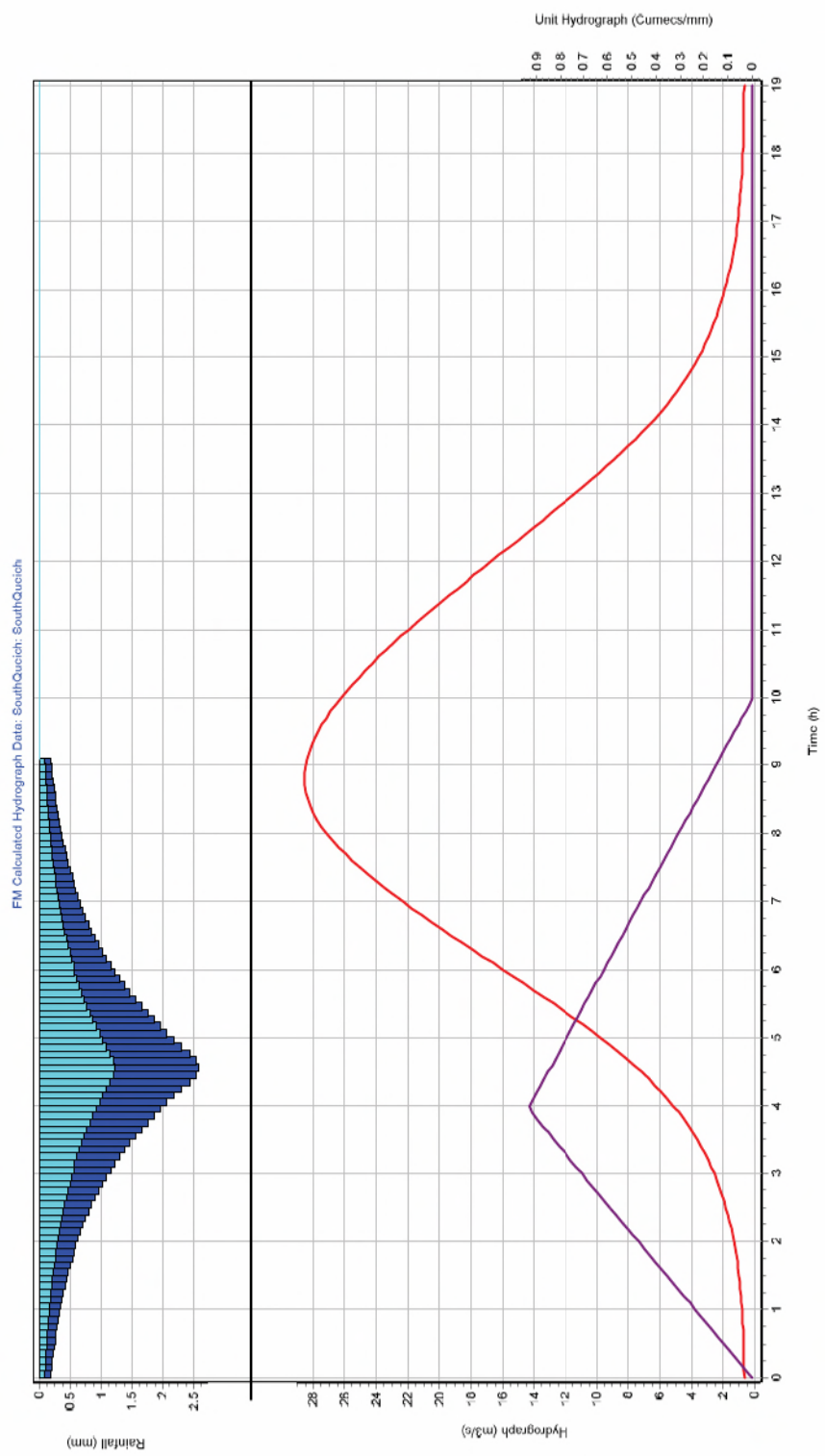
11.800	17.801
11.900	17.265
12.000	16.726
12.100	16.187
12.200	15.647
12.300	15.106
12.400	14.567
12.500	14.028
12.600	13.491
12.700	12.957
12.800	12.427
12.900	11.900
13.000	11.377
13.100	10.862
13.200	10.355
13.300	9.858
13.400	9.372
13.500	8.896
13.600	8.432
13.700	7.981
13.800	7.542
13.900	7.117
14.000	6.707
14.100	6.312
14.200	5.933
14.300	5.572
14.400	5.228
14.500	4.904
14.600	4.598
14.700	4.311
14.800	4.041
14.900	3.788
15.000	3.551
15.100	3.330
15.200	3.122
15.300	2.927
15.400	2.746
15.500	2.576
15.600	2.417
15.700	2.270
15.800	2.132
15.900	2.003
16.000	1.884
16.100	1.773
16.200	1.669
16.300	1.573
16.400	1.484
16.500	1.402
16.600	1.326
16.700	1.256
16.800	1.191
16.900	1.131
17.000	1.076
17.100	1.026
17.200	0.980
17.300	0.938
17.400	0.900
17.500	0.865
17.600	0.834
17.700	0.806
17.800	0.780
17.900	0.758
18.000	0.738
18.100	0.721
18.200	0.706
18.300	0.693
18.400	0.682
18.500	0.673

Q200 Hydrograph Data.txt

18.600	0.666
18.700	0.660
18.800	0.657
18.900	0.654
19.000	0.653

volumetric analysis of results

Total volume of rainfall	:	1469073.6	m3
Total volume of net rainfall	:	692302.6	m3
Total volume of rain loss	:	776771.0	m3
Total volume of baseflow	:	44672.2	m3
Total volume of quick runoff	:	690813.2	m3
Total volume of runoff	:	735485.4	m3



**Appendix C:
Results from ReFH2 Flow
Analysis (Revitalised Flood
Hydrograph Method –
Version 2)**

UK Design Flood Estimation

Generated on Monday, January 06, 2020 9:57:30 AM by abraida
Printed from the ReFH2 Flood Modelling software package, version 3.0.7275.28566

Summary of estimate using the Flood Estimation Handbook revitalised flood hydrograph method (ReFH2)

Site details

Checksum: CCB0-68A7

Site name: South Queich at Tillyochie

Easting: 308050

Northing: 703200

Country: Scotland

Catchment Area (km²): 16.83

Using plot scale calculations: No

Model: ReFH2.3

Site description: None

Model run: 200 year

Summary of results

Rainfall - FEH 2013 model (mm):	72.99	Total runoff (ML):	443.65
Total Rainfall (mm):	58.19	Total flow (ML):	978.76
Peak Rainfall (mm):	3.93	Peak flow (m ³ /s):	24.28

Parameters

Where the user has overridden a system-generated value, this original value is shown in square brackets after the value used.

* Indicates that the user locked the duration/timestep

Rainfall parameters (Rainfall - FEH 2013 model)

Name	Value	User-defined?
Duration (hh:mm:ss)	06:30:00	No
Timestep (hh:mm:ss)	00:10:00 [00:30:00]	Yes
SCF (Seasonal correction factor)	0.84	No
ARF (Areal reduction factor)	0.95	No
Seasonality	Winter	No

Loss model parameters

Name	Value	User-defined?
Cini (mm)	125.16	No
Cmax (mm)	340.46	No
Use alpha correction factor	No	No
Alpha correction factor	n/a	No

Routing model parameters

Name	Value	User-defined?
Tp (hr)	2.63	No
Up	0.65	No
Uk	0.8	No

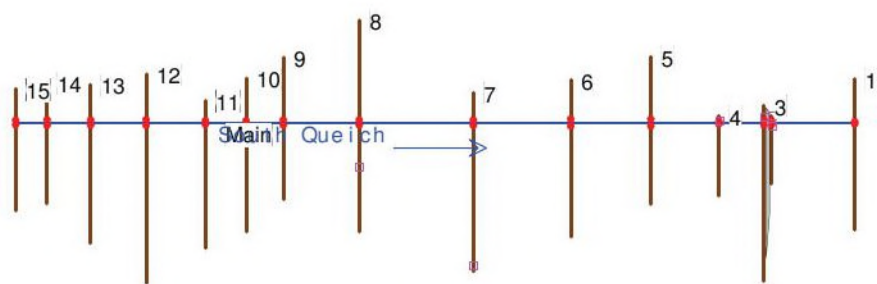
Baseflow model parameters

Name	Value	User-defined?
BF0 (m ³ /s)	0.89	No
BL (hr)	40.72	No
BR	1.21	No

Urbanisation parameters

Name	Value	User-defined?
Urban area (km ²)	0.02	No
Urbext 2000	0	No
Impervious runoff factor	0.7	No
Imperviousness factor	0.4	No
Tp scaling factor	0.75	No
Depression storage depth (mm)	0.5	No
Exporting drained area (km ²)	0.00	Yes
Sewer capacity (m ³ /s)	0.00	Yes

**Appendix D: Output from
HECRAS Model**

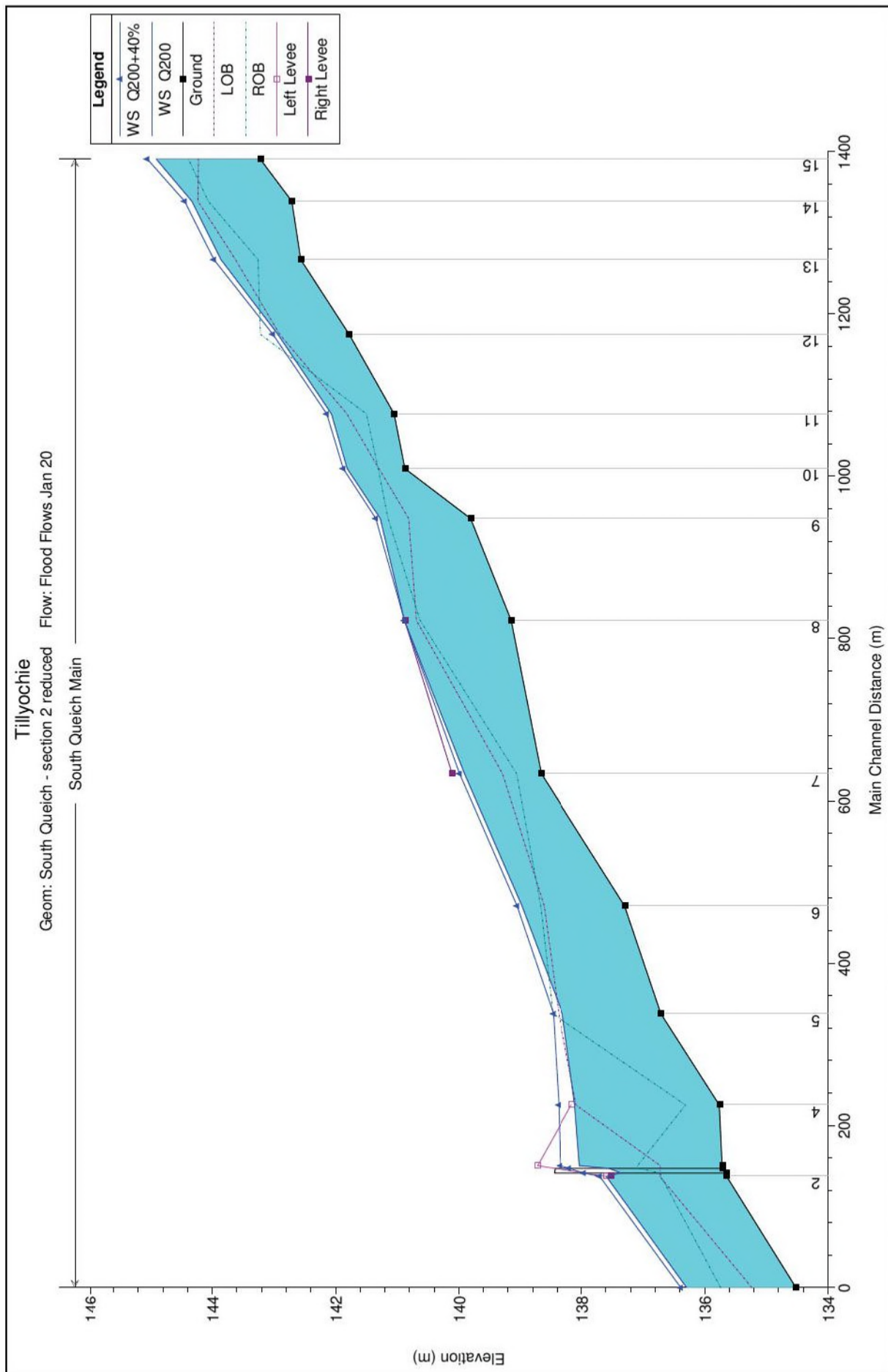


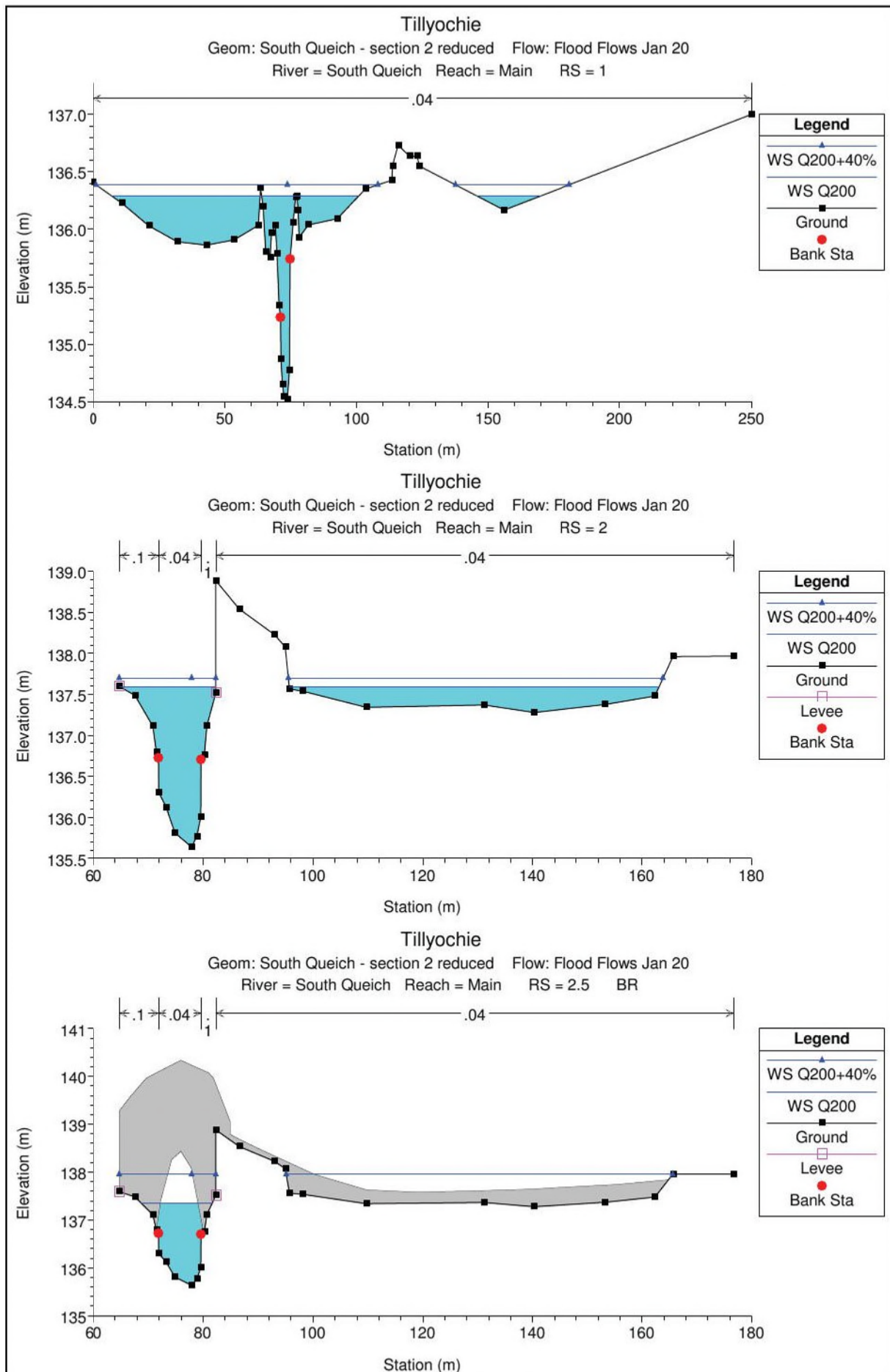
Some schematic data outside default extents (see View/Set Schematic Plot Extents...)

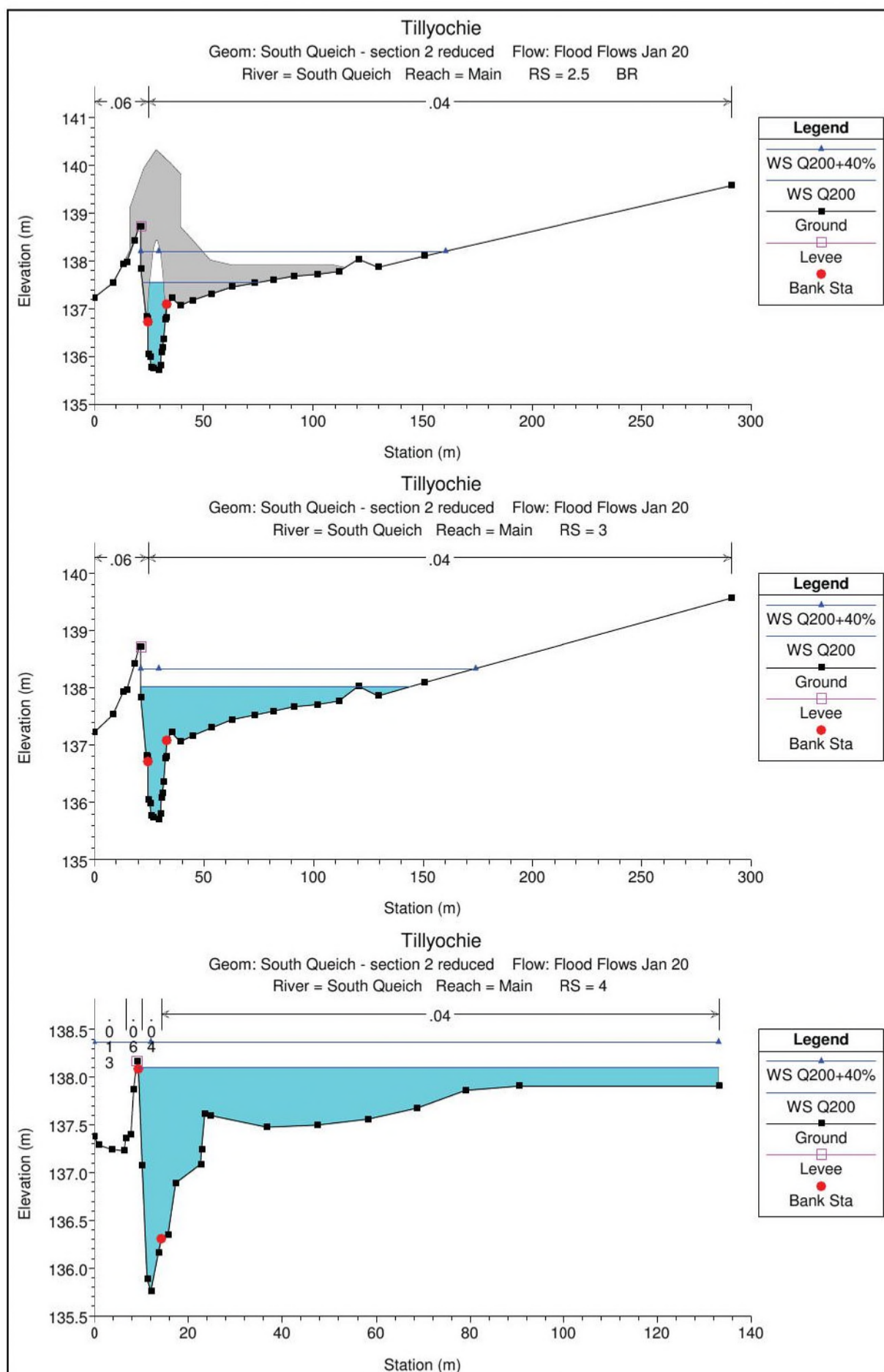
Reach	River Sta	Profile	Q Total (m3/s)	Min Ch El (m)	W.S. Elev (m)	Crit W.S. (m)	E.G. Elev (m)	E.G. Slope (m/m)	Vel Chnl (m/s)	Flow Area (m2)	Top Width (m)	Froude # Chl
Main	15	Q200	37.40	143.22	144.91	144.91	145.15	0.006612	2.46	20.94	43.72	0.65
Main	15	Q200+40%	52.40	143.22	145.06	145.06	145.32	0.006918	2.68	27.76	50.20	0.68
Main	14	Q200	37.40	142.71	144.33	144.26	144.51	0.007189	2.19	25.49	79.10	0.65
Main	14	Q200+40%	52.40	142.71	144.45	144.45	144.62	0.006784	2.28	36.30	98.45	0.65
Main	13	Q200	37.40	142.57	143.86	143.53	144.00	0.006598	2.08	28.87	91.57	0.63
Main	13	Q200+40%	52.40	142.57	143.97	143.94	144.10	0.006698	2.06	39.61	96.27	0.60
Main	12	Q200	37.40	141.78	142.94	142.94	143.12	0.014970	2.46	26.94	72.59	0.89
Main	12	Q200+40%	52.40	141.78	143.02	143.02	143.24	0.017626	2.83	33.03	77.83	0.98
Main	11	Q200	37.40	141.05	142.07		142.09	0.002096	0.97	53.42	142.54	0.33
Main	11	Q200+40%	52.40	141.05	142.14		142.18	0.002369	1.09	64.51	151.79	0.36
Main	10	Q200	37.40	140.88	141.81	141.79	141.88	0.005802	1.68	39.19	170.37	0.58
Main	10	Q200+40%	52.40	140.88	141.88	141.82	141.94	0.005467	1.71	50.17	174.64	0.57
Main	9	Q200	37.40	139.81	141.28	141.28	141.40	0.010356	1.97	25.23	111.81	0.73
Main	9	Q200+40%	52.40	139.81	141.35	141.35	141.49	0.010024	2.06	33.85	122.48	0.73
Main	8	Q200	37.40	139.15	140.88	140.88	140.89	0.000127	0.26	145.80	288.09	0.08
Main	8	Q200+40%	52.40	139.15	140.88	140.88	140.89	0.000249	0.36	145.80	288.09	0.12
Main	7	Q200	37.40	138.66	139.91	139.91	140.03	0.006045	2.02	31.29	107.85	0.62
Main	7	Q200+40%	52.40	138.66	139.99	139.99	140.12	0.006380	2.18	40.69	122.34	0.65
Main	6	Q200	37.40	137.30	138.98	138.98	139.10	0.004742	1.87	34.54	154.99	0.55
Main	6	Q200+40%	52.40	137.30	139.06	139.06	139.19	0.005226	2.05	50.00	230.55	0.58
Main	5	Q200	37.40	136.71	138.31		138.35	0.002384	1.16	56.86	174.15	0.37
Main	5	Q200+40%	52.40	136.71	138.46		138.49	0.001563	1.00	83.58	181.71	0.31
Main	4	Q200	37.40	135.76	138.11	137.61	138.14	0.001459	1.09	60.05	123.75	0.26
Main	4	Q200+40%	52.40	135.76	138.37	137.86	138.40	0.000439	0.65	101.90	133.10	0.15

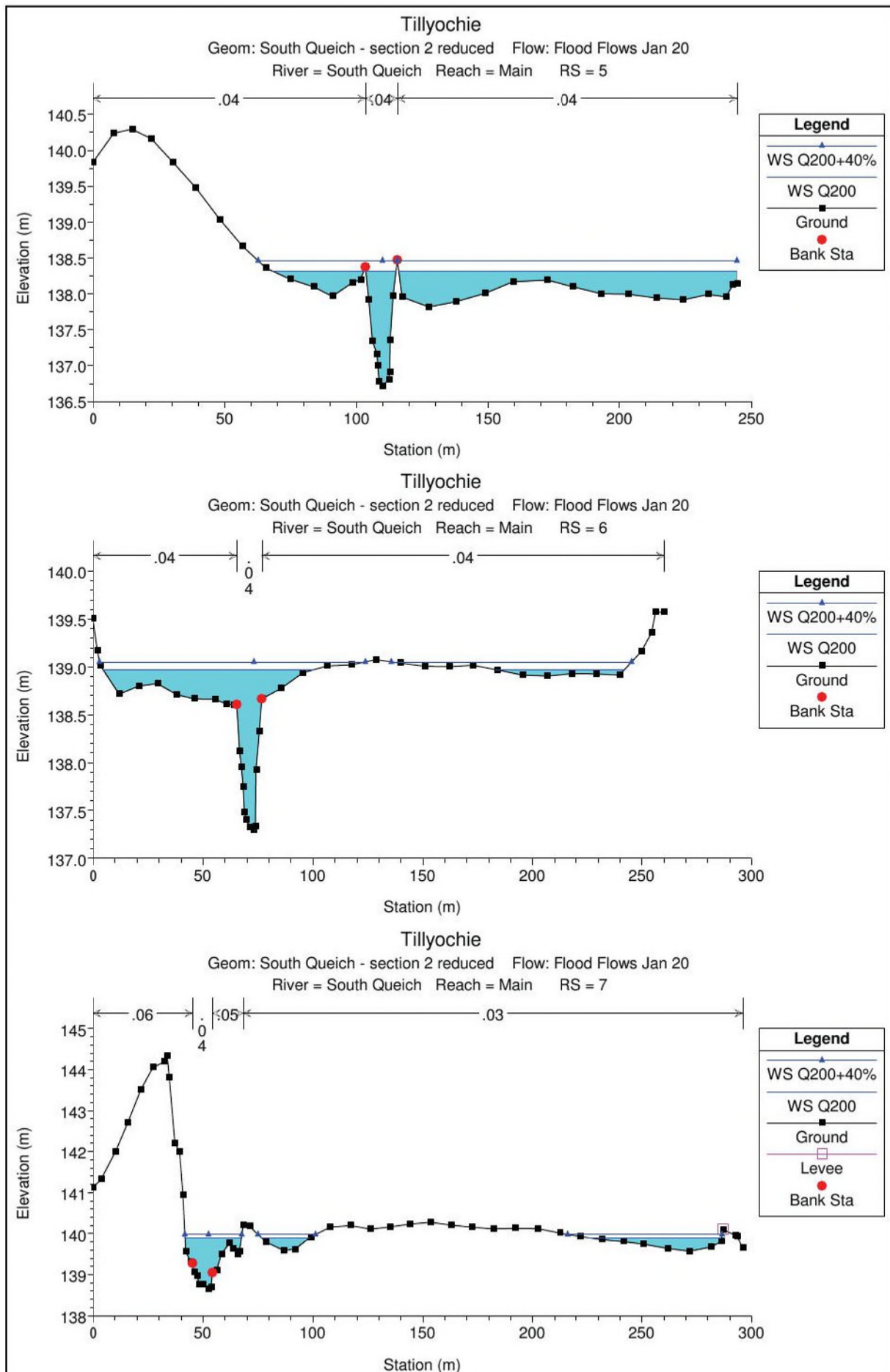
HEC-RAS Plan: Plan 04 River: South Queich Reach: Main (Continued)

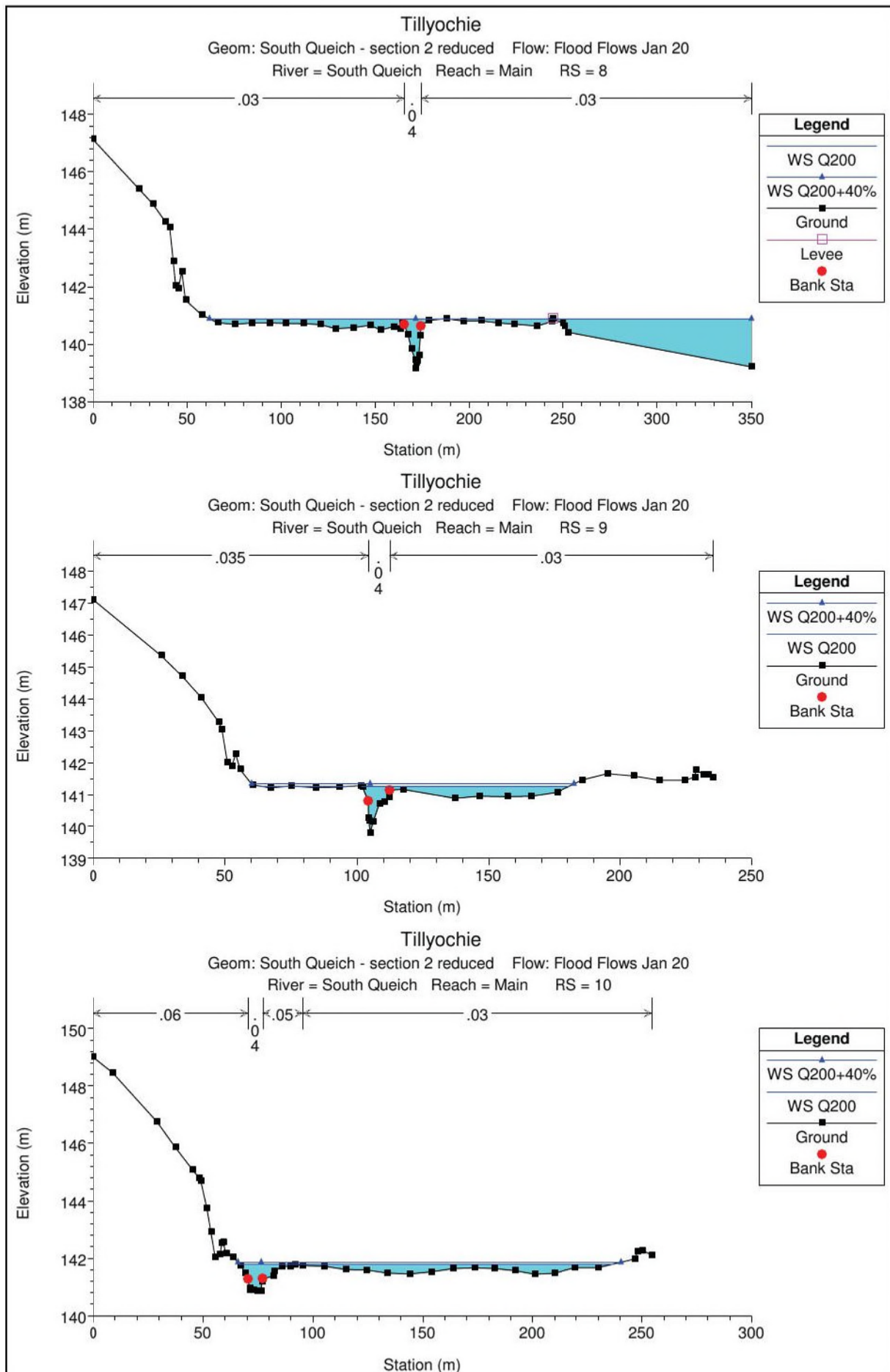
Reach	River Sta	Profile	Q Total (m3/s)	Min Ch El (m)	W.S. Elev (m)	Crit W.S. (m)	E.G. Elev (m)	E.G. Slope (m/m)	Vel Chnl (m/s)	Flow Area (m2)	Top Width (m)	Froude # Chl
Main	3	Q200	37.40	135.72	138.03	137.45	138.06	0.000715	0.99	66.60	123.19	0.22
Main	3	Q200+40%	52.40	135.72	138.35	137.68	138.36	0.000470	0.88	109.61	152.84	0.18
Main	2.5		Bridge									
Main	2	Q200	37.40	135.64	137.60	137.60	137.77	0.004268	2.13	30.60	84.90	0.52
Main	2	Q200+40%	52.40	135.64	137.70	137.70	137.90	0.004887	2.37	39.77	85.93	0.56
Main	1	Q200	37.40	134.52	136.29	136.29	136.42	0.006574	2.36	32.83	117.28	0.59
Main	1	Q200+40%	52.40	134.52	136.39	136.37	136.51	0.006580	2.46	45.72	150.27	0.60

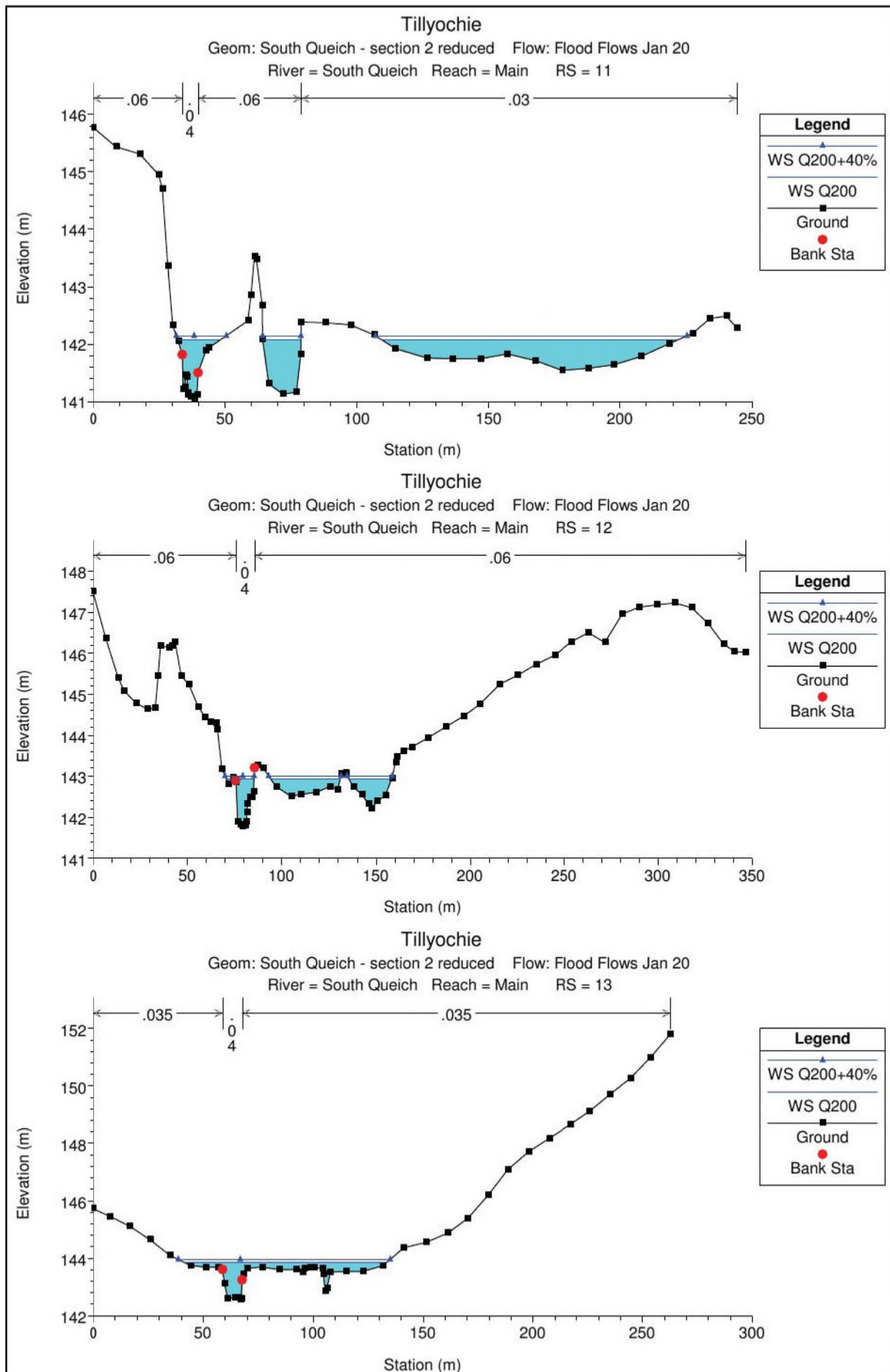


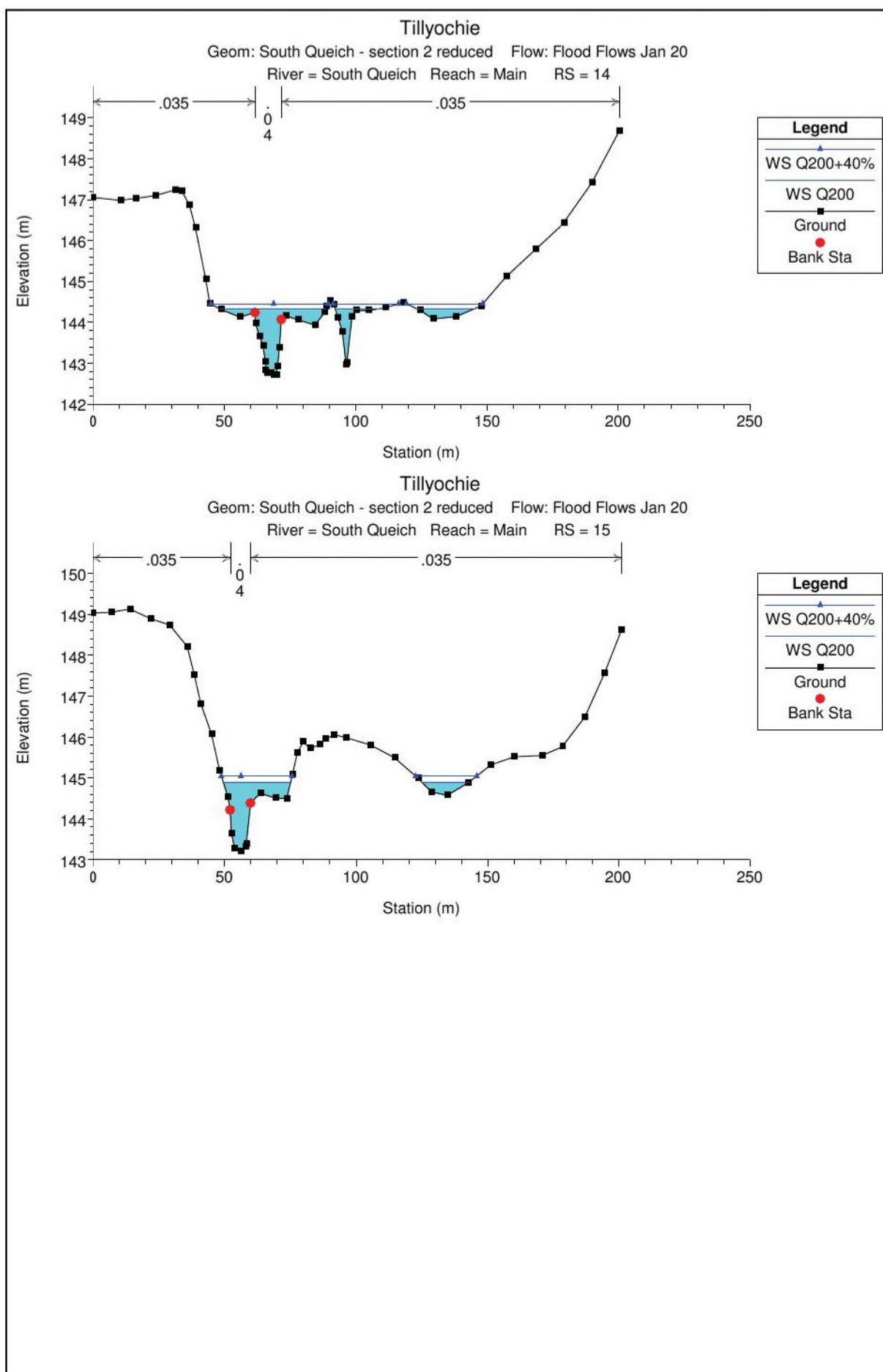












Appendix E: FRA Checklist



Flood Risk Assessment (FRA) Checklist

(SS-NFR-F-001 - Version 1.3 - Last updated 15/04/2015)

This document should be attached within the front cover of any flood risk assessments issued to Local Planning Authorities (LPA) in support of a development proposal which may be at risk of flooding. The document will take only a few minutes to complete and will assist SEPA in reviewing FRAs, when consulted by LPAs. This document should not be a substitute for a FRA.

Development Proposal

Site Name	Tillyochie, Perth and Kinross		
Grid Reference	Easting: 307470	Northing: 702867	
Local Authority	Perth and Kinross Council		
Planning Reference number (if known)			
Nature of the development	Residential	If residential, state type:	Houses
Size of the development site		Ha	
Identified Flood Risk	Fluvial	Source name:	South Queich

Supporting Information

Have clear maps / plans been provided within the FRA

(including topographic and flood inundation plans)

Has a historic flood search been undertaken?

Is a formal flood prevention scheme present?

Current / historical site use

Hydrology

Area of catchment

Qmed estimate

Estimate of 200 year design flood flow

Estimation method(s) used *

Hydraulics

Hydraulic modelling method

If other please specify

Modelled reach length

Any structures within the modelled length?

Brief summary of sensitivity tests, and range:

variation on flow (%)

variation on channel roughness

blockage of structure (range of % blocked)

boundary conditions:

(1) type

(2) does it influence water levels at the site?

Has model been calibrated (gauge data / flood records)?

Is the hydraulic model available to SEPA?

Design flood levels

200 year	Varies	m AOD	200 year plus climate change	Varies	m AOD
----------	--------	-------	------------------------------	--------	-------

Flood Risk Assessment (FRA) Checklist

(SS-NFR-F-001 - Version 1.3 - Last updated 15/04/2015)

Coastal		m AOD	
Estimate of 200 year design flood level	Select from List	If other (please specify methodology used):	
Estimation method(s) used			
Allowance for climate change (m)		m	
Allowance for wave action etc (m)		m	
Overall design flood level		m AOD	
Development			
Is any of the site within the functional floodplain? (refer to SPP para 255)	No	If yes, what is the net loss of storage	
Is the site brownfield or greenfield	Greenfield	m ³	
Freeboard on design water level (m)	0.6		
Is the development for essential civil infrastructure or vulnerable groups?	No	If yes, has consideration been given to 1000 year design flood?	
Is safe / dry access and egress available?	Vehicle and Pedestrian	Min access/egress level	
If there is no dry access, what return period is dry access available?		m AOD	
If there is no dry access, what is the impact on the access routes?		years	
Design levels		Max Flood Depth @ 200 year event:	
Mitigation		m AOD	
Can development be designed to avoid all areas at risk of flooding?	Yes	Max Flood Velocity:	
Is mitigation proposed?	No	m/s	
If yes, is compensatory storage necessary?	No	Min FFL:	
Demonstration of compensatory storage on a "like for like" basis?	Select from List	Varies	
Should water resistant materials and forms of construction be used?	Select from List	m AOD	
Comments			
Any additional comments:			
Approved by: Andrew Braid			
Organisation: Millard Consulting			
Date: 23.1.20			

Note: Further details and guidance is provided in 'Technical Flood Risk Guidance for Stakeholders' which can be accessed here: [CLICK HERE](#)

* ReFH2 is now accepted by SEPA for flow estimates in Scotland. Any use of this method should be compared with other accepted methods.

PLANS

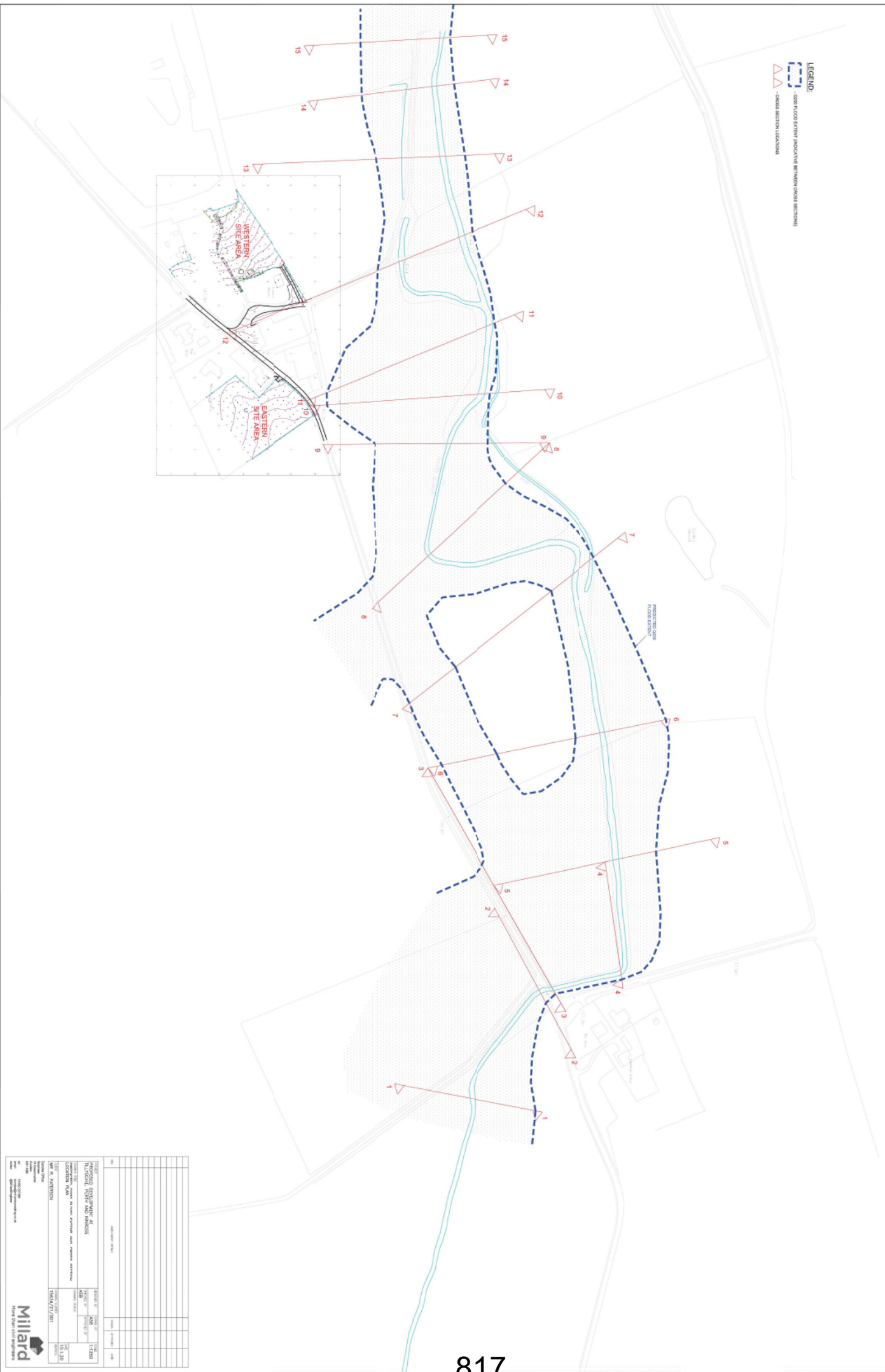
NOTES

1. SEE SHEET 7-1A FOR SITE PLAN AND OTHER GENERAL INFORMATION.
2. THIS DRAWING IS TO BE USED TO DETERMINE THE LOCATION OF CROSS SECTIONS AND TO BE USED TO DETERMINE THE LOCATION OF CROSS SECTIONS AND TO BE USED TO DETERMINE THE LOCATION OF CROSS SECTIONS.
3. ALL CROSS SECTIONS ARE TO BE TAKEN AT THE LOCATIONS SHOWN ON THIS DRAWING.
4. ALL CROSS SECTIONS ARE TO BE TAKEN AT THE LOCATIONS SHOWN ON THIS DRAWING.

LEGEND:

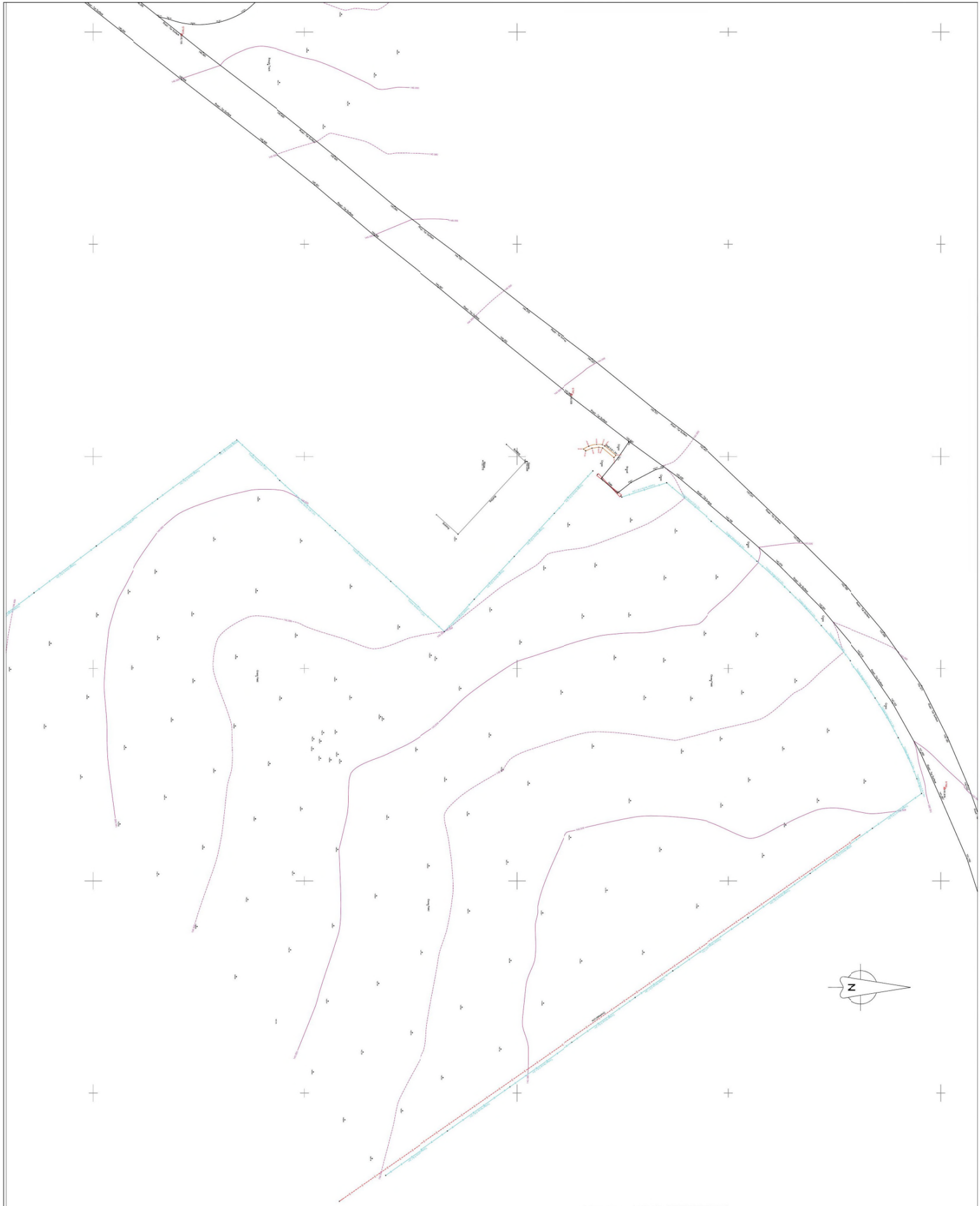
— CROSS SECTION INDICATIVE BETWEEN CROSS SECTIONS

△△△ CROSS SECTION LOCATIONS



NO.	DESCRIPTION	DATE	BY	CHECKED	DATE
1	PROPOSED ROADWAY	10/10/2018	W. J. HENDERSON	W. J. HENDERSON	10/10/2018
2	PROPOSED ROADWAY	10/10/2018	W. J. HENDERSON	W. J. HENDERSON	10/10/2018
3	PROPOSED ROADWAY	10/10/2018	W. J. HENDERSON	W. J. HENDERSON	10/10/2018
4	PROPOSED ROADWAY	10/10/2018	W. J. HENDERSON	W. J. HENDERSON	10/10/2018
5	PROPOSED ROADWAY	10/10/2018	W. J. HENDERSON	W. J. HENDERSON	10/10/2018
6	PROPOSED ROADWAY	10/10/2018	W. J. HENDERSON	W. J. HENDERSON	10/10/2018
7	PROPOSED ROADWAY	10/10/2018	W. J. HENDERSON	W. J. HENDERSON	10/10/2018
8	PROPOSED ROADWAY	10/10/2018	W. J. HENDERSON	W. J. HENDERSON	10/10/2018
9	PROPOSED ROADWAY	10/10/2018	W. J. HENDERSON	W. J. HENDERSON	10/10/2018
10	PROPOSED ROADWAY	10/10/2018	W. J. HENDERSON	W. J. HENDERSON	10/10/2018
11	PROPOSED ROADWAY	10/10/2018	W. J. HENDERSON	W. J. HENDERSON	10/10/2018
12	PROPOSED ROADWAY	10/10/2018	W. J. HENDERSON	W. J. HENDERSON	10/10/2018
13	PROPOSED ROADWAY	10/10/2018	W. J. HENDERSON	W. J. HENDERSON	10/10/2018
14	PROPOSED ROADWAY	10/10/2018	W. J. HENDERSON	W. J. HENDERSON	10/10/2018
15	PROPOSED ROADWAY	10/10/2018	W. J. HENDERSON	W. J. HENDERSON	10/10/2018





Legend

	Bench mark		Control station
	Gate		Mudflats
	Tree		Swamp
	Tidal pit		Spot height
	Building outline		Crosshair
	Crosshair		

Abbreviations

BM = Bench mark	CS = Control station
Gate = Gate	Mudflats = Mudflats
Tree = Tree	Swamp = Swamp
Tidal pit = Tidal pit	Spot height = Spot height
Building outline = Building outline	Crosshair = Crosshair

Notes

1. All levels are in O.D. (Ordnance Datum).
2. Levels for road are taken along a bearing line.
3. Levels for road are taken along a bearing line.
4. Levels for road are taken along a bearing line.
5. All control station coordinates should be checked and verified prior to use.
6. All levels are in O.D. (Ordnance Datum).
7. All levels are in O.D. (Ordnance Datum).
8. All levels are in O.D. (Ordnance Datum).
9. All coordinates are in O.D. (Ordnance Datum).

Benchmark Land Surveys	
21 Pilempton Road Dundee DD3 9SG Tel: 01330 222856 E: info@benchmarkland surveys.com www.benchmarkland surveys.com	
Project Title Site 1	Client Title Site 1
Drawing Number 570/1	Date 20/11/19



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Registered in Scotland No: SC220557
Registered Office: Seabraes, 18 Greenmarket, Dundee DD1 4OB
TA Millard Scotland Ltd trading as Millard Consulting

PERTH AND KINROSS COUNCIL

Richard Paterson
Strathearn Design
3 Laurel Avenue
Crieff
PH7 3EN

Pullar House
35 Kinnoull Street
PERTH
PH1 5GD

Date 6 December 2011

Town and Country Planning (Scotland) Acts.

Application Number **09/00848/FLL**

I am directed by the Planning Authority under the Town and Country Planning (Scotland) Acts currently in force, to grant your application registered on 28th May 2009 for planning permission for Erection of 3 dwellinghouses and garages Tillyochie Farm Kinross KY13 0NL subject to the undernoted conditions.

Development Quality Manager

Conditions Referred to Above

1. The development shall be begun within a period of three years from the date of this consent.
2. The proposed development must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed on the planning consent.
3. Samples of all external finishing materials for the houses and garages; shall be submitted for the approval of the Planning Authority prior to the commencement of the development. The finishes; as approved shall be implemented prior to the occupation and or use of the development.
4. Prior to the commencement of work, full details shall be provided of the hard and soft landscaping of the site, to include the planting of a native hedgerow as boundary enclosures. The scheme as subsequently approved shall be implemented as part of the site development programme and thereafter maintained to the satisfaction of the Council as Planning Authority.
5. Prior to the occupation and use of the approved development all matters regarding access, car parking, road layout, design and specification, including the disposal of surface water, shall be in accordance with the standards required by the Council as Roads Authority and to the satisfaction of the Planning Authority.

6. Prior to the occupation or use of the approved development the vehicular access to house 3 shall be formed in accordance with specification Type B, Fig 5.6 access detail to the satisfaction of the Planning Authority.
7. The gradient of the access shall not exceed 3% for the first 5.00 metres measured back from the edge of the carriageway and the access shall be constructed so that no surface water is discharged to the public road.
8. Prior to the occupation or use of the approved development turning facilities shall be provided within the site to enable all vehicles to enter and leave in a forward gear.
9. Prior to the occupation or use of the approved development a minimum of 2 No. car parking spaces per dwelling shall be provided within the site.
10. No development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by Perth and Kinross Trust, and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with Perth and Kinross Heritage Trust.

Reasons for Conditions

1. In accordance with the terms of Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended by Section 20 of the Planning etc (Scotland) Act 2006.
2. To ensure that the development is carried out in accordance with the plans approved.
- 3-4. In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.
- 5-9. In the interests of pedestrian and traffic safety and in the interests of free traffic flow.
10. The site lies adjacent to an area of archaeological interest.

Justification

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

Notes

- 1 The applicant is advised that the Executive Director of Education & Children's Services can give no guarantee that any school age children arising from this development application can be accommodated at Fossoway Primary School. This will result in such children being placed in the nearest school with capacity to accommodate them.
- 2 Please consult the Street Naming and Numbering Officer, The Environment Service, Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth PH1 5GD
- 3 The applicant is advised that the granting of planning consent does not guarantee a connection to Scottish Water's assets. The applicant must make a separate application to Scottish Water Planning & Development Services team for permission to connect to the public wastewater system and/or water network and all their requirements must be fully adhered to.

- 4 No work shall be commenced until an application for building warrant has been submitted and approved.
- 5 The applicant is advised that in terms of Sections 56 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environmental Protection Agency.
- 6 Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 7 As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.

The plans 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

09/00848/1	09/00848/12
09/00848/2	09/00848/13
09/00848/3	09/00848/14
09/00848/4	09/00848/15
09/00848/5	09/00848/16
09/00848/6	09/00848/17
09/00848/7	09/00848/18
09/00848/8	09/00848/19
09/00848/9	09/00848/20
09/00848/10	09/00848/21
09/00848/11	09/00848/22

REPORT OF HANDLING

DELEGATED REPORT

Ref No	09/00848/FLL
Ward No	N8

PROPOSAL: Erection of 3 dwellinghouses and garages

LOCATION: Tillyochie Farm Kinross KY13 0NL

APPLICANT: Richard Paterson

RECOMMENDATION: Approve the application

SITE INSPECTION: 30 June 2009

OFFICERS REPORT:



This is a longstanding planning application relating to the erection of 3 new dwelling units and detached garages within the small settlement of Tillyochie, situated within the confines of the Loch Leven Catchment Area, in rural countryside to the southwest of Kinross.

The site and surrounding environs have a longstanding history, relating primarily to the erection of new build residential units for farm workers (occupancy condition now removed), and adjacent minor infill sites. As a result of detailed and favourably minded pre-application discussions, two previous applications were submitted for housing in the area outlined (07/01127/FUL & 08/00980/FUL refers). Both proposals however failed, due to concerns over the servicing of the plots and potential flood risk.

This latest submission is an attempt to resolve all outstanding difficulties, and consists of two plots on the north side of the minor public road (near the existing ruin), with the remaining plot and combined soakaway area on the other (south) side of the road (to the rear of the existing farmhouse). As before, the design, scale and finishes of the houses and garages are compatible with, and sympathetic to the rural surroundings and traditional architectural character of the area. A detailed flood risk assessment has been prepared by Allen Gordon & Co, which has satisfied the outstanding concerns over finished floor levels and surface water disposal.

Repeated comments and observations, objecting to the plans have been forwarded on behalf of nearby local resident. The views expressed, essentially state the development should not be allowed to proceed as it would be contrary to national and local policy on houses in the countryside.

I remain however of the opinion (as do sustainable planning colleagues) that this settlement is an ideal location for some further small scale development proposals, and as such is in accordance with rural housing policy. There are now no outstanding technical reason why the plans cannot be supported, subject to securing a Section 75 Agreement of drainage and education contribution. The contribution amount will be £6105 per unit – as was the relevant figure in force at the time of submission last year.

Additional native hard and soft landscaping will form a crucial and integral part of the scheme – to assist in providing a contained setting for each individual plot, and also to limit further expansion opportunities.

Accordingly, I am content to support conditional approval of the application as submitted.



DEVELOPMENT PLAN

K_001 Kinross Sustainable Development

The Council will seek to ensure, where possible that development within the Plan area is carried out in a manner in keeping with the goal of sustainable development. Where development is considered to be incompatible with the pursuit of sustainable development, but has other benefits to the area which outweigh this issue, the developer will be required to take whatever mitigation measures are deemed both practical and necessary to minimise any adverse impact. The following principles will be used as guidelines in assessing whether projects pursue a commitment to sustainable development:

- a) The consumption of non-renewable resources should be at levels that do not restrict the options for future generations.
- b) Renewable resources should be used at rates that allow their natural replenishment.
- c) The quality of the natural environment should be maintained or improved.
- d) Where there is great complexity, or there are unclear effects of development on the environment, the Precautionary Principle should be applied.
- e) The costs and benefits (material and non-material) of any development should be equitably distributed.
- f) Biodiversity is conserved.
- g) The production of all types of waste should be minimised, thereby minimising levels of pollution.

- h) New development should meet local needs and enhance access to land, employment, facilities, services and goods.

K_002 Kinross Development Criteria

All developments within the Plan area will be judged against the following criteria:

- A The site should have a landscape framework capable of absorbing, and if necessary, screening the development, and where appropriate opportunities for landscape enhancement will be sought.
- B In the case of building development, regard should be had to the scale, form colour and density of development within the locality.
- C The development should be compatible with it's surroundings in land use terms and should not result in a significant loss of amenity to the local community.
- D The local road and public transport network should be capable of absorbing the additional traffic generated by the development and a satisfactory access onto that network provided.
- E Where applicable, there should be sufficient spare capacity in drainage, water and education services to cater for the new development.
- F The site should be large enough to accommodate the impact of the development satisfactorily in site planning terms.
- G Buildings and layouts for new development should be designed so as to be energy efficient.
- H Built development should, where possible, be located in those settlements which are the subject of inset maps.

K_004 Kinross Flood Risk

Development in areas liable to flood, or where remedial measures would adversely affect flood risk elsewhere, will not normally be permitted. For the purposes of this policy flood risk sites will be those which are judged to lie within:-

- a) Areas of known flooding.
- b) Sites which lie within a flood plain.
- c) Low lying sites adjacent to rivers, or to watercourses which lead to categories a and b.

K_006 Kinross Design and Landscaping

The Council will require high standards of design for all development in the Plan Area. In particular encouragement will be given to:-

- a) The use of appropriate high quality materials.
- b) Innovative modern design incorporating energy efficient technology and materials, subject to compliance with d) and e) below
- c) Avoidance of the use of extensive underbuilding on steeply sloping sites.
- d) Ensuring that the proportions of any building are in keeping with its surroundings.
- e) Ensuring that the development fits its location.

The design principles set out in the Council's Guidance on the Design of Houses in Rural Areas will be used as a guide for rural housing applications and where appropriate for other forms of built development.

K_010 Kinross Drainage within Loch Leven Catch

Total phosphorus from built development should not exceed the current level permitted by the discharge consents for the Kinross and Milnathort waste water treatment works together with the current contribution from built development within the rural area of the catchment. Where improvements reduce the phosphorus total from built development, there will be a presumption in favour of retaining such gains to the benefit of the ecological recovery of Loch Leven.

All applicants will be required to submit details of the proposed method of drainage before their application is determined and adopt the principles of best available technology not entailing excessive costs to the satisfaction of the Planning Authority in conjunction with SEPA.

K_011 Kinross Drainage within Loch Leven Catch

All developments within the Loch Leven catchment area will require to connect to a publicly maintained drainage system incorporating phosphate reduction measures. Exceptions will only be permitted where one of the following criteria can be met:

- a) Where drainage can be diverted outwith the catchment.
- b) Where, for non-residential development, it is not economic to connect to the public system and where the developer is able to implement acceptable mitigation measures.
- c) In the case of residential developments of 5 or less houses the best available technology, not entailing excessive costs, is employed to minimise phosphorus output.

All applications for planning consent not connecting to the Kinross or Milnathort waste water treatment works will be required to provide an assessment of phosphorus input for the development. Evidence of phosphorus impact of the development will be required from a suitably qualified person. In cases of great complexity or uncertainty the Precautionary Principle will be adopted.

K_012 Kinross Drainage within Loch Leven

Where a development is likely to breach drainage Policies 10 or 11, it will be refused. However, there may be exceptions to this policy where, if the developer can show that mitigation measures capable of removing from the catchment area 125% of the phosphorus likely to be generated by the development can be implemented and the proposed development is otherwise acceptable in terms of Council policy, a separate planning agreement in terms of Section 75 may be considered.

Mitigation measures should not include measures which are already committed in a spending programme and likely to be implemented by a statutory body within three years of the determination of the application.

K_064 Kinross Housing in the Countryside

The Council will normally only support proposals for the erection of individual houses in the countryside which fall into at least one of the categories 1-4. Within the Loch Leven Catchment Area Policy 11 also applies.

1. Building Groups (applicable criteria)

- i) Development within existing small groups where sites are contained by housing or other buildings, and where further development would not significantly detract from the character or amenity of existing housing or lead to an extension of the group.
- ii) Development within or adjacent to established building groups which have compact nucleated shapes creating an identifiable "sense of place". Where an application reveals that there may be a number of opportunities relating to the group, the Council will defer consideration of the application until an Advisory Plan has been produced. Consent will be granted for houses within such groups provided they do not detract from the amenity of the group and for houses which extend the group into definable sites created by surrounding topography, landscape features or field boundaries which will constrain the continued spread of the group.

For All Proposals

- i) Satisfactory access and services should be available or capable of being provided.
- ii) Proposals should comply with the design advice contained in the Council's Guidance on the Siting and Design of Houses in Rural Areas.
- iii) The quality of the design and materials of the house should be reflected in the design and finish of outbuildings, means of enclosure, access etc. The Planning Authority will consider whether permitted development rights in respect of extensions, outbuildings and means of enclosure etc should be removed to protect the rural character of the curtilage of a new house in the countryside.
- iv) There will be a strong presumption against the replacement of Listed Buildings, or their restoration in a way which is detrimental to the essential character of the original building.
- v) Full applications should be submitted for all proposals, but where an outline application is made this must be accompanied by sketch plans indicating the size of the proposed new building or extension and proposed elevational treatments and materials.

In all applications for houses in the countryside high standards of siting, design and finish will be required, in accordance with the Council's Siting and Design Guide.

OTHER POLICIES – Education Contribution

SITE HISTORY

90/00683/FULERECTION OF A GRAIN BUILDING AT22.06.1990
95/01015/FULERECTION OF A NEW HOUSE (IN OUTLINE) AT08.01.1996
96/00506/FULERECTION of a house and garage at18.07.1996
05/00680/FULERECTION of a dwellinghouse and garage01.06.2005
07/01127/FULERECTION of two houses and garages02.06.2007
07/02147/FULERECTION of garage/workshop21.01.2008
08/00980/FULERECTION of 3 houses and garages29.10.2008
09/00203/MODModification of existing consent (07/02147/FUL) Change of building type14.05.2009
09/00848/FLLERECTION of 3 dwellinghouses and garages
09/01869/FLLAlterations and extension to house13.01.2010

CONSULTATIONS/COMMENTS

Head Of Environmental And Consumer Services	No Objection
Scottish Water	Initial objection to flood risk/drainage
Scottish Natural Heritage	Objects – Subject to Sect 75 Agreement
Scottish Environment Protection A	Initial objection to flood risk/drainage, withdrawn
Transport Planning	Conditional Approval
Perth And Kinross Area Archaeologist	Conditional Approval
Education And Children's Services	Policy Trigger
Local Flood Prevention Authority	Initial Objection withdrawn

TARGET DATE: 28 July 2009

REPRESENTATIONS RECEIVED: Two

Summary of issues raised by objectors: Concern that development is not in accordance with national and local policies. The number of houses proposed would destroy historic setting of Tillyochie and not sit well within landscape. No justification to support proposals or overcome earlier servicing issues.

Response to issues raised by objectors: Internal assessment of development and policy interpretation is more relaxed in the opinion that this organic settlement can accommodate new houses in principle. The design and layout is deemed compatible with the rural area and should not erode character or setting of the hamlet. Adequate open space and undeveloped land surrounds the plots and affords an opportunity to suitably landscape the units into the established area. Main consultee responses are now supportive, subject to binding legal agreement over drainage and education. Therefore there are no further valid reasons as to why the development could not be supported.

Representations Received	Two
Additional Statements Received	Flood Risk /Drainage
Environment Statement	Not required
Screening Opinion	Not required
Environmental Impact Assessment	Not required
Appropriate Assessment	Not required
Design Statement or Design and Access Statement	Not required
Report on Impact/Potential Impact i.e. Flood Risk Assessment	Included
Legal Agreement Required	Yes – Sect 75
Direction by Scottish Ministers	None

Conditions:-

- 1 The development shall be begun within a period of three years from the date of this consent.
- 2 The proposed development must be carried out in accordance with the approved plans, unless otherwise provided for by conditions imposed on the planning consent.
- 3 Samples of all external finishing materials for the houses and garages; shall be submitted for the approval of the Planning Authority prior to the commencement of the development. The finishes; as approved shall be implemented prior to the occupation and or use of the development.
- 4 Prior to the commencement of work, full details shall be provided of the hard and soft landscaping of the site, to include the planting of a native hedgerow as boundary enclosures. The scheme as subsequently approved shall be implemented as part of the site development programme and thereafter maintained to the satisfaction of the Council as Planning Authority.
- 5 Prior to the occupation and use of the approved development all matters regarding access, car parking, road layout, design and specification, including the disposal of surface water, shall be in accordance with the standards required by the Council as Roads Authority and to the satisfaction of the Planning Authority.

- 6 Prior to the occupation or use of the approved development the vehicular access to house 3 shall be formed in accordance with specification Type B, Fig 5.6 access detail to the satisfaction of the Planning Authority.
- 7 The gradient of the access shall not exceed 3% for the first 5.00 metres measured back from the edge of the carriageway and the access shall be constructed so that no surface water is discharged to the public road.
- 8 Prior to the occupation or use of the approved development turning facilities shall be provided within the site to enable all vehicles to enter and leave in a forward gear.
- 9 Prior to the occupation or use of the approved development a minimum of 2 No. car parking spaces per dwelling shall be provided within the site.
- 10 No development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by Perth and Kinross Trust, and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with Perth and Kinross Heritage Trust.

Reasons:-

- 1 In accordance with the terms of Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended by Section 20 of the Planning etc (Scotland) Act 2006.
- 2 To ensure that the development is carried out in accordance with the plans approved.
- 3 In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.
- 4 In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.
- 5 In the interests of pedestrian and traffic safety and in the interests of free traffic flow.
- 6 In the interests of pedestrian and traffic safety and in the interests of free traffic flow.
- 7 In the interests of pedestrian and traffic safety and in the interests of free traffic flow.
- 8 In the interests of pedestrian and traffic safety and in the interests of free traffic flow.
- 9 In the interests of pedestrian and traffic safety and in the interests of free traffic flow.
- 10 The site lies adjacent to an area of archaeological interest.

Justification:

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

Notes

- 1 The applicant is advised that the Executive Director of Education & Children's Services can give no guarantee that any school age children arising from this development application can be accommodated at Fossoway Primary School. This will result in such children being placed in the nearest school with capacity to accommodate them.
- 2 Please consult the Street Naming and Numbering Officer, The Environment Service, Perth and Kinross Council, The Atrium, Glover Street, Perth regarding a new postal address.
- 3 The applicant is advised that the granting of planning consent does not guarantee a connection to Scottish Water's assets. The applicant must make a separate application to Scottish Water Planning & Development Services team for permission to connect to the public wastewater system and/or water network and all their requirements must be fully adhered to.
- 4 No work shall be commenced until an application for building warrant has been submitted and approved.
- 5 The applicant is advised that in terms of Sections 56 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environmental Protection Agency.



PERTH AND KINROSS COUNCIL

Mr Richard Paterson
c/o Greenfields Design Ltd
2B Bank Street
Alloa
Clackmanshire
FK10 1HP

Pullar House
35 Kinnoull Street
PERTH
PH1 5GD

Date 11 February 2016

Town and Country Planning (Scotland) Acts.

Application Number **14/02062/FLL**

I am directed by the Planning Authority under the Town and Country Planning (Scotland) Acts currently in force, to grant your application registered on 27th November 2014 for planning permission for **Renewal of permission (09/00848/FLL) erection of 3 dwellinghouses** at Tillyochie Farm Balado Kinross KY13 0NL subject to the undernoted conditions.

Development Quality Manager

Conditions referred to above

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

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

- 2 Samples of all external finishing materials for the houses and garages; shall be submitted for the approval of the Planning Authority prior to the commencement of the development. The finishes; as approved shall be implemented prior to the occupation and or use of the development.

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

- 3 Prior to the commencement of work, full details shall be provided of the hard and soft landscaping of the site, which shall include the planting of native species hedgerow's as boundary enclosures. The scheme as subsequently approved shall be implemented as part of the site development programme and thereafter maintained to the satisfaction of the Council as Planning Authority.

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

- 4 The gradient of each principal access identified shall not exceed 3% for the first 5.00 metres measured back from the edge of the carriageway and the access shall be constructed so that no surface water is discharged to the public road.

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

- 5 No development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by Perth and Kinross Trust, and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with Perth and Kinross Heritage Trust.

Reason - The site lies adjacent to an area of archaeological interest.

- 6 The foul drainage infrastructure capable of achieving not less than 125% phosphorus mitigation associated with this development shall be undertaken in a phased manner:-

- a) No development shall commence on the approved development site until the mitigating foul drainage infrastructure has been installed at the following property:

Tillyochie Farm, Tillyochie, Kinross, KY13 0NL

For the avoidance of any doubt the installed drainage infrastructure at the remote property/properties as approved shall be retained all to the reasonable satisfaction of the Planning Authority.

- b) Following the installation of the foul drainage infrastructure at the remote property/properties the development site shall only be occupied once the foul drainage infrastructure for the development site has been installed and the existing Tillyochie Farm house drainage infrastructure decommissioned. For the avoidance of any doubt, the installed drainage infrastructure at Tillyochie Farm as approved shall be retained in perpetuity unless otherwise agreed in writing (in consultation with SEPA).

Reason - To ensure appropriate drainage arrangements are in place to remove phosphorus from the Loch Leven Catchment Area thereby ensuring compliance with Policy EP7 of the Perth and Kinross Local Development Plan 2014.

- 7 No development shall commence until the applicant has submitted approved CAR licence(s) under the Water Environment (Controlled Activities)(Scotland) Regulations 2005 for the drainage infrastructure associated with this project to the Planning Authority and the Planning Authority has confirmed receipt of the documentation in writing.

Reason - To ensure appropriate drainage arrangements are in place to remove phosphorus from the Loch Leven Catchment Area thereby ensuring compliance with Policy EP7 of the Perth and Kinross Local Development Plan 2014.

Justification

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

Informatives

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
- 2 Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
- 4 Please consult the Street Naming and Numbering Officer, The Environment Service, Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth PH1 5GD
- 5 No work shall be commenced until an application for building warrant has been submitted and approved.
- 6 The applicant is advised that the Executive Director of Education & Children's Services can give no guarantee that any school age children arising from this development application can be accommodated at Fossoway Primary School. This will result in such children being placed in the nearest school with capacity to accommodate them.
- 7 The applicant is advised that the granting of planning consent does not guarantee a connection to Scottish Water's assets. A totally separate drainage system will be required with the surface water discharging to a suitable outlet. Scottish Water requires a sustainable urban drainage system (SUDS) as detailed in Sewers for Scotland 2 if the system is to be considered for adoption.

- 8 The applicant is advised that in terms of Sections 56 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environmental Protection Agency.
- 9 The applicant is advised to take full account of Perth and Kinross Council Waste Services Memo (dated 11/12/2014) consultation response.

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 and Document Reference

09/00848/FLL/1	09/00848/FLL/9	09/00848/FLL/17
09/00848/FLL/2	09/00848/FLL/10	09/00848/FLL/18
09/00848/FLL/3	09/00848/FLL/11	09/00848/FLL/19
09/00848/FLL/4	09/00848/FLL/12	09/00848/FLL/20
09/00848/FLL/5	09/00848/FLL/13	09/00848/FLL/21
09/00848/FLL/6	09/00848/FLL/14	09/00848/FLL/22
09/00848/FLL/7	09/00848/FLL/15	14/02062/1
09/00848/FLL/8	09/00848/FLL/16	14/02062/2

REPORT OF HANDLING

DELEGATED REPORT

Ref No	14/02062/FLL	
Ward No	N8- Kinross-shire	
Due Determination Date	26.01.2015	
Case Officer	Callum Petrie	
Report Issued by		Date
Countersigned by		Date

PROPOSAL: Renewal of permission (09/00848/FLL) erection of 3 dwellinghouses

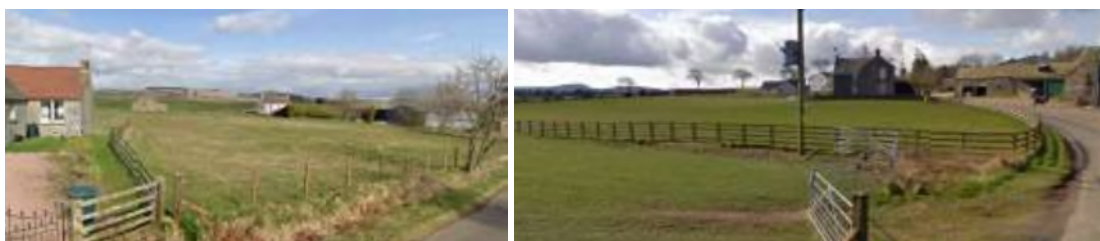
LOCATION: Tillyochie Farm Balado Kinross KY13 0NL

SUMMARY:

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

DATE OF SITE VISIT: 15 January 2015

SITE PHOTOGRAPHS



BACKGROUND AND DESCRIPTION OF PROPOSAL

This application relates to a site extending to 0.752 Ha, relating to the proposed renewal of consent for 3 new dwellinghouses and associated detached garages within the building group referred to as Tillyochie, on farmland to the South West of Kinross.

The wider site and surrounding environs have a longstanding history, relating primarily to the erection of new build residential units for farm workers. Two previous applications were submitted for housing in the area outlined

(07/01127/FUL & 08/00980/FUL refers). Historical proposals failed due to unaddressed concerns over the servicing of the plots and potential flood risk.

The submission of planning application 09/00848/FLL addressed all outstanding conflicting policy items; with the proposals consisting of two detached plots on the north side of the minor public road (adjacent to an existing field ruin), with the remaining detached plot and combined soakaway area on the south side of the road (to the rear of the existing farmhouse).

SITE HISTORY

08/00980/FUL Erection of 3 houses and garages 29 October 2008 Application Refused.

09/00848/FLL Erection of 3 dwellinghouses and garages 8 December 2011 Application Permitted.

15/00819/MPO Modification of planning obligation (09/00848/FLL - Erection of 3 dwellinghouses and garages) relating to section 75 agreement 8 July 2015 Application Permitted.

PRE-APPLICATION CONSULTATION

Pre application Reference: Nothing formal in relation to the renewal.

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 2012-2032 and the Perth and Kinross Local Development Plan 2014.

TAYplan Strategic Development Plan 2012 – 2032 - Approved June 2012

Whilst there are no specific policies or strategies directly relevant to this proposal the overall vision of the Tay Plan should be noted. The vision states *“By 2032 the TAYplan region will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice, where more people choose to live, work and visit and where businesses choose to invest and create jobs.”*

Perth and Kinross Local Development Plan 2014 – Adopted February 2014

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

The principal policies are, in summary:

Policy EP2 - New Development and Flooding

There is a general presumption against proposals for built development or land raising on a functional flood plain and in areas where there is a significant probability of flooding from any source, or where the proposal would increase the probability of flooding elsewhere. Built development should avoid areas at significant risk from landslip, coastal erosion and storm surges. Development should comply with the criteria set out in the policy.

Policy PM3 - Infrastructure Contributions

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

Policy EP2 - New Development and Flooding

There is a general presumption against proposals for built development or land raising on a functional flood plain and in areas where there is a significant probability of flooding from any source, or where the proposal would increase the probability of flooding elsewhere. Built development should avoid areas at significant risk from landslip, coastal erosion and storm surges. Development should comply with the criteria set out in the policy.

Policy RD3 - Housing in the Countryside

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

Policy PM1A - Placemaking

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

Policy PM1B - Placemaking

All proposals should meet all eight of the placemaking criteria.

Policy EP7A - Drainage within the Loch Leven Catchment

Total phosphorus from development must not exceed the current level permitted by the discharge consents for Kinross and Milnathort waste water treatment works together with the current contribution from built development within the rural area of the catchment.

Policy EP7B - Drainage within the Loch Leven Catchment

Developments within the Loch Leven Catchment Area will be required to connect to a publicly maintained drainage system incorporating phosphorus reduction measures. Exceptions will only be permitted where they are in accordance with criteria set out.

Policy EP7C - Drainage within the Loch Leven Catchment

Where EP7A and EP7B cannot be satisfied, proposals will be refused unless they are capable of removing 125% of the phosphorus likely to be generated by the development from the catchment.

OTHER POLICIES

Housing in the Countryside Guide 2014

The current Housing in the Countryside Guide was approved by the Council in October 2014. The Guide supports policy RD3, which applies over the whole local authority area of Perth and Kinross. The policy aims to:

- Safeguard the character of the countryside;
- Support the viability of communities;
- Meet development needs in appropriate locations;
- Ensure that high standards of siting and design are achieved.

The Council's "Guidance On The Siting And Design Of Houses In Rural Areas" contains advice on the siting and design of new housing in rural areas.

Development Contributions 2014

Sets out the Council's Policy for securing contributions from developers of new homes towards the cost of meeting appropriate infrastructure improvements necessary as a consequence of development.

CONSULTATION RESPONSES

Contributions Officer – As per original agreed S.75

Community Waste Advisor - Environment Service – Advised of minimum requirements.

Scottish Environment Protection Agency – Original review identified no drainage details pertaining to original 2009 consent. Submission of details in July 2015 allowed SEPA to review position and advise no objection, subject to conditions.

Scottish Natural Heritage – No objection, subject to conditions to secure Loch Leven drainage improvements.

Education and Children's Services – Continue to apply.

Transport Planning Internal Discussions – No objection, consistent with position of 2009 assessment and decision.

Scottish Water – No objection.

REPRESENTATIONS

No representation(s) received.

ADDITIONAL STATEMENTS RECEIVED:

Environment Statement	Not Required.
Screening Opinion	Not Required.
Environmental Impact Assessment	Not Required.
Appropriate Assessment	Not Required.
Design Statement or Design and Access Statement	Not Required.
Report on Impact or Potential Impact eg Flood Risk Assessment	Submitted, follow up (missing) drainage information submitted in relation to LLC.

APPRAISAL

Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for the area comprises the approved TAYplan 2012 and the adopted Perth and Kinross Local Development Plan 2014.

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

Original assessment of development and policy interpretation agreed that this organic rural building group could accommodate new houses in principle. The design and layout was deemed compatible with the rural area and necessarily erode character or setting of the building group. Adequate open space and undeveloped land surrounds the plots and affords an opportunity to suitably landscape the units into the established area. Remaining policy areas to address surround the private drainage proposals in the context of Loch Leven

and continued application of developer contributions through an updated legal agreement.

Design and Layout

Original assessment deemed the design, scale and finishes of the houses and garages to be compatible with, and sympathetic to the rural surroundings and traditional architectural character of the area.

Consistent with original officer assessment, the house types, scales, finishes and layout are considered appropriate in this context with no adverse impact calculated.

Landscape

No adverse impact calculated on landscape in this context. Consistent with original assessment and recommendations, it is considered appropriate to condition for strong boundary landscape features in the form of native species hedging.

Residential Amenity

No adverse impact calculated on existing or proposed residential amenity in this case, consistent with original appraisal.

Visual Amenity

Consistent with extant consent, no adverse impact calculated on visual amenity, with the proposals relating to the original building group of Tillyochie.

Roads and Access

Consistent with historic assessment, the transport colleague reviewing the position was comfortable to not object on the basis the original conditions were re-applied. The case officer discussed the original conditions further with transport colleague and it was agreed some of the original conditions were not surplus to requirements or would require further re-wording in order to apply across all three plots. The roads and access conditions now proposed reflect this updated position.

Drainage and Flooding

Loch Leven catchment. Although this was an application for renewal, the drainage policy position and protocol has now been amended from that of the original application. The planning authority can now look to control drainage matters via condition, as opposed to legal agreement. Unfortunately, the required drainage information was established to be 'missing' from the original file. Given this anomaly, the officer applied 'stop the clock' to allow for the required drainage information to be re-produced and presented to SEPA. With these matters fully addressed, both SEPA and SNH were comfortable to allow

for the new consent to adopt the conditional route as agreed in the protocol and remaining consistent with policies EP7A and EP7B.

A detailed flood risk assessment was historically prepared in support of the 09 application, which satisfied original outstanding concerns over finished floor levels and surface water disposal. This remains the position as part of the current re-submission.

Developer Contributions

A legal agreement relates to the original planning consent 09/00848/FLL. With reference to the above planning application the Council Developer Contributions Supplementary Guidance requires a financial contribution towards increased primary school capacity in areas where a primary school capacity constraint has been identified. A capacity constraint is defined as where a primary school is operating, or likely to be operating following completion of the proposed development and extant planning permissions, at or above 80% of total capacity.

This proposal is within the catchment of Fossoway Primary School.

This proposal is a renewal of existing consent 09/00848/FLL. The requirements of the agreed S.75 Legal Agreement should continue with any renewal of consent, which is set at a lower contribution level of £6105 per dwelling.

Economic Impact

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

Conclusion

In conclusion, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, the proposal is considered to comply with the approved TAYplan 2012 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 approval subject to conditions.

APPLICATION PROCESSING TIME

The recommendation for this application has not been made within the statutory determination period. A period of time passed to allow for 'missing' drainage information relating to Loch Leven catchment to be completed, submitted and reviewed. In addition to stop the clock, the application is also subject to a further stop the clock to cover the revised legal agreement 15/00819/MPO to account for futureproofing and amended loch leven catchment process, and is also accounted for through a planning processing

agreement to give certainty to both the applicant and council of a final determination date.

LEGAL AGREEMENTS

A modified legal agreement is required to account for the revised planning reference (including futureproofing) and removal of loch leven catchment obligations which shall now be covered by condition (in line with agreed protocol).

DIRECTION BY SCOTTISH MINISTERS

None applicable to this proposal.

RECOMMENDATION

Approve the application

Conditions and Reasons for Recommendation

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

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

2 Samples of all external finishing materials for the houses and garages; shall be submitted for the approval of the Planning Authority prior to the commencement of the development. The finishes; as approved shall be implemented prior to the occupation and or use of the development.

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

3 Prior to the commencement of work, full details shall be provided of the hard and soft landscaping of the site, which shall include the planting of native species hedgerow's as boundary enclosures. The scheme as subsequently approved shall be implemented as part of the site development programme and thereafter maintained to the satisfaction of the Council as Planning Authority.

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

4 The gradient of each principal access identified shall not exceed 3% for the first 5.00 metres measured back from the edge of the carriageway and the access shall be constructed so that no surface water is discharged to the public road.

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

5 No development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by Perth and Kinross Trust, and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with Perth and Kinross Heritage Trust.

Reason - The site lies adjacent to an area of archaeological interest.

6 The foul drainage infrastructure capable of achieving not less than 125% phosphorus mitigation associated with this development shall be undertaken in a phased manner:-

a) No development shall commence on the approved development site until the mitigating foul drainage infrastructure has been installed at the following property:

o Tillyochie Farm, Tillyochie, Kinross, KY13 0NL

For the avoidance of any doubt the installed drainage infrastructure at the remote property/properties as approved shall be retained all to the reasonable satisfaction of the Planning Authority.

b) Following the installation of the foul drainage infrastructure at the remote property/properties the development site shall only be occupied once the foul drainage infrastructure for the development site has been installed and the existing Tillyochie Farm house drainage infrastructure decommissioned. For the avoidance of any doubt, the installed drainage infrastructure at Tillyochie Farm as approved shall be retained in perpetuity unless otherwise agreed in writing (in consultation with SEPA).

Reason - To ensure appropriate drainage arrangements are in place to remove phosphorus from the Loch Leven Catchment Area thereby

ensuring compliance with Policy EP7 of the Perth and Kinross Local Development Plan 2014.

- 7 No development shall commence until the applicant has submitted approved CAR licence(s) under the Water Environment (Controlled Activities)(Scotland) Regulations 2005 for the drainage infrastructure associated with this project to the Planning Authority and the Planning Authority has confirmed receipt of the documentation in writing.

Reason - To ensure appropriate drainage arrangements are in place to remove phosphorus from the Loch Leven Catchment Area thereby ensuring compliance with Policy EP7 of the Perth and Kinross Local Development Plan 2014.

Justification

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

Informatives

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
- 2 Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
- 4 Please consult the Street Naming and Numbering Officer, The Environment Service, Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth PH1 5GD
- 5 No work shall be commenced until an application for building warrant has been submitted and approved.

- 6 The applicant is advised that the Executive Director of Education & Children's Services can give no guarantee that any school age children arising from this development application can be accommodated at Fossoway Primary School. This will result in such children being placed in the nearest school with capacity to accommodate them.
- 7 The applicant is advised that the granting of planning consent does not guarantee a connection to Scottish Water's assets. A totally separate drainage system will be required with the surface water discharging to a suitable outlet. Scottish Water requires a sustainable urban drainage system (SUDS) as detailed in Sewers for Scotland 2 if the system is to be considered for adoption.
- 8 The applicant is advised that in terms of Sections 56 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environmental Protection Agency.
- 9 The applicant is advised to take full account of Perth and Kinross Council Waste Services Memo (dated 11/12/2014) consultation response.

Procedural Notes

The application decision notice cannot be issued until a revised legal agreement is registered.

PLANS AND DOCUMENTS RELATING TO THIS DECISION

09/00848/FLL/1

09/00848/FLL/2

09/00848/FLL/3

09/00848/FLL/4

09/00848/FLL/5

09/00848/FLL/6

09/00848/FLL/7

09/00848/FLL/8

09/00848/FLL/9

09/00848/FLL/10

09/00848/FLL/11

09/00848/FLL/12

09/00848/FLL/13

09/00848/FLL/14

09/00848/FLL/15

09/00848/FLL/16

09/00848/FLL/17

09/00848/FLL/18

09/00848/FLL/19

09/00848/FLL/20

09/00848/FLL/21

09/00848/FLL/22

14/02062/1

14/02062/2

Date of Report 15.09.2015

LRB-2020-12

19/02087/FLL – Erection of 3 dwellinghouses, land 30 metres south west of Leiland House and 50 metres south east of Tillyochie Farmhouse, Balado

PLANNING DECISION NOTICE *(included in applicant's submission, pages 707-708)*

REPORT OF HANDLING *(included in applicant's submission, pages 709-719)*

REFERENCE DOCUMENTS *(included in applicant's submission, pages 729-751 and 767-821)*

LRB-2020-12

19/02087/FLL – Erection of 3 dwellinghouses, land 30 metres south west of Leiland House and 50 metres south east of Tillyochie Farmhouse, Balado

REPRESENTATIONS

24th December 2019

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



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

Development Operations
Freephone Number - 0800 3890379
E-Mail - DevelopmentOperations@scottishwater.co.uk
www.scottishwater.co.uk

Dear Local Planner

KY13 Balado Leiland House Land 30M South West
PLANNING APPLICATION NUMBER: 19/02087/FLL
OUR REFERENCE: 786738
PROPOSAL: Erection of 3 dwellinghouses

Please quote our reference in all future correspondence

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

Water

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

Foul

- Unfortunately, according to our records there is no public Scottish Water, Waste Water infrastructure within the vicinity of this proposed development therefore we would advise applicant to investigate private treatment options.

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

Surface Water

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

There may be limited exceptional circumstances where we would allow such a connection for brownfield sites only, however this will require significant justification taking account of various factors including legal, physical, and technical challenges. However it may still be deemed that a combined connection will not be accepted. Greenfield sites will not be considered and a connection to the combined network will be refused.

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

General notes:

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

Site Investigation Services (UK) Ltd

Tel: 0333 123 1223

Email: sw@sisplan.co.uk

www.sisplan.co.uk

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

- Please find all of our application forms on our website at the following link <https://www.scottishwater.co.uk/Business-and-Developers/Connecting-to-Our-Network>

Next Steps:

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

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

- **10 or more domestic dwellings:**

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

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

- **Non Domestic/Commercial Property:**

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

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

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

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

[services/compliance/trade-effluent/trade-effluent-documents/trade-effluent-notice-form-h](#)

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

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

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

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

Yours sincerely

Angela Allison



Comments to the Development Quality Manager on a Planning Application

Planning Application ref.	19/02087/FLL	Comments provided by	Richard Hamilton
Service/Section	TES/Flooding	Contact Details	██████████ ████████████████████
Description of Proposal	Erection of 3 dwellinghouses		
Address of site	Land 30 Metres South West Of Leiland House And 50 Metres South East Of Tillyochie Farmhouse Balado		
Comments on the proposal	<p>No objection subject to a condition to show that the soakaways are designed suitably. Recommended condition: -</p> <p>Development shall not commence on site until a detailed sustainable urban drainage system (SUDS) has been submitted for the further written agreement of the Council as Planning Authority, in consultation with SEPA where necessary. The scheme shall be developed in accordance with the technical guidance contained in The SUDS Manual (C753) and the Council's Flood Risk and Flood Risk Assessments Developer Guidance, and shall incorporate source control. All works shall be carried out in accordance with the agreed scheme and be operational prior to the bringing into use of the development.</p>		
Recommended planning condition(s)			
Recommended informative(s) for applicant	PKC Flooding and Flood Risk Guidance Document (June 2014)		
Date comments returned	06/01/2020		

Memorandum

To	Development Quality Manager	From	Regulatory Service Manager
Your ref	19/02087/FLL	Our ref	NK
Date	6 January 2020	Tel No	01738 476444

Housing & Environment

Pullar House, 35 Kinnoull Street, Perth PH1 5GD

Consultation on an Application for Planning Permission

RE: Erection of 3 dwellinghouses Land 30 Metres South West Of Leiland House And 50 Metres South East Of Tillyochie Farmhouse Balado for Mr R Paterson

I refer to your letter dated the 20 December 2019 in connection with the above application and have the following comments to make.

Recommendation

I have no objection in principle to the application provided that the under noted condition be included on any given consent.

Comments

This application contains the provision of a wood burning stove within the living room and lounge of each of the 3 proposed two storey dwellinghouses. The proposed dwellinghouses will be situated on vacant agricultural land and will be approximately 20 metres from the nearest residential property. I am concerned that smoke/odour from the stove could impact on the residential amenity of surrounding properties if not properly controlled.

Perth and Kinross Council have a duty to assess biomass boilers for capacity within the range of 50kW to 20MW in terms of nitrogen dioxide and particulate matter based on their effect on air quality in the area. However, as this application is for the introduction of two domestic sized stoves into each of the 3 proposed dwellinghouses this will not be necessary, and I therefore have no adverse comments to make with regards to air quality.

As to the potential for smoke or odour nuisance, this Service has seen an increase in complaints with regards to smoke and odour due to the installation of biomass appliances within domestic properties. This can be caused due to poor installation and maintenance of the biomass appliances and inadequate dispersion of emissions due to the inappropriate location and height of a flue with regards to surrounding buildings.

I note from the submitted plans that the proposed flues will terminate above roof ridge height and the proposed dwellinghouses sit in a reasonably open site and therefore this will help to aid dispersion of emissions. I would advise that smoke/odour could be further minimised by using fuel recommended by the manufacturer.

Considering the above, I would have no objections in principle to the application provided that the under noted condition be included on any given consent.

Conditions

EH50 The stove shall be installed, operated and maintained in full accordance with the manufacturer's instructions and shall not be used to burn fuel other than that approved for use by the manufacturer of the appliance.

Comments to the Development Quality Manager on a Planning Application

Planning Application ref.	19/02087/FLL	Comments provided by	Euan McLaughlin
Service/Section	Strategy & Policy	Contact Details	Development Negotiations Officer: Euan McLaughlin [REDACTED] [REDACTED]
Description of Proposal	Erection of 3 dwellinghouses		
Address of site	Land 30 Metres South West Of Leiland House And 50 Metres South East Of Tillyochie Farmhouse, Balado		
Comments on the proposal	<p>NB: Should the planning application be successful and such permission not be implemented within the time scale allowed and the applicant subsequently requests to renew the original permission a reassessment may be carried out in relation to the Council's policies and mitigation rates pertaining at the time.</p> <p>THE FOLLOWING REPORT, SHOULD THE APPLICATION BE SUCCESSFUL IN GAINING PLANNING APPROVAL, <u>MAY</u> FORM THE BASIS OF A SECTION 75 PLANNING AGREEMENT WHICH MUST BE AGREED AND SIGNED PRIOR TO THE COUNCIL ISSUING A PLANNING CONSENT NOTICE.</p> <p>Primary Education</p> <p>With reference to the above planning application the Council Developer Contributions Supplementary Guidance requires a financial contribution towards increased primary school capacity in areas where a primary school capacity constraint has been identified. A capacity constraint is defined as where a primary school is operating at over 80% and is likely to be operating following completion of the proposed development, extant planning permissions and Local Development Plan allocations, at or above 100% of total capacity.</p> <p>This proposal is within the catchment of Fossoway Primary School.</p> <p>Education & Children's Services have no capacity concerns in this catchment area at this time.</p>		
Recommended planning condition(s)	<p>Summary of Requirements</p> <p>Education: £0</p> <p><u>Total:</u> £0</p>		
Recommended informative(s) for applicant			

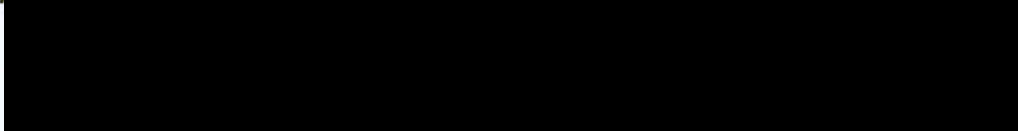
Date comments returned	09 January 2020

Comments to the Development Quality Manager on a Planning Application

Planning Application ref.	19/02087/FLL	Comments provided by	Lachlan MacLean Project Officer – Transport Planning
Service/Section	Transport Planning	Contact Details	TransportPlanning@pkc.gov.uk
Description of Proposal	Erection of 3 dwellinghouses		
Address of site	Land 30 Metres South West Of Leiland House And 50 Metres South East Of Tillyochie Farmhouse, Balado		
Comments on the proposal	<p>The applicant has demonstrated that there is a sufficient visibility splay for this location, at this time of assessing this application. Road Safety have confirmed that the 85%ile speed in this location was approximately 40mph when last assessed, so the visibility splay can be relaxed from the full visibility splay.</p> <p>Insofar as the Roads matters are concerned I have no objections to this proposal on the following conditions.</p>		
Recommended planning condition(s)	<p>The gradient of each principal accesses identified shall not exceed 3% for the first 5.00 metres measured back from the edge of the carriageway and the access shall be constructed so that no surface water is discharged to the public road.</p> <p>Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.</p> <p>Prior to the Plot 3, detailed in Drawing Number <i>11595-S-11'c'</i>, hereby approved being completed or brought into use, the vehicular access shall be formed in accordance with Perth & Kinross Council's Road Development Guide Type B Figure 5.6 access detail with 3 metre radius kerbing, of Type B Road construction detail. The type B Road construction detail shall continue for a minimum distance of 3 metres back from the carriageway edge.</p> <p>Reason - In the interests of road safety; to ensure an acceptable standard of construction within the public road boundary.</p>		
Recommended informative(s) for applicant	<p>The applicant should be advised that in terms of Section 56 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environmental Protection Agency.</p>		
Date comments returned	20 January 2020		

KINROSS-SHIRE CIVIC TRUST

Helping protect, conserve and develop a better built and natural environment



Development Management

Perth & Kinross Council

by email to : developmentmanagement@pkc.gov.uk

24 January 2020

Dear Sir/Madam

19/02087/FLL Erection of 3 dwelling houses, land 30m SW of Leiland House and 50m SE of Tillyochie Farmhouse, Balado

Kinross-shire Civic Trust wishes to object to the above application.

The applicant states on the application form that he is proposing to make private drainage arrangements ("Sewage Treatment Plant for foul water with discharge to land via soakaway. Surface water to soakaway.") Although the locations of these are shown on the plans, there are no technical details of the methods available to view on Public Access. As the proposed development is located within the Loch Leven Catchment Area, such details must be provided and the methods and mitigation must satisfy the local authority to comply with Policy 46 of Perth & Kinross Local Development Plan 2 (LDP2). Our understanding is that SEPA must be consulted but SEPA does not appear on the list of consultees on the planning record on Public Access for this application.

The proposals appears to attempt to create a building group where none exists at present and is therefore contrary to Policy 19 (Housing in the Countryside) of LDP2.

The proposed houses are very large, urban, executive style compared with the existing dwellings in the vicinity. The design and scale of the proposed dwellings would not complement their surroundings and would not respect the character of the area. The proposal is therefore contrary to Placemaking policies in LDP2.

Yours faithfully

Kinross-shire Civic Trust

cc Kinross-shire Ward Councillors
Kinross Community Council

President – Professor David Munro MBE, Chairman – Mr Alistair Smith,
Secretary – Mrs Eileen Thomas, Treasurer – Mr Ken Miles

LRB-2020-12

19/02087/FLL – Erection of 3 dwellinghouses, land 30 metres south west of Leiland House and 50 metres south east of Tillyochie Farmhouse, Balado

FURTHER INFORMATION

- Further information from planning, dated 28 October 2020, as requested by the LRB on 15 September 2020
- Agent's response to further information from planning, dated 30 November 2020
- Further information from the agent, dated 19 January 2021, as requested by the LRB on 8 December 2020
- Planning's response to further information from the agent, dated 22 February 2021
- Further information from planning, dated 6 December 2021, as requested by the LRB on 30 March 2021
- Further information from agent, dated 16 December 2021, as requested by the LRB on 30 March 2021
- Agent's response to further information from planning, dated 21 December 2021
- Planning's response to further information from the agent, dated 21 December 2021

CHX Planning Local Review Body - Generic Email Account

From: Sean Panton
Sent: 28 October 2020 11:54
To: CHX Planning Local Review Body - Generic Email Account
Cc: Christine Brien; Development Management - Generic Email Account
Subject: FW: Requests for Further Information
Attachments: 20201026 Let to Planning (2020-12).pdf; Decision Notice.pdf; CAR Licence.pdf; Drainage Calculations.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Good Morning,

You will see from the below email that I have today requested that SEPA respond to the point (ii) of your attached letter. Please note that the date of the 9th November 2020 gives SEPA less than 2 weeks to respond, therefore there may be a delay in responding to you.

With regards to point (iii) of your letter, I have been advised by management that I am not permitted to answer this point as part of an LRB request. If the LRB wish to know if planning consent 14/02062/FLL has been implemented, then the LRB should request that the applicant/ agent submits a 'Certificate of Lawfulness' application. It is up to the applicant/ agent to demonstrate if the consent has been implemented and provide evidence. Details on what is required from a LAW application and the relevant checklists can be obtained on the Council's website.

I will forward any correspondence received by SEPA with regards to point (ii).

Kind Regards,

Sean Panton MA(Hons) MRTPI,
Development Management,
Planning & Development,
Perth & Kinross Council,
Pullar House,
35 Kinnoull Street,
PERTH,
PH1 5GD.

Comhairle Pheairt is Cheann Rois

CHX Planning Local Review Body - Generic Email Account

From: Sean Panton
Sent: 28 October 2020 11:41
To: 'Planning South East'
Cc: CHX Planning Local Review Body - Generic Email Account
Subject: FW: Requests for Further Information
Attachments: 20201026 Let to Planning (2020-12).pdf; Decision Notice.pdf; CAR Licence.pdf; Drainage Calculations.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Good Morning,

I am writing to you from the Development Management Team at Perth & Kinross Council.

Planning application 19/02087/FLL for the erection of 3 dwellinghouses was refused under delegated powers. Reason 3 for refusal was as follows:

The proposal is contrary to Policies 46A and 46B 'Loch Leven Catchment Area' of the Perth and Kinross Local Development Plan 2 (2019) as no information has been submitted to demonstrate that the total phosphorus from the proposed development is compliant with requirements of the policy.

The application has now been appealed to the Council's Local Review Body (LRB). Additional information (attached) was submitted with the appeal. As seen from point (ii) in the attached letter, the LRB have request that SEPA comment on the additional information submitted. Point (ii) is stated below:

The Council's Development Management and Building Standards Manager to consult with SEPA on the further information provided by the Applicant regarding phosphorous mitigation, and subsequently provide comment back to the Local Review Body.

Could I therefore please request that SEPA review the additional information submitted and provide comment back to me. Please note that SEPA **were not** consulted on the original application as no information had been submitted at application stage. The LRB have requested that this information is received by the **9th November 2020**.

Thank you in advance.

Kind Regards,

Sean Panton MA(Hons) MRTPI,
Development Management,
Planning & Development,
Perth & Kinross Council,
Pullar House,
35 Kinnoull Street,
PERTH,
PH1 5GD.

Comhairle Pheairt is Cheann Rois

From: Taylor, Jessica
Sent: 04 November 2020 13:07
To: Sean Panton
Subject: FW: Requests for Further Information

Good afternoon

I am able to provide the following comments:

A licence has been granted for the site (CAR/S/1174300) and the PE granted on this licence is as stated on the application form which is 28. This is for 3 new x 5 bed houses and an existing 1 x 7bed house being used as mitigation.

The mitigation calculations add 2PE for each garage associated with each new house. The application forms and therefore the licence do not add any PE on to this development for garages and the PE is licenced for 28. If extra bedrooms/PE are required for this development in relation to the garages then an application must be made to SEPA to vary the existing licence. This may also mean gaining extra mitigation for phosphorous.

The mitigation calculations also reduce the PE by a factor of 10%. This is not in line with the current Loch Leven Guidance where we stipulate that PE is calculated on the size of the property by the number of bedrooms it has.

With the development having a PE of 21 (3x5bed houses) with a discharge of 2mg/l along with the existing 7 bed property reducing from 10mg/l to 2mg/l mitigation will be met without the 10% reduction they have added. If however they insist on adding 2PE for garages the mitigation is not met as we will not accept the reduction factor of 10%. I believe this reduction factor is taken from Flows and Loads 4 however we do not use this is the Loch Leven catchment.

Details are not given of the name of this existing house which is required to ensure that it has not already been used for mitigation within the catchment. PKC are the leading authority on this to ensure the property has not been used already for another development.

I hope this is of some assistance. Please do contact me if you have any further queries.

Kind regards

Jessica Taylor

Planning Officer

Planning Service, Scottish Environment Protection Agency, Strathallan House, Castle Business Park,
Stirling FK9 4TZ

CHX Planning Local Review Body - Generic Email Account

From: Mark Myles <mark.myles@bidwells.co.uk>
Sent: 30 November 2020 11:55
To: CHX Planning Local Review Body - Generic Email Account
Subject: LRB-2020-12
Attachments: 226337-DG-0004-W1.pdf; 226337-DG-0005-W1.pdf; 226337-DG-0006-W1.pdf; 226337-DG-0007-W1.pdf; Garage 11595-11c.pdf; Tillyochie, Balado - Photo Schedule.pdf

Dear Audrey

Thank you for your letter of 17 November and copy of the further responses received from SEPA and Development Management. In response we would wish to comment as follows.

The response from SEPA provides confirmation of what we had said in our grounds of appeal in that a licence has been granted for the development (CAR/S/1174300). It is noted that the PE granted on this licence is as stated on the application form which is 28. This is for 3 new x 5 bed houses and an existing 1 x 7bed house being used as mitigation.

The garages that were also approved as part of the development (14/02062/FLL) show storage space at first floor level only (for ease of reference I attach a further copy of the approved drawing of the garages previously submitted with our appeal). If this storage space was ever to be converted to additional ancillary living accommodation then the engineers mitigation calculations had simply shown that this would add 2PE for each garage to the calculation. However if this were to ever happen then as SEPA have correctly stated, this would require an application to be submitted to vary the existing licence which is currently set at a maximum PE of 28 in accordance with the existing planning consent.

Furthermore condition no.1 on planning permission (14/02062/FLL) also states 'the proposed development must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed on the planning permission.' to ensure the development is carried out in accordance with the plans approved. Therefore the council would also be able to retain full control over any potential future changes to the approved storage space within the garages.

In terms of the response received from Development Management dated 28 October, I note that they have declined to comment on whether the previous planning permission was implemented and instead advise that the LRB should request the applicant submits a Certificate of Lawfulness (CoL).

With respect, as part of the ongoing Notice of Review process we do not consider that it is within the remit of the LRB to request that an applicant submits a separate CoL application.

However in order to assist the LRB's consideration of this appeal and in support of the fact that planning permission (14/02062/FLL) was implemented, the LRB have now received further evidence from SEPA that the licence was granted for the drainage works associated with the 3 house development as outlined in our original grounds of appeal. I also attach a copy of the plans relating to the building warrant for the drainage works and a series of photographs showing the various stages of work to confirm that these drainage works were implemented during 2018 and 2019.

The agent who had dealt with the planning application (19/02087/FLL) had been completely unaware of the importance of these points when resubmitting the application in December 2019. Once we were instructed to submit the appeal in March 2020 it became apparent to us that these drainage works had resulted in the implementation of the previous consent (14/02062/FLL). If we had been involved during the earlier planning application stage then we would have brought this matter to the attention of Development Management at that time which may have resulted in a positive decision being taken, or may even have allowed the planning application (19/02087/FLL) to be withdrawn.

I trust this additional information is helpful and I look forward to hearing when this case will be presented back to the LRB for their further consideration.

Kind regards

[illegible]

226337-DG-0004-W1

NOTES:

GENERAL

- 1) REFER TO ARCHITECTS DRAWINGS FOR ALL DIMENSIONS AND SETTING-OUT.
- 2) THE CONTRACTOR IS RESPONSIBLE FOR THE STABILITY OF THE WORKS DURING CONSTRUCTION AND SHALL PROVIDE PROPPING, BRACING ETC AS NECESSARY.
- 3) THE CONTRACTOR SHALL CONFIRM ALL DIMENSIONS, PRIOR TO FABRICATION OF STEELWORK OR OTHER PREFABRICATED OR PRECAST BUILDING ELEMENTS.

FOUNDATIONS

- 1) ALL FOUNDATIONS TO BE ON FIRM, UNDISTURBED, NATURAL SOILS AND BELOW ALL TOPSOIL, ORGANIC MATERIAL AND FILL AND AT A MINIMUM DEPTH OF 600mm.
- 2) THE CONTRACTOR SHALL PROVIDE TEMPORARY SUPPORT, WHERE NECESSARY, TO ALL EXCAVATIONS. TEMPORARY SUPPORTS SHALL BE DESIGNED AND CONSTRUCTED SO AS TO PREVENT LOSS OF GROUND OR SETTLEMENT OF ADJOINING GROUND OR STRUCTURES.
- 3) EXCAVATIONS SHALL BE KEPT FREE FROM WATER AT ALL TIMES.

CONCRETE (SUPPLIED TO COMPLY WITH BS 8500)

- 1) FOUNDATION AND FLOOR SLAB CONCRETE TO BE GRADE RC35, MINIMUM CEMENT CONTENT 240kg/m³ AND MAXIMUM FREE WATER/CEMENT RATIO TO BE 0.7.
- 2) 20mm AGGREGATE TO SATISFY BS882 AND HAVE MAXIMUM DRYING SHRINKAGE OF 0.045%.
- 3) ORDINARY PORTLAND CEMENT TO BS12.

CDM DESIGNERS RISK ASSESSMENT

- THE DESIGN OF THE STRUCTURAL WORKS COMPRISES WELL ESTABLISHED CONSTRUCTIONAL METHODS AND NO UNUSUAL HAZARDS ARE ASSOCIATED WITH THE DESIGN WHICH WOULD NOT BE KNOWN TO A COMPETENT CONTRACTOR EXPERIENCED IN THIS TYPE OF WORK.
- THE DESIGNER ASSUMES THAT SUITABLY STABLE LIFTING EQUIPMENT/PLANT WILL BE USED TO HANDLE HEAVY, OR LARGE, COMPONENTS ON SITE, PARTICULARLY DURING ERECTION.
- STEEL BEAMS TO BE LIFTED INTO POSITION USING APPROPRIATE MECHANICAL LIFTING DEVICES (GENIE LIFTS OR EQUAL). BEAMS TO BE MOVED INTO POSITION USING SUITABLE TROLLEYS

W1	WARRANT ISSUE / TITLE UPDATED	GF	AM	AM	19/12/17				
P1	PRELIMINARY ISSUE	GF	AM	AM	04/12/17				
REV	DESCRIPTION	DRAWN	CHKD	APPR'D	DATE				

 Allen Gordon CONSULTING CIVIL AND STRUCTURAL ENGINEERS SUITE 3, SALTIRE HOUSE WHITEFRIARS BUSINESS PARK PERTH PH2 0PA Tel 01738 639881 e-mail : perth@allengordon.co.uk Also at Inverness and Stirling
--

CLIENT	MR RICHARD PATERSON
PROJECT	PROPOSED HOUSING DEVELOPMENT TILLYOCHIE, NEAR KINROSS
TITLE	STRUCTURAL NOTES

SCALES	N.A.	AT SHEET SIZE	A4
STATUS			
WARRANT			
DRAWN	GF	CHECKED	AM
DATE	DEC 2017	DATE	04/12/17
APPROVED			
DATE			
04/12/17			
DRAWING No.			
226337-DG-0005-W1			

- NOTES:**
- 1. REFER TO DRG Z6337-DG-0005 FOR NOTES
 - 2. SUITABLE TREATMENT PLANTS:
 - KLARGESTER BAX
 - TRICEL NOVA UK8
 - GRAF KLARO E (RPE)

[illegible][illegible]

CLIENT

MR RICHARD PATERSON

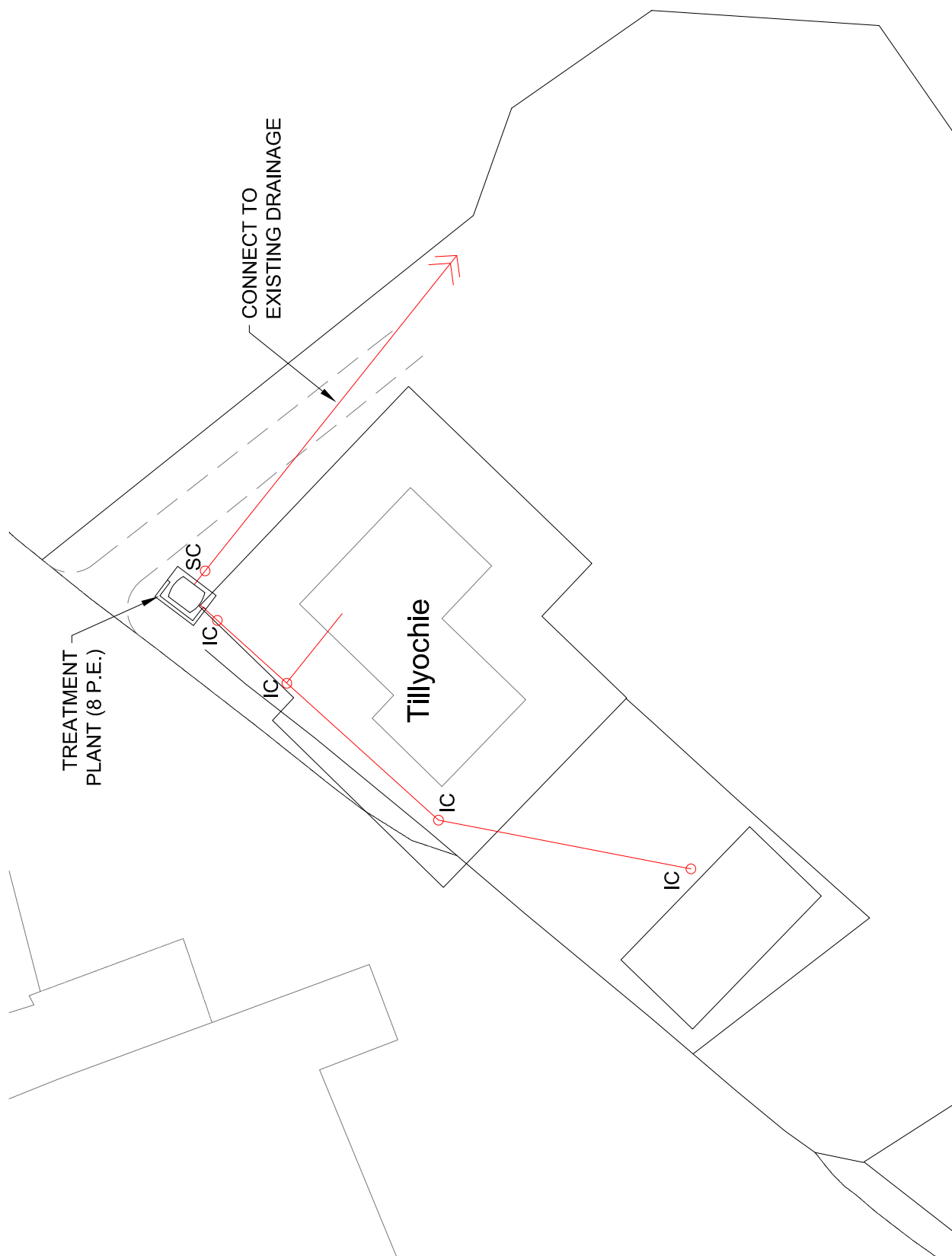
PROJECT
TILLYOCHIE, FARMHOUSE, NEAR
KINROSS

TITLE	PROPOSED NEW DRAINAGE

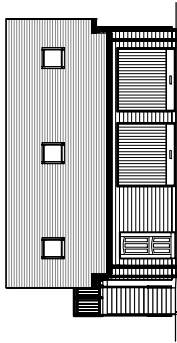
SCALES	NOT TO SCALE	AT SHEET SIZE A1
STATUS	WARRANT	

DRAWN	CHECKED	APPROVED
KLM	AM	AM
DATE	DATE	DATE
DEC 2017	04/12/17	04/12/17

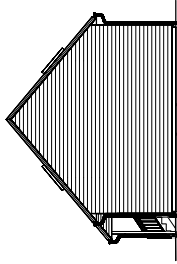
DRAWING NO. **226337-DG-0006-W1**



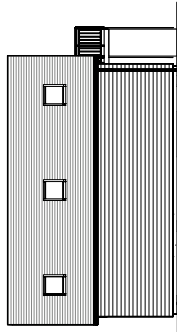
EXTERNAL FINISHES
Natural stone finish to roof
Pine or similar timber frame cladding
Natural stone finish to walls
Natural stone finish to floors
Natural stone finish to roof and parapets
Black UPVC gutters and downpipes



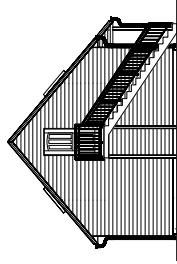
FRONT ELEVATION... 1:100
PLOT 1 - NORTH
PLOT 2 - WEST
PLOT 3 - NORTH EAST



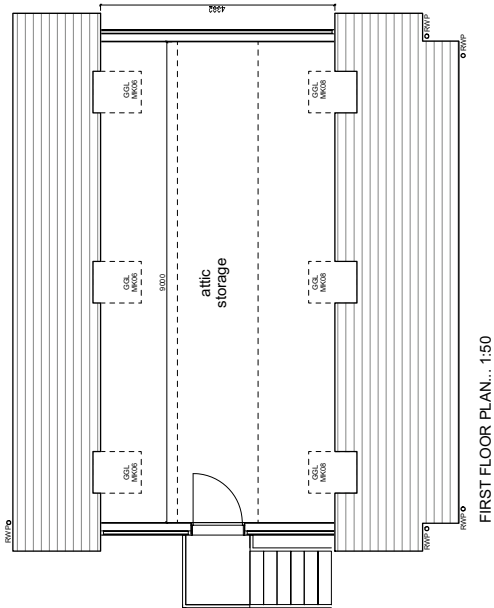
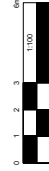
SIDE ELEVATION... 1:100
PLOT 1 - EAST
PLOT 2 - SOUTH
PLOT 3 - NORTH WEST



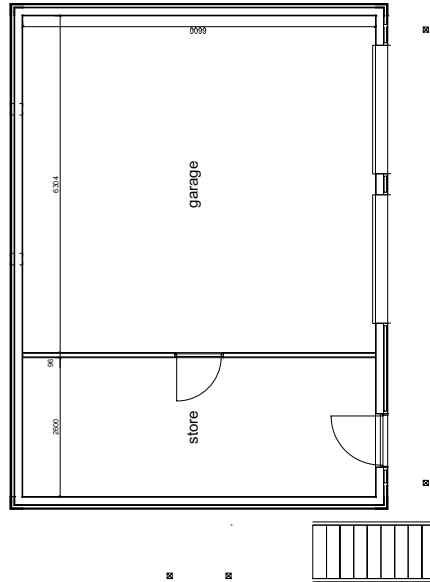
REAR ELEVATION... 1:100
PLOT 1 - SOUTH
PLOT 2 - EAST
PLOT 3 - SOUTH WEST



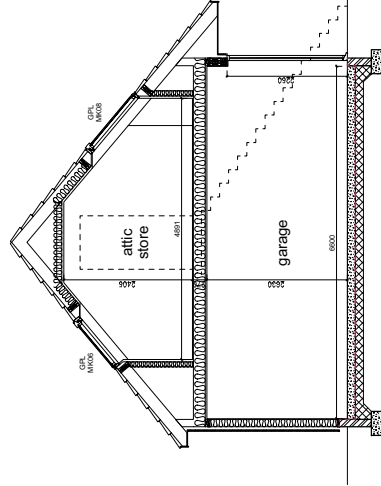
SIDE ELEVATION... 1:100
PLOT 1 - WEST
PLOT 2 - NORTH
PLOT 3 - SOUTH EAST



FIRST FLOOR PLAN... 1:50



GROUND FLOOR PLAN... 1:50



SECTION A-A... 1:50

Rev: C - Title box
Rev: B - External stair removed
Rev: A - External stair removed
REV: DATE

Greenfields Design Ltd.
28 Belfry Street, Alderley Edge, Cheshire, M27 9LH
Tel: 01293 210500
Email: info@greenfieldsdesign.co.uk

Title: Garage
Project: Theobald Farm
Client: Theobald Farm
Location: Blackpool, Lancashire

Scale: 1:50
Sheet: 11/11
Date: 11/05/2011

DO NOT SCALE FOR CONSTRUCTION PURPOSES - IF IN DOUBT ASK! DRAWINGS NOT FOR CONSTRUCTION PURPOSES

PHOTOGRAPHIC EVIDENCE SHOWING IMPLEMENTATION OF DRAINAGE TREATMENT PLANT



Before Work Started



Before Work Started



Concrete Bund to Protect Treatment Plant



Concrete Bund to Protect Treatment Plant



Plant in Place



Plant in Place



Pipework & Inspection Chamber



Pipework & Inspection Chamber



Completed Works



Completed Works

Our ref: MM
DD: 07717512203
E: mark.myles@bidwells.co.uk
Date: 19/01/2021

Lisa Simpson
Clerk to the Local Review Body
Perth & Kinross Local Council
Council Building
2 High Street
Perth
PH1 5PH

Planninglr@pkc.gov.uk

Dear Lisa

Town & Country Planning (Scotland) Act 1997
The Town & Country Planning (Schemes of Delegation & Local Review Procedure) (Scotland) Regulations 2013
Application Ref: 19/02087/FLL – Erection of 3 dwellinghouses, land 30 metres south west of Leiland House and 50 metres south east of Tillyochie Farmhouse, Balado – Mr R Paterson (LRB-2020-12)

I refer to your letter of 6th January 2021 in respect of the above Notice of Review appeal that was deferred at the LRB meeting on 8th December 2020 to allow for further information to be provided on the status of the previous planning permission (14/02062/FLL).

Prior to responding to the LRB's specific questions, I would firstly draw the LRB's attention to the fact that we submitted a Certificate of Lawfulness (CoL) application on behalf of Mr Paterson to Perth & Kinross Council on 11th January 2021. The CoL application has been submitted on the basis that planning permission 14/02062/FLL was implemented during 2018 by virtue of the works undertaken to form the access to plot no.3 and the drainage mitigation works for Tillyochie Farmhouse.

The access works that were undertaken are specifically considered to satisfy the requirements of Section 27 (4) (e) of the Town & Country Planning (Scotland) Act 1997 (as amended) i.e. any operation in the course of laying out or constructing a road or part of a road.

I have therefore attached a copy of the completed CoL application form and the information that was provided in support of this CoL application, namely;

- Copy of approved site plan
- Copy invoice from PH Contracts
- Copy invoice from Collier Quarrying
- Copy invoice from Agrii
- Extract from bank statement – Collier Quarrying payment
- Letter from A G Brunton Maintenance Services

Broxden House, Lamberkine Drive, Perth PH1 1RA
T: 01738 630666 E: info@bidwells.co.uk W: bidwells.co.uk

- Copy of drainage related invoices
- Photographs of access road
- Photographs of drainage mitigation works for Tillyochie Farmhouse (condition 6a)

Given the above, the LRB may wish to defer their further consideration of this Notice of Review case until such time as the CoL application has been determined by the council e.g. if the CoL application is approved by the council, we would then be in a position to withdraw the current Notice of Review appeal.

In the meantime, we would respond to the questions set out in your letter as follows;

- 1 The drainage system that has been installed on the northern side of Tillyochie Farmhouse is the mitigating foul drainage infrastructure that was required to be installed as per condition 6(a) on the planning permission 14/02062/FLL.
- 2 These works commenced in April 2018 as noted in the attached copy photographs that accompanied the CoL application.
- 3 The applicant undertook the work to implement the drainage mitigation measures for Tillyochie Farmhouse as well as the access road works to plot 3 in 2018, which we consider provides evidence of the implementation of the planning permission 14/02062/FLL. However, the applicant recognises that to date he has still to submit the further information required to discharge conditions 2, 3 and 5 of the planning permission 14/02062/FLL. A copy of the SEPA CAR Licence (CAR/S/1174300) has previously been provided to the LRB in support of the Notice of Review appeal. This meets the requirements of condition no.7 on planning permission 14/02062/FLL although it is acknowledged that it needs to be submitted to the council to allow condition no.7 on the planning permission 14/02062/FLL to be formally discharged.
- 4 See response to question 3 above.
- 5 Alongside the need for the applicant to submit further information to allow the council to discharge conditions 2, 3, 5 and 7 on the planning permission, we are not aware of the applicant or their agent having previously submitted a Notification of Initiation of Development form to the council.
- 6 As set out in the CoL application, it is considered that the access road works which commenced in August 2018 constitute a 'material operation' under the terms of Section 27 (4) (e) of the Town & Country Planning (Scotland) Act 1997 as amended.
- 7 As noted above, the drainage mitigation works for Tillyochie Farmhouse commenced in April 2018 in order to satisfy the requirements of condition 6 (a) of the planning permission. The other material operations that are drawn to the attention of the LRB relate to the access road works (implemented in August 2018), as set out above and in the recently submitted CoL application.

I trust that this letter and the additional information provided in response to the further questions, along with details of the recently submitted CoL application, will be helpful to the LRB.

Kind regards

Yours sincerely



Mark Myles

Partner, Head of Planning – Scotland



Pullar House 35 Kinnoull Street Perth PH1 5GD Tel: 01738 475300 Fax: 01738 475310 Email: 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 100349562-001

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.

Site Address Details

Planning Authority:

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

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Northing

Easting

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:	Bidwells		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Mark	Building Name:	Broxden House
Last Name: *	Myles	Building Number:	
Telephone Number: *	01738 630666	Address 1 (Street): *	Lamberkine Drive
Extension Number:		Address 2:	
Mobile Number:	07717 512203	Town/City: *	Perth
Fax Number:		Country: *	Scotland
		Postcode: *	PH1 1RA
Email Address: *	mark.myles@bidwells.co.uk		
Is the applicant an individual or an organisation/corporate entity? *			
<input checked="" type="checkbox"/> Individual <input type="checkbox"/> Organisation/Corporate entity			

Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	Tillyochie Farmhouse
First Name: *	Richard	Building Number:	
Last Name: *	Paterson	Address 1 (Street): *	Tillyochie
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	Kinross
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	KY13 0NL
Fax Number:			
Email Address: *	richardpatersonjnr@yahoo.co.uk		

Type of Application

This application is to ascertain which one of the following would be lawful: *

- ☐ An existing use of buildings or land.
- ☐ An existing operation of development.
- ☒ Any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted.

Description of Existing Use of Buildings or Other Land and/or Existing Operations

Description of Existing Use, Buildings or Operations

Describe the existing uses, building works or operations for which you want a certificate of lawfulness: * (Max 500 characters)

Planning permission 14/02062/FLL was implemented during 2018 by virtue of the works undertaken to form the access to plot no.3 and the drainage mitigation for Tillyochie Farmhouse. The applicant has to submit further information to discharge conditions relating to the consent, however the access works satisfy the requirements of Section 27 (e) of the Town & Country Planning (Scotland) Act 1997 (as amended) i.e. any operation in the course of laying out or constructing a road or part of a road.

Existing Use Class

If a certificate of lawfulness is sought for either an existing use or an existing use in breach of a condition, please state the Use Class as described in the Town and Country Planning (Use Classes) (Scotland) Order 1997 the use relates to: *

Class 9 Houses

Is there more than one use of activity/operation? *

☐ Yes ☒ No

Grounds for Application for Certificate of Lawfulness

Please state the grounds under which the certificate is sought: *
(Note: at least one option must be selected)

- ☐ The use began more than 10 years before the date of this application and has operated continuously.
- ☐ The use, building works, or operations in breach of condition began more than 10 years before the date of this application.
- ☐ The use began within the last 10 years, as a result of a change of use not requiring planning permission, and there has not been a change of use requiring planning permission in the last 10 years.
- ☐ The operations (for instances, building or engineering works) were substantially completed more than 4 years before the date of the application.
- ☐ The use as a single dwelling house began more than 4 years before the date of this application.
- ☒ Other – specify (this might include claims that the change of use or building work was not development, or that it benefited from planning permission granted under the Act or by the General Permitted Development Order).

If Other, please explain: * (Max 500 characters)

The access road benefits from planning permission under 14/02062/FLL and the works were undertaken during August 2018 thereby implementing the planning permission under the terms of Section 27 (e) of the Act.

Are there any existing planning permission, Certificates of Lawfulness, enforcement notices or breach of condition notices affecting the application site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Please State date and reference numbers and details of any condition being breached.	
Reference Number: *	14/02062/FLL
Date of condition: *	11/02/2016
Details of condition: * (Max 500 characters)	
Copy of the decision notice is attached	
<h2 style="margin: 0;">Information in Support of a Certificate of Lawfulness</h2>	
When did the use or activity begin, and/or when were the building works or operations substantially Completed? *	01/08/2018
What information or documentation are you providing with your application to support this date? *	
<input checked="" type="checkbox"/> A plan	
<input checked="" type="checkbox"/> Evidence to substantiate your grounds of application	
<input type="checkbox"/> Other supporting information	
In the case of an existing use or activity, including an existing use or activity in breach of conditions, has there Been any interruption or material change to the continuous use? *	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Does the application for a Certificate relate to a residential use where the number of residential units has Changed?	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Please explain why you consider a Certificate of Lawfulness should be granted: * (Max 500 characters)	
Planning permission 14/02062/FLL was implemented during 2018 and prior to the expiry of the consent in February 2019.	
<h2 style="margin: 0;">Pre-Application Discussion</h2>	
Have you discussed your proposal with the planning authority? *	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<h2 style="margin: 0;">Any other Particulars or Supplementary Information</h2>	
Please provide any other particulars or information here which you consider may be relevant:: * (Max 500 characters)	
The mitigating foul drainage works were also undertaken during 2018 in respect of the implementation of a new private drainage treatment system to serve Tillyochie Farmhouse (as per condition no. 6a) on the planning permission 14/02062/FLL. A CAR Licence (CAR/S/1174300) was also been approved by SEPA as per condition no.7 on the planning permission 14/02062/FLL.	

List of Documents, Drawings or Plans which accompany this Application

Please provide a full list of documentation, drawings or plans which accompany this application which you are submitting as supporting information and evidence: * (Max 500 characters)

Approved Site Plan for 14/02062/FLL

Please provide a full list of documentation, drawings or plans which accompany this application which you are submitting as supporting information and evidence: * (Max 500 characters)

Copy Invoice from PH Contracts

Please provide a full list of documentation, drawings or plans which accompany this application which you are submitting as supporting information and evidence: * (Max 500 characters)

Copy Invoice Collier Quarrying

Please provide a full list of documentation, drawings or plans which accompany this application which you are submitting as supporting information and evidence: * (Max 500 characters)

Copy Invoice from Agri

Please provide a full list of documentation, drawings or plans which accompany this application which you are submitting as supporting information and evidence: * (Max 500 characters)

Extract from Bank Statement - Collier Quarrying Payment

Please provide a full list of documentation, drawings or plans which accompany this application which you are submitting as supporting information and evidence: * (Max 500 characters)

Letter from A G Brunton Maintenance Services

Please provide a full list of documentation, drawings or plans which accompany this application which you are submitting as supporting information and evidence: * (Max 500 characters)

Copy Drainage related invoices

Please provide a full list of documentation, drawings or plans which accompany this application which you are submitting as supporting information and evidence: * (Max 500 characters)

Photographs of Access Road works

Please provide a full list of documentation, drawings or plans which accompany this application which you are submitting as supporting information and evidence: * (Max 500 characters)

Photographs of drainage mitigation works for Tillyochie Farmhouse (condition 6a)

Interest in Land

Please state the applicant's interest in the land: *

☒ Owner ☐ Lessee ☐ Tenant ☐ Occupier ☐ Other

Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? * ☐ Yes ☒ No

Checklist – Application for a Certificate of Lawfulness of Existing Use or Development

The burden of proof in a Certificate of Lawfulness is firmly with the applicant and therefore sufficient and precise information should be provided.

Please complete the following checklist to make sure you have provided all the necessary information in support of your application. Failure to submit the required information may result in your application being deemed invalid. The Planning Authority will not start processing your application until it is valid.

A copy of a plan, showing the boundary of the site. The plan should identify the land to which the application relates and should be drawn to an identified scale. Where such an application specifies two or more uses, operations or other matters, the plan which accompanies the application is to indicate to which part of the land each such use, operation or other matter relates. * ☒ Yes ☐ No

All evidence provided in support of your application. * ☒ Yes ☐ No

A statement setting out the applicant's interest in the land, the name and address of any other person known to the applicant to have an interest in the land and whether any such other person has been notified of the application. * ☒ Yes ☐ No

You must submit a fee with your application. Your application will not be able to be validated until the appropriate fee has been received by the planning authority.

Declare – Certificate of Lawfulness – Existing Use or Development

I, the applicant/agent certify that this is an application for a certificate of Lawfulness as described in this form and the accompanying plans/drawings and additional information.

Declaration Name: Mr Mark Myles

Declaration Date: 11/01/2021

WARNING

Section 153 of the 1997 Act provides that it is an offence to knowingly or recklessly provide false or misleading information or to withhold material information with intent to deceive.

Section 152(7) enables the planning authority to revoke, at any time, a certificate they may have issued as a result of such false or misleading information or if material information has been withheld.

Payment Details

Online payment:

Payment date:

Created: 11/01/2021 14:55

North.

site of proposals.



Location Plan scale 1:2500

plot 2.

house

Lealand House

farm buildings

Tillyochie

house

plot 3.

tillyochie bungalow

twin pines

tillyochie cottage

NEW DRAINAGE BLOCK ON SITE OF OLD STONE RUIN.

NEW DRAINAGE BLOCK

NEW DRAINAGE BLOCK

NEW DRAINAGE BLOCK

NEW DRAINAGE BLOCK

REV. A. - LEVELS ADJUSTED - C.M. APRIL 07.
REV. B. - SITE BOUNDARY ADJUSTED TO INCLUDE C.M. JULY 07.
ACCESS

Strathearn Design

Mullberry 3 Laurel Avenue Credit PH7 3EN
Tel/Fax 01764 655289
E Mail office@strathearn.co.uk

Building Design and Management

Client: Mr Richard Paterson

Project: Proposed 3 no Houses and Garages at Tillyochie nr Kinross
Site Plan with drainage scheme, and Location Plan.

Drawing: Jan 2008

Date: Jan 2008 scale 1:500, 1:2500 Project No 07358 Drawing No P-02 B



Thistle Dhu, Roscobie Farm, Dunfermline, KY12 0SG.

Telephone; 01383 621634/07510294599

Email: p.hunter.roscobie@btinternet.com

INVOICE [REDACTED]

DATE 20.08.18

CLIENT:- RICHARD PATERSON, TILLYOCHIE, KINROSS, KY13 0NL

JOB REFERENCE –NEW BUILD

JOB DESCRIPTION: - CONSTRUCTION OF ROADWAY FOR PLOT 3

8T EXCAVATOR + OPERATOR	288.00
DEL/UPLIFT	90.00
VIB ROLLER	<u>184.00</u>
NET TOTAL	£562.00
VAT @ 0 %	<u>000.00</u>
GROSS TOTAL	£ 562.00

BANK DETAILS: RBS-Account No 00146652 Sort Code 832347

PAYMENT TERMS: STRICTLY 14 DAYS

VAT REG: 925 6551 11

Collier Quarrying and Recycling Limited
Goathill Quarry
Easter Bucklyvie
Cowdenbeath
Fife
KY4 8ES

Collier Quarrying and Recycling Limited
Goathill Quarry
Easter Bucklyvie
Cowdenbeath
Fife
KY4 8ES

R D PATERSON
TILLYOCHIE FARM
KINROSS
KY13 7NL

A/c Ref. [REDACTED]
Date: 31/08/2018
Page: 1

R D PATERSON
TILLYOCHIE FARM
KINROSS
KY13 7NL

A/c Ref. [REDACTED]
Date: 31/08/2018
Page: 1

NOTE: All values are shown in Pound Sterling

NOTE: All values are shown in Pound Sterling

17/08/18 56569 Type 1 205.20
20/08/18 56654 366.72

17/08/18 205.20
20/08/18 366.72

£ 571.92 £ 0.00 £ 0.00 £ 0.00 £ 0.00

£ 571.92

£ 571.92

Invoice

Agrii

Deem House
Audby Lane
Wetherby
WEST YORKSHIRE
LS22 7FD
01937 588095

DELIVERED TO...

AGRII CASH SALES PERTH
RICHARD PATERSON
TILLYOCHIE FARM
KINROSS
KINROSS-SHIRE
KY13 0NL

AGRII CASH SALES PERTH
AGRII
Perth
PERTHSHIRE
PH2 0NL

Agrii

Agrii is a trading name of Masstock Arable (UK) Ltd

Account No.

Invoice No.

Invoice Date

Order No.

Order Date 07/12/2017

Delivered 07/12/2017

Payment Due 07/12/2017

Page 1 of 1

Customer Order No. -

QTY	DESCRIPTION / PACKSIZE	PACK PRICE	TOTAL UNIT QTY	UNIT PRICE	VAT %	VALUE (GBP)
1.000	GRAF 8 PERSON KLARO SEWAGE TREATMENT PLANT C/W P PACKAGE	3,550.00	1.000 EACH	3,550.00	20.00	3,550.00
1.000	PAC CHEMICAL 25KG	115.00	1.000 EACH	115.00	20.00	115.00

Interest may be charged if payment is not received by the due date
PLEASE NOTE OUR PAYMENT DETAILS HAVE CHANGED
BACS PAYMENTS TO BE PAID TO:
BANK HSBC, Bath Rd, Cheltenham
SORT CODE 40-17-53
ACCOUNT NUMBER 41525204
ACCOUNT NAME AGRII
REFERENCE CASH0019
Please make cheques payable to AGRII
Quoting CASH0019 on the reverse

Goods Total	3,665.00
V.A.T.	733.00
Total (GBP)	4,398.00

Our VAT No. 575 9344 95

Unless otherwise stated on this contract. Terms are those of Agrii
These are available at the address shown below or at www.agrii.co.uk

Registered in England No. 2387531. Registered Office: Agrii, Station Road, Andoversford, Cheltenham, Gloucestershire, GL54 4LZ

A. G. BRUNTON MAINTENANCE SERVICES

Bellfield Mill Cottage, Kinross, Perth and Kinross, KY13 0NL.

Tel. [REDACTED]

Mark Myles,
Bidwells,
Broxden House,
Lamberkin Road,
Perth,
PH1 1RA.

Dear Sir,

This is to confirm that Mr Richard Paterson employed me to oversee the work carried out, commencing 18th August 2018, in the construction of the access road into plot 3. This work was carried out subsequent to the upgrading of the drainage to the farmhouse and garage and my employment was due to Mr Paterson being on holiday at the time the works were in progress and his wishing to ensure that the works complied with the requirements of the planning permission granted to him. Should you require any further information please do not hesitate to contact me at [REDACTED] or by post at the above address.

Yours Faithfully,

Anthony G Brunton IEng.LCGI. MIPlantE. FCIPHE. RP. Master Plumber

CENTRAL

REBAR LIMITED

SALES INVOICE

CENTRAL REBAR LIMITED

Kelliebank Industrial Estate, Alloa FK10 1NU

T 01259 215129

E central@hy-ten.co.uk

A subsidiary of Hy-Ten Limited

www.hy-ten.co.uk

Invoice to:-

SUNDRIES

MR RICHARD PATERSON
TILLYOCHIE FARM
KINROSS
KY13 0NL

Delivered to:-

MR RICHARD PATERSON
TILLYOCHIE FARM
KINROSS

KY13 0NL

Your Ref	RPATERSON	Our Ref	SQU000172	Date	13/03/2018	A/C	X001	Page	1
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BAR SUPPLIED WILL BE H-GRADE (BS4449:2005)
MESH FABRIC TO BS4483:1998 / 2005

INVOICE NUMBER

Quantity	Description	Weight	Sq. Metres	Unit Price	Amount	VAT
4.000	B503 FABRIC - STANDARD Per Sheet	0.273	46.08	46.32	185.28	S
0.055	10MM HIGH TENSILE CUT Per Tonne	0.055		600.00	33.00	S
1.000	90NO H10 BARS @ 1000MM LONG 1.4 mm BLK TYWIRE COILS Each			15.00	15.00	S
1.000	CARRIAGE - BAR			85.00	85.00	S
	Tags:	0.328				

VAT Registration No. GB 986 5451 69

PAYMENT TERMS:
NETT MONTHLY ACCOUNT
(UNLESS OTHERWISE AGREED)

Remittances to: Hy-Ten Ltd.
12 The Green, Richmond,
Surrey, TW9 1PX
Tel. No. 020-8332-1266
Fax. 020-8332-1757

Net Total

318.28

VAT @20.0%

63.66

Total

381.94



Allen Gordon LLP Consulting Civil and Structural Engineers

Suite 3 Saltire House
Whitefriars Business Park
Perth
PH2 0PA

8 Ardross Street
Inverness
IV3 5NN

Springfield House
Laurelhill Business Park
Stirling
FK7 9JQ

Tel No. 01738 639881

Tel No. 01463 236516/233471

Tel No. 01786 406576

VAT REG No: 268 3997 93

Mr Richard Paterson
Tillyochie Farm
Kinross
KY13 0NL

Invoice Date: 07 December 2017

INVOICE NO:

Period Covered

From: 21 August 2017
To: 30 November 2017

TILLYOCHIE, KINROSS - DRAINAGE

FEE for Professional Services

Receiving instructions and providing drawings and design information regarding the changes to the drainage as per our fee quote dated 10 June 2017 (by e-mail).

FEE as quoted £ 400.00

Invoice Net £ 400.00

VAT @ 20% £ 80.00

INVOICE TOTAL £ 480.00

Accounts are due for payment within 30 days of invoice date.
Interest on overdue accounts will be charged at an annual rate of 8.5%

Payment by Cheque to:

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Email: accounts@balado.org

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Invoice

R PATERSON
TILLYOCHIE FARMHOUSE
KINROSS
KY13 ONL

Invoice No: [REDACTED]
Invoice Date: 19/03/2018
Account No: [REDACTED]
Your Ref: Ritchie
Order Date: 19/03/2018
Our Order No: [REDACTED]

Qty	Details	Unit	Net	VAT %
4.00	HIRE OF YANMAR SV18 MINI EXCAVATOR S/N HBV19014	60.00	240.00	20.00
1.00	Transport Costs	40.00	40.00	20.00
	Hire from 08/03/18 - 11/03/18	0.00		

DELIVERY ADDRESS:

TILLYOCHIE FARMHOUSE
KINROSS
KY13 ONL

NET	£	280.00
VAT	£	56.00
GROSS	£	336.00

BANK DETAILS

Account Number : 20025675 Sort Code:82-65-34 Name: George Colliar Limited

VAT Reg No: 345113388

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Kinross

19 April 2018 13:39





Kinross

19 April 2018 15:05



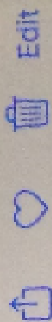
Ed



11:05 Sat 9 Jan

Kinross
7 April 2018 07:47

92%

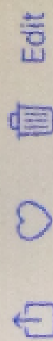


11:08 Sat 9 Jan

Kinross

24 April 2018 10:22

92%



CHX Planning Local Review Body - Generic Email Account

From: Sean Panton
Sent: 22 February 2021 10:20
To: CHX Planning Local Review Body - Generic Email Account
Cc: Development Management - Generic Email Account; Christine Brien; Kristian Smith
Subject: RE: LRB-2020-12 - Further Information

Good Afternoon Lisa / Audrey,

I write in response to the email received on the 10th February 2021 requesting comments on the further information received from the applicant in relation to the appeal to planning application 19/02087/FLL.

Firstly, it is noted that the agent has indicated that a Certificate of Lawfulness application has been submitted. I can confirm that a Certificate of Lawfulness application has indeed been submitted (refer to application 20/00028/LAW). However, this application is only in relation to the lawfulness of the formation of the vehicular access and track rather than the wider permission relating to the erection of three dwellinghouses as the LRB have requested. The application is still under consideration by the planning department. The target date for the determination of the application is the 5th April 2021. The planning department are therefore unable to confirm if the permission has been implemented until such time that application 20/00028/LAW has been determined. It is noted within the agents submission that the LRB may wish to defer until such time that this application has been determined.

Secondly, with regards to the further information received regarding drainage, this would be required to be assessed by SEPA due to the presence of the site within the Loch Leven Catchment. This information was not submitted to the planning department at the time of the application, therefore SEPA have not had the opportunity to review this information. SEPA should be consulted on this information before the LRB are to make a decision on the appeal. Please be aware that SEPA currently have significant delays in responding to planning enquiries following their recent cyber-attack.

I trust this response confirms the position of the Planning Authority.

Kind Regards,

Sean Panton MA(Hons) MRTPI,
Development Management,
Planning & Development,
Perth & Kinross Council,
Pullar House,
35 Kinnoull Street,
PERTH,
PH1 5GD.

Comhairle Pheairt is Cheann Rois

CDS Planning Local Review Body

From: Sean Panton
Sent: 06 December 2021 09:10
To: CDS Planning Local Review Body
Cc: Christine Brien; Audrey Brown - CHX
Subject: RE: LRB-2020-12
Attachments: Appeal Decision.pdf

Good Morning,

I refer to the below email.

As requested by the Local Review Body, I can confirm that a Certificate of Lawfulness application was submitted (21/00657/LAW) in order to confirm the implementation of planning permission 14/02062/FLL. This application was refused under delegated powers by the Planning Authority for the following reason:

The Council as Planning Authority hold no records of the pre-commencement conditions attached to planning permission 14/02062/FLL being satisfied prior to the expiration of the permission. No evidence has been submitted as part of this application to indicate otherwise. It is therefore considered that the works undertaken to date were unlawfully implemented and as such do not constitute a lawful commencement of the development.

This decision was then appealed by the applicant/ agent to the DPEA (Scottish Government). **The DPEA dismissed the appeal.** I have attached the decision notice for your reference.

As the DPEA dismissed the appeal, I can therefore confirm that the view of the Planning Authority remains that planning permission 14/02062/FLL was not lawfully implemented. The LRB should now be able to make an informed decision on the appeal of planning application 19/02087/FLL.

I trust this is sufficient for you now to proceed.

Kind Regards,

Sean Panton MA(Hons) MRTPI,
Development Management,
Planning & Development,
Perth & Kinross Council,
Pullar House,
35 Kinnoull Street,
PERTH,
PH1 5GD.

Comhairle Pheairt is Cheann Rois



Planning & Development
Head of Service David Littlejohn

Pullar House
35 Kinnoull Street
PERTH
PH1 5GD
Tel 01738 475300 Fax 01738 475310

Mr Richard Paterson
c/o Bidwells
Mark Myles
Broxden House
Lamberkine Drive
Perth
PH1 1RA

Telephone 01738 475300

Ref No 21/00657/LAW

Date: 9th June 2021

Dear Sir/Madam

Town and Country Planning (Scotland) Act 1997, as amended: Section 150
Town and Country Planning (Development Management Procedure) (Scotland)
Regulations 2013

**Certificate of Lawfulness of Existing Use or Development for Erection of 3
dwellinghouses (existing) at Land 30 Metres South West Of Leiland House
Balado**

I refer to your application received on 15 April 2021 concerning a Certificate of Lawfulness of Existing Use or Development under Section 150 of the Town and Country Planning (Scotland) Act 1997 for the above property.

Perth & Kinross Council, in exercise of their powers under the aforementioned legislation, hereby **refuses** to grant the application for a certificate of lawfulness for the reason noted below.

The Council as Planning Authority hold no records of the pre-commencement conditions attached to planning permission 14/02062/FLL being satisfied prior to the expiration of the permission. No evidence has been submitted as part of this application to indicate otherwise. It is therefore considered that the works undertaken to date were unlawfully implemented and as such do not constitute a lawful commencement of the development.

The applicant may appeal this decision under Section 154 of the aforementioned Act to the Scottish Ministers via The Planning and Environmental Appeals Division (www.dpea.scotland.gov.uk/).

David Littlejohn
Head of Planning and Development



Decision by Allison Coard a Reporter appointed by the Scottish Ministers

- Certificate of Lawful Development appeal reference: CLUD-340-2003
- Site address: Land 30 Metres South West of Leiland House, Balado, Perth, KY23 0NL
- Appeal by Mr Richard Paterson against the decision by Perth and Kinross Council
- Application for certificate of lawful development 21/00657/LAW dated 14 April 2021 refused by notice dated 9 June 2021
- The subject of the application: proposed development for erection of 3 dwellinghouses

Date of appeal decision: 1 November 2021

Decision

I dismiss the appeal. A claim for expenses was lodged and I address that matter under separate cover.

Reasoning

1. This application for a certificate of lawfulness was submitted on the basis that the development permitted by planning permission 14/02062/FLL dated 11 February 2016 had commenced during 2018. The evidence of commencement work is claimed by the appellant to demonstrate that the proposed development of 3 houses would be lawful. The evidence put forward in support of the application consists of details of the claimed commencement works including work to install a sewerage treatment plant as per the approved drawings and formation of the access to Plot 3.
2. The council accepts from the submitted invoices, photographs and other evidence that the on-site works as described commenced in 2018. I have no reason to dispute that matter nor the fact that those works would consequently have taken place within the relevant 3 year timeframe of the 2016 planning permission. However the council's position is based on the premise that the 2016 planning permission included pre-commencement conditions which have not been discharged. Consequently it does not consider the planning permission was commenced or that the proposed development could be considered as lawful.
3. The submissions details the pre-commencement conditions attached to the 2016 planning permission. These include a requirement to submit sample materials, landscaping details, a programme of archaeological works, drainage details and the submission of an approved CAR licence given location within the Loch Leven Catchment Area.



4. The council determined the application under Section 150(1) given this was considered the more appropriate provision to ascertain if the existing use is lawful. I consider that the existing development in this case would be the works carried out to date. If those works are demonstrated to be lawful then by implication a start would have been made to the development as a whole as authorised under planning permission 14/02062/FLL. The continued implementation of that planning permission for the erection of 3 houses would then by consequence be lawful.
5. If Section 150(1) is applied I am required to establish if the existing works are or are not lawful in the context of the referenced planning permission. However the existing works can relate only to those works already carried out. The houses are not existing development. If Section 151(1) is applied my focus is on whether the proposal to continue to erect three houses would be lawful. Nevertheless such an assessment would still turn on whether a lawful start had been made that would enable the proposal to proceed.
6. As demonstrated through previous court decisions compliance with conditions is a necessary pre-requisite in establishing a lawful development. This general principle of a determination on lawfulness, relying on compliance with any attached conditions, is referenced by the appellant as the “Whitley Principle”. This is based on the decision in *FG Whitley & Sons Co Ltd v Secretary of State for Wales*. It states that “The permission is controlled by and subject to the conditions. If the operations contravene the conditions they cannot be properly described as commencing the development authorised by the permission. If they do not comply with the permission they constitute a breach of planning control and for planning purposes will be unauthorised and thus unlawful.”
7. I understand that there are documented cases where exceptions are applied. A number of court decisions are referenced by the appellant namely: *Bedford Borough Council v Secretary of State for Communities and Local Government*; *Greyfort Properties Ltd v Secretary of State for Communities & Local Government* and *R (on the application of Howell) v Waveney District Council*. Whilst these are not examples in Scottish Law and the circumstances of their application vary the council has not disputed the appellant’s legal submissions as to the general approach I should take in this assessment.
8. In summary, I understand that as regards the question of whether this development has been lawfully commenced or not, there are essentially three questions:
- (1) Has there been a breach of condition (stage 1)?
 - (2) If so, is the effect of that breach of condition such as to render the development as a whole unlawful (stage 2)?
 - (3) Do any of the exceptions to the “Whitley principle” apply - irrationality, abuse of power on the part of a planning authority if it sought to enforce, or where compliance in substance is demonstrated (stage 3)?
9. In this case it is a matter of fact that there are pre-commencement conditions. The works to date were progressed without any formal discharge of these conditions by the planning authority. My conclusions below assess the relevant pre-commencement conditions in turn in the context of the questions set out above in paragraph 8.
10. Turning first to the requirements of Conditions 6a and 7. Further written submissions from the council, dated 15 September 2021, accept that the submitted photographs, invoices and the Scottish Environment Protection Agency Licence (CAR/S/1174300)

demonstrate that the drainage arrangements have been licenced and implemented. The required mitigating foul drainage works were undertaken during 2018 in respect of the implementation of a new private drainage treatment system to serve Tillyochie Farmhouse (as per condition no. 6a) and the CAR Licence was subsequently approved as per condition no.7 in March 2019. I accept that to be the case.

11. There was technically a breach in the condition (stage 1) given the steps required to ensure compliance were not followed as specified. The reason for the condition was to ensure appropriate drainage arrangements are in place to remove phosphorus from the Loch Leven Catchment Area. Based on its legal submissions the appellant has made a distinction between matters of detail and matters that go to the heart of the planning permission (stage 2). However, for conditions 6a and 7 they instead reference exception in the context of stage 3.

12. I consider the drainage arrangements to be a fundamental matter that would have to be addressed at the outset to allow the development to proceed. Consequently the appeal does not gain support in the context of Stage 2 as referenced above. Nevertheless the necessary licence has been obtained indicating the satisfactory completion of the drainage arrangements. I consider that is sufficient in this case to indicate that the “compliance in substance” exception, as applied through stage 3 above, would be appropriately applied. The council appear to accept this in concluding “conditions 6a and 7 can be broadly complied with in substance.” On that basis I do not consider these conditions represent a barrier to the existing or proposed use being considered as lawful.

13. The council indicate the remaining suspensive conditions 2, 3 and 5 are necessary to confirm the suitability of the proposed scheme prior to its commencing. The appellant however considers these are matters of detail that do not go to the heart of the planning permission and that implementation could still be lawfully secured subject to these conditions. Additionally the submissions reference whether the conditions can be characterised as crucial, fundamental or about the essential subject matter of the planning permission.

14. Section 152(5) of the Act clarifies that the issue of a certificate either under Section 150 or 151 shall not affect any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted unless that matter is described in the certificate. By way of example I am referred by the appellant to another appeal decision (CLUD-300-2001) where the reporter is stated to have accepted commencement in accordance with the approved drawings but also subject to the conditions (including pre-commencement conditions). However it is not evident from the reporter’s decision that pre-commencement conditions were an issue in that case. The reasons in that case focussed instead on whether a start had been made. Nevertheless it is of relevance that the certificate, as issued, references the proposed use subject to the applied conditions. I have taken that matter into account in my assessment below.

15. Turning first to Condition 2 it clearly requires prior approval of the external finishing material for the houses and garages prior to the commencement of development. A breach of that element of the condition has occurred. Nevertheless implementation of the proposal would still require the houses to be finished in accordance with details approved by the planning authority. Construction of the houses has not yet commenced. In that respect there would remain an opportunity for these details to be approved and implemented and compliance to be secured. The works to date would not have been subject to such details.

The nature of the condition and the extent of development that has commenced to date indicates to me that a stage 2 conclusion as referenced above is appropriately applied. The effect of the breach of condition at this stage of the development is not alone sufficient to render the development as a whole unlawful. This condition would not appear to go to the heart of the permission such that the works to date could not be considered to have lawfully commenced.

16. For Condition 3 landscaping details were to be submitted for approval prior to the commencement of the work. Implementation was then required as part of the site development programme. Again there appears opportunity through the terms of that condition to address its terms as the proposal proceeds. There is nothing to suggest that such consideration was crucial or fundamental in respect of the works carried out to date or that those works would prejudice the future lawful implementation of the planning permission. Again whilst condition 3 is technically breached I do not consider that goes to the heart of the permission.

17. For condition 5 the reason is stated as being due to the adjacent area of archaeological interest. For this condition there is a clear instruction that no development shall take place within the development site as outlined in red. There is also instruction to secure not only a written scheme of investigation, as approved by the planning authority, but also implementation of a corresponding programme of archaeological works in advance of development. This includes the recording and recovery of archaeological resources.

18. Unlike Conditions 2 and 3 as referenced above this condition requires actions and implementation that would clearly relate not only to the works still to take place in relation to the construction of the houses but also to the works carried out to date. The council has not responded in any detail to the appellant's view that as this matter was not specifically referenced in the reasoning it does not go to the heart of the permission. However the condition applies to this planning permission, a reason for that condition is provided and planning permission was granted subject to this requirement. It is not my role in this case to re-assess the basis of the original planning permission in terms of the relative importance of the archaeological resource or the need to secure its protection.

19. The consequence of the works to date going ahead in advance of a written scheme of investigation, or any recording or recovery of the archaeological resource, is that the commenced works may have resulted in elements of that resource being unrecorded or lost. That premise would clearly run contrary to the terms of that condition. In my view this is a clear indication that the commencement of works are unlawful in the absence of demonstrated compliance with Condition 5.

20. The access works were carried out in breach of Condition 5. In my assessment non-compliance with Condition 5 falls squarely within the referenced "Whitley principle" as by consequence the commencement works in this case could not constitute a lawful implementation of the planning permission.

21. The referenced decision in *Greyfort Properties Ltd v Secretary of State for Communities & Local Government* indicates to me that it is possible to arrive at a conclusion that whilst some pre-commencement conditions may be assessed as fundamental to the development other details may not be. I consider the fact that Condition 5 has been breached by the commencement works whilst conditions 2 and 3 remain capable of being addressed is also a relevant matter. Condition 5 is not just a matter of

details. It is more fundamental in nature and failure to comply at the pre-commencement stage has consequential implications for the overall scheme. For those reasons I find that the failure to address this matter before commencing works cannot pass the stage 2 assessment as it goes to the heart of the planning permission.

22. There is nothing to suggest that any of the other recognised exceptions to the “Whitley principle” apply to Condition 5. It follows that a lawful start to the development is not demonstrated and the planning permission 4/02062/FLL has now lapsed. The appellant references another example, in the council area, where it was accepted a start had been made and extension of the time period was allowed for pre-commencement conditions to be submitted and discharged. However I must consider the lawfulness of this proposal based on the evidence presented in this case.

23. I have considered the council’s view, as expressed in its further written submissions, that conditions 2 and 3 are true planning conditions. By implication there may be a suggestion that the council is less sure that condition 5 meets that definition. However my conclusions above do not seek to undermine the application and relevance of conditions 2 and 3. A certificate in the terms described by the appellant means these conditions would remain to be discharged. Failure to demonstrate such compliance could still result in enforcement action. I have arrived at a slightly different conclusion than the council in finding that it is Condition 5 that presents a clear barrier to the commencement works being considered as lawful. However that does not change the fact that I agree that non-compliance with a pre-commencement condition, even if only one in the circumstances of this case, prevents the lawful implementation of the planning permission.

24. I recognise that in *R (on the application of Howell) v Waveney District Council* the court concluded that the pre-commencement archaeological condition did not go to the heart of the permission. However I note that assessment was made in the context of a judicial review following a decision on an application to discharge conditions. Paragraph 23 explains the particular circumstances whereby a scheme of investigation had been approved. However, that scheme referenced matters that could not be discharged completely in advance of the development. The court’s decision was clearly set in that context. In those particular circumstances the approved scheme was considered sufficient to safeguard archeologically features. There is no indication of any comparable information having been provided to the council in this case. My conclusion is that neither the council nor the appellant sufficiently substantiate any conclusion that compliance with Condition 5 could lawfully be set aside.

25. I accept that the council wrongly refers to the three houses as existing and the application was made under Section 151 of the Act but subsequently determined under Section 150. I also accept given my reasoning above that elements of the council’s reasons for refusal of the certificate are not well founded. Nevertheless my conclusion turns on whether the appellant’s claim that the works to date constitute a lawful start to the development is substantiated. I find the council’s overall conclusion that such demonstration is prevented given non-compliance with at least one of the pre-commencement conditions is well founded. I therefore conclude that the certificate, either under Section 150 or 151, should not be granted.

Allison Coard

Reporter

Our ref: MM
DD: 07717512203
E: mark.myles@bidwells.co.uk
Date: 16/12/2021

Lisa Simpson
Clerk to the Local Review Body
Perth & Kinross Local Council
Council Building
2 High Street
Perth
PH1 5PH

Planninglr@pkc.gov.uk

Dear Lisa

Town & Country Planning (Scotland) Act 1997
The Town & Country Planning (Schemes of Delegation & Local Review Procedure) (Scotland) Regulations 2013
Application Ref: 19/02087/FLL – Erection of 3 dwellinghouses, land 30 metres south west of Leiland House and 50 metres south east of Tillyochie Farmhouse, Balado – Mr R Paterson (LRB-2020-12)

Thank you for your letter of 2nd December 2021 in respect of the above Notice of Review.

In response to points (i) – (iii) in your letter, when the LRB considered the above Notice of Review at its meeting on 30th March 2021 there had been a Certificate of Lawfulness for Existing Use or Development under consideration by the council (21/00028/LAW). That application was refused by the council on 19th March 2021.

Following on from that refusal we then submitted a Certificate of Lawfulness for Proposed Use or Development on 15th April 2021 (ref 21/00657/LAW).

The council proceeded to determine the application as if it were a Certificate of Lawfulness for Existing Use or Development rather than a Proposed Use or Development and incorrectly issued a refusal notice under Section 150 rather than Section 151 of the Act in June 2021.

Following that decision, we submitted an appeal to Scottish Government Directorate for Planning & Environmental Appeals (DPEA). We don't consider that there is a need to go over the arguments presented in the case but simply attach a copy of the Reporters decision for the LRB's attention.

From this the LRB will see that the Reporter was critical of the manner in which the council had wrongly determined the application and also that elements of the council's reasons for refusal of the certificate were not well founded.

However the Reporter reached the conclusion that because no information had been provided in respect of the discharge of condition no.5 of planning permission 14/02062/FLL (archaeological investigation)

Broxdon House, Lamberkine Drive, Perth PH1 1RA
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and that this was not considered to be simply a matter of detail, she could not confirm that the development was lawful and therefore could not issue a Certificate purely on the basis of the non-compliance of 1 condition.

The applicant is still considering his position in terms of the conclusions set out within the Reporter's decision letter and it may be that a simple submission of additional information to discharge condition no. 5 on 14/02062/FLL, or a further Certificate of Lawfulness for Proposed Use or Development application with the additional information provided on archaeological investigation, would be sufficient for the council to accept that the planning consent 14/02062/FLL has been lawfully implemented.

Notwithstanding the time, effort and expense that has been put into trying to establish the lawfulness of the existing planning permission 14/02062/FLL, we would continue to stress to the LRB (as we did in our original grounds of appeal statement submitted in March 2020), that on two previous occasions the planning department concluded that all 3 houses were assessed as being acceptable and read as forming part of the larger building group and as such would have no adverse visual impact on the wider landscape. Nothing has fundamentally changed in policy terms for the council to have reached a different conclusion on this application. The only difference was a different planning officer's interpretation of the same policy, as the Reports of Handling for the 2009 and 2014 planning applications had clearly explained why those previous applications had been supported and approved by the council.

Based on the fact that 2 previous planning permissions had been issued in 2011 and 2016 for exactly the same development, and both were founded on an assessment of the same policy criteria, it is highly unusual that this important material consideration was dismissed and not given significantly greater weight in the determination of the application which is subject of this Notice of Review, especially in light of the considerable amount of additional information provided on the works already undertaken on the site (admittedly this information had not been known to the planning officer when this application was refused).

We would also draw the LRB's attention to the fact that of the 6 neighbouring properties that were notified of the planning application (19/02087/FLL), none of the immediate adjoining residents raised any objections to the application.

In light of all of the above, the previously submitted statements and the background circumstances to this case, we would respectfully request that in terms of consistency of decision making, the LRB should be able to allow this appeal, (subject to any conditions that are still considered to be necessary from the previous planning permission 14/02062/FLL), on the basis that the proposal is still considered to comply with the relevant policies from LDP2 and the associated Supplementary Guidance.

I trust that this further letter and the additional information provided in response to the further questions will be helpful to the LRB.

Kind regards

Yours sincerely



Mark Myles

Partner, Head of Planning – Scotland

CDS Planning Local Review Body

From: Mark Myles <mark.myles@bidwells.co.uk>
Sent: 21 December 2021 08:41
To: CDS Planning Local Review Body
Subject: RE: LRB-2020-12

Follow Up Flag: Follow up
Flag Status: Flagged

Thank you for your letter of 20th December 2021 inviting any further comments in response to Development Management's further submissions dated 6th December 2021.

In this instance we consider that our own submissions of 16th December provided a thorough response to the further information requested by the LRB, and that the response from Development Management raises nothing new.

Therefore we have no further comments.

I trust this is helpful.

Kind regards
Mark

CDS Planning Local Review Body

From: Sean Panton
Sent: 21 December 2021 17:23
To: CDS Planning Local Review Body
Subject: RE: Planning Application Ref 19/02087/FLL FW: LRB-2020-12

Follow Up Flag: Follow up
Flag Status: Flagged

Good Afternoon,

Further to the below request and accompanying information from the agent, I would like to reiterate my comments to the LRB.

I can confirm that a Certificate of Lawfulness application was submitted (21/00657/LAW) in order to confirm the implementation of planning permission 14/02062/FLL. This application was refused under delegated powers by the Planning Authority for the following reason:

The Council as Planning Authority hold no records of the pre-commencement conditions attached to planning permission 14/02062/FLL being satisfied prior to the expiration of the permission. No evidence has been submitted as part of this application to indicate otherwise. It is therefore considered that the works undertaken to date were unlawfully implemented and as such do not constitute a lawful commencement of the development.

This decision was then appealed by the applicant/ agent to the DPEA (Scottish Government). **The DPEA dismissed the appeal.** The decision letter was attached to my previous correspondence for your reference.

As the DPEA dismissed the appeal, and upon reviewing the appeal statement from the agent, I can confirm that the view of the Planning Authority remains that planning permission 14/02062/FLL was not lawfully implemented. The LRB should now be able to make an informed decision on the appeal of planning application 19/02087/FLL.

I trust this is sufficient for you now to proceed.

Kind Regards,

Sean Panton,
Interim Team Leader (Major Applications & Enforcement),
Development Management,
Planning & Development,
Perth & Kinross Council,
Pullar House,
35 Kinnoull Street,
Perth,
PH1 5GD.

Comhairle Pheairt is Cheann Rois

