

TCP/11/16(364)**Planning Application 15/00132/FLL – Removal of condition 2 of permission 99/01746/FUL relating to occupancy of residential annex, East Hill, Murrayshall, Perth, PH2 7PL**

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TCP/11/16(364)

**Planning Application 15/00132/FLL – Removal of condition
2 of permission 99/01746/FUL relating to occupancy of
residential annex, East Hill, Murrayshall, Perth, PH2 7PL**

**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 necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 000122720-001

The online ref number 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:

Arthur Stone Planning LLP

You must enter a Building Name or Number, or both:*

Ref. Number:

First Name: *

Alison

Last Name: *

Arthur

Telephone Number: *

07855538906

Extension Number:

Mobile Number:

Fax Number:

Email Address: *

info@arthurstoneplanning.co.uk

Building Name:

Friar Street

Building Number:

24

Address 1 (Street): *

24 Friar Street

Address 2:

Town/City: *

Perth

Country: *

UK

Postcode: *

PH2 0ED

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="Mrs"/>
Other Title:	<input type="text"/>
First Name: *	<input type="text" value="Marion"/>
Last Name: *	<input type="text" value="Elphinstone"/>
Company/Organisation:	<input type="text"/>
Telephone Number:	<input type="text"/>
Extension Number:	<input type="text"/>
Mobile Number:	<input type="text"/>
Fax Number:	<input type="text"/>
Email Address:	<input type="text"/>

You must enter a Building Name or Number, or both:*

Building Name:	<input type="text" value="East Hill"/>
Building Number:	<input type="text"/>
Address 1 (Street): *	<input type="text" value="Murrayshall"/>
Address 2:	<input type="text"/>
Town/City: *	<input type="text" value="Perth"/>
Country: *	<input type="text" value="Scotland"/>
Postcode: *	<input type="text" value="PH2 7PL"/>

Site Address Details

Planning Authority:	<input type="text" value="Perth and Kinross Council"/>
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Full postal address of the site (including postcode where available):

Address 1:	<input type="text" value="East Hill"/>	Address 5:	<input type="text"/>
Address 2:	<input type="text" value="Murrayshall"/>	Town/City/Settlement:	<input type="text" value="Perth"/>
Address 3:	<input type="text"/>	Post Code:	<input type="text" value="PH2 7PL"/>
Address 4:	<input type="text"/>		

Please identify/describe the location of the site or sites.

Northing	<input type="text" value="725577"/>	Easting	<input type="text" value="316810"/>
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Description of the Proposal

Please provide a description of the 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)

15/00132/FLL - Removal of condition 2 of permission 99/01746/FUL relating to occupancy of residential annex

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 of expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Please see accompanying 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

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)

Local Review Statement

Application Details

Please provide details of the application and decision.

What is the application reference number? *

15/00132/FLL

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

26/01/15

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

13/03/15

Review Procedure

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

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

☒ Yes ☐ No

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

Checklist - Application for Notice of Review

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

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

☒ Yes ☐ No ☐ N/A

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

☒ Yes ☐ No

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

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

☒ Yes ☐ No

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

Declare - Notice of Review

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

Declaration Name: Alison Arthur

Declaration Date: 09/06/2015

Submission Date: 09/06/2015



Local Review Body Statement

15/00132/FLL

On behalf of Mr & Mrs Elphinstone
East Hill, Murrayshall, Perth

Arthur Stone Planning
24 Friar Street
Perth. PH2 0ED

07972920357
07855538906

info@arthurstoneplanning.co.uk
www.arthurstoneplanning.co.uk

Introduction

The purpose of this statement is to provide a reasoned justification against the refusal of planning application 15/00132/FLL by Perth & Kinross Council for the removal of condition 2 of permission 99/01746/FUL relating to the occupancy of the proposed residential building being restricted to an annex only.

The application was refused for the following reason:

- 1. The removal of the occupancy condition would create a new dwelling house in the countryside. The proposal is contrary to policy RD3 of the Local Development Plan 2014 and the Council's Housing in the Countryside Guide 2012 as the proposal fails to satisfactorily comply with any of the categories (1) Building Groups, (2) Infill Sites, (3) New Houses in the Open Countryside, (4) Renovation or Replacement of Houses, (5) Conversion or Replacement of Redundant Non Domestic Buildings, and (6) Rural Brownfield Land.*

The site is located within the grounds of East Hill but does not meet the criteria of Policy RD3 with regard to site categories 1, 2, 3, 4, 5 or 6 and is therefore not in accordance with the Local Development Plan 2014. Accordingly the application is recommended for refusal.

Given the narrow focus of the concerns raised by the proposal the report will discuss the following issues only:

- Site Location
- Planning History
- Background to Application
- Response to Planning Officer's Delegated Report
Housing in the Countryside Policy, Design and The Use of Occupancy Restrictions
- Conclusion

Site Location

This application relates to a one and a half storey detached dwellinghouse located to the west of the road running between Pitroddie and Scone, Perth. The property is located within a rural setting and incorporates a large landscaped garden, which is set onto a backdrop of a small woodland. The property is traditionally constructed with natural stone and a natural slate roof and incorporates a separate single storey garage to the west. The property is accessed via a minor access track from the main public road. Other residential properties are located to the south and south east of the dwellinghouse including Ambathie Cottages, Monument View and Parkhill.



Planning History

In 1999 the owners, Mr and Mrs Elphinstone gained planning permission to erect a single storey garage and a small, detached residential annex within the grounds of their property. Due to the presence of bedrock, it was not possible for the applicant to directly extend their home; however, the proposal sought to use traditional materials in keeping with the existing buildings and the character of the surrounding area. The application was approved with little concern by Perth and Kinross Council in 2000 (planning reference 99/01746/FUL).

However, the planning application was granted under the provision (Condition 2) that required the accommodation to remain as ancillary to the main residential dwellinghouse and to not act as a separate residential property. Mr and Mrs Elphinstone had plans to relocate their elderly Father to their home and to the ancillary accommodation in order to provide him with full time care and did not query this condition at that time. As a result in a change in family circumstance the proposal was not completed and only the building of the detached garage was constructed on the site. However, since part of the planning consent had been completed this meant that planning consent remained in place in perpetuity to build the remaining annex accommodation at a later date.

Background to Application 15/00132/FLL

Earlier this year Mr and Mrs Elphinstone applied to remove the condition attached to the previous planning consent (planning reference 99/01746/FUL) to allow the separate annex to be used as private dwellinghouse rather than as ancillary accommodation. Their son and his young family are planning to return from living abroad and wish to live close to his parents. However, as a result of the restrictive occupancy condition placed on the original planning consent the family are unable to mortgage the building and therefore unable to gain the funding required to finish the building of the accommodation. This would result in Mr and Mrs Elphinstone's son having to potentially relocate his family to further afield and potentially out with Perthshire in order to obtain the family accommodation they require at an affordable price. The building is not planning to be erected for resale purposes; only to provide a means of accommodation for an extended family unit.

Response to Planning Officer's Delegated Report

The applicant did not consider that their application would be contended by Perth and Kinross Council in this case given that:

- planning permission is already in place to erect the same building, in terms of design and appearance, on the site
- the building would continue to be in residential use
- the site is located within a large garden area that could provide a generous private garden area
- the site provides for ample parking
- residential occupancy conditions have been removed from other properties in the past

The Delegated Report made clear that there is considered to be no concern in relation to the size of the site or road safety/parking. However, the Planning Officer's report appears to contend that this application is for an entirely different building that would differ in use from the proposal that currently has consent and as a result would alter the established character of the area.

Housing in the Countryside Policy

The Planning Officer in their delegated Report assesses the application against policies and supplementary guidance relating to housing in the countryside. They advise that the new building would fail to meet any of the relevant criteria for new housing in rural areas and is therefore contrary to the Development Plan. They also advise:

“ At present East Hill is considered to be in keeping with the established character of this rural area, dispersed developments of individual properties with gardens or farm buildings in compact clusters. Should the annex be used as a separate dwelling these characteristics would be impacted.”

According to Scottish Planning Policy (2014), PAN 72, PAN 68 and the Adopted Perth and Kinross Local Plan (2014), central to the purpose of the Council's housing in the countryside policy should be to safeguard the character of the countryside, encourage appropriate housing in rural areas and reuse traditional buildings.

In this case it is considered that the proposal does not fit specifically into any of the criteria outlined in the Council's Housing in the Countryside Policy at present. However, given that the site has planning permission to erect a building proposed to be used for residential purposes and detached from the main household, it would seem reasonable to accept that the principle of residential use is acceptable in this case; whether that be as ancillary residential use or as a private dwellinghouse. Should the building be used as a separate dwellinghouse it is contended that this would have no different visual or amenity effect on the character of the countryside given the building itself has already been approved by the Planning Department. In addition, the Delegated Report advises that there is not considered to be any conflict of uses with the countryside location in terms of its residential use. As such, it is difficult for Mr and Mrs Elphinstone to comprehend the Planning Officer's concerns in this particular case.

Design

Under the 'Design and Layout' section of the Delegated Report, which essentially refers to 'placemaking' and the effect a proposal would have on the visual amenity of an area, the Planning Officer advises that when the design of the building is considered as an annex to the main residence it is considered acceptable:

"As previously assessed the design of the annex is considered acceptable when deemed ancillary to East Hill, the building is small in scale and is to be constructed of similar materials to East Hill Cottage."

However, when the same building (incorporating the same design) is considered as a new dwellinghouse, the Planning Officer considers that it would be contrary to the same policy as *"... it would not provide a positive contribution to the surrounding area."*

These statements appear to be completely at odds with one another. The Policy relates to the design and appearance of the building and how that may impact on the character and amenity of the surrounding area. The design and appearance of the building will not change as a result of the removal of the occupancy condition alone and therefore the applicants are once again confused by this assertion.

Should the Planning Officer in some part be referring to the potential for additional domestic outbuildings, sheds, fencing etc to be built on that part of the site then the applicant is more than happy to agree to a condition withdrawing the building's permitted development rights therefore providing the Council with additional control of the site (by requiring planning permission to be applied for these elements).

The Use of Occupancy Restrictions

In 2011, the Scottish Government's Chief Planner wrote to all Local Planning Authorities to clarify the Government's view on the use of occupancy conditions attached to planning consents to restrict the occupancy of new housing in the countryside. It is the Chief Planner's view that Scottish Planning policy does not promote the use of occupancy

restrictions and that that such occupancy restrictions through planning conditions or legal agreements, are rarely appropriate and should generally be avoided.

A number of issues have arisen over the years with the use of occupancy restrictions, some of which have been exacerbated by the recent economic situation. [The Chief Planner advised that there is increasing evidence that some people have found it difficult to obtain a mortgage to buy a house with an occupancy restriction and that any use of occupancy restrictions introduces an additional level of complexity \(and potentially expense\) into the process of gaining consent for a new house.](#) From the planning authorities' perspective, occupancy restrictions can also be intrusive, resource-intensive and difficult to monitor and enforce.

Given the above and the comments previously made in relation to the proposal's neutral impact in being used as a separate dwellinghouse, it does not appear reasonable or consistent with Scottish Government policy to require that the occupancy condition to remain in place on this property. The Chief Planning Officer's letter does not only relate to rural or agricultural businesses as suggested by the Delegated Report and this is clearly stated in the Letter to Local Planning Authorities. Again, Mr and Mrs Elphinstone are confused by Perth and Kinross's decision on this application given the points raised above.

Conclusion

It is considered that the points raised in the above review of the Decision by Perth and Kinross Council to refuse the application by Mr and Mrs Elphinstone provides a strong justification for that decision to be overturned. The removal of the occupancy condition on a building that already has planning consent would create a neutral impact and would result in no dis-amenity in terms of its effect on the character or appearance of the surrounding countryside. It is also considered that the retention of the occupancy agreement contradicts the views of the Scottish Government and of the Chief Planner. The purpose of the removal of the occupancy condition is simply to allow the applicant's son and his family to build the accommodation and thereby move close to his parents following his return from working overseas. The provision of these funds will not be possible without the removal of the restrictive planning condition.

Mr and Mrs Elphinstone respectfully request that the Local Review Body review the decision made and approve the application in their favour.

TCP/11/16(364)

**Planning Application 15/00132/FLL – Removal of condition
2 of permission 99/01746/FUL relating to occupancy of
residential annex, East Hill, Murrayshall, Perth, PH2 7PL**

PLANNING DECISION NOTICE

REPORT OF HANDLING

REFERENCE DOCUMENT

PERTH AND KINROSS COUNCIL

Mr Martin Elphinstone
Easthill
Pitroddie Road
Perth
PH2 7PL

Pullar House
35 Kinnoull Street
PERTH
PH1 5GD

Date 12th March 2015

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT

Application Number: **15/00132/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 26th January 2015 for permission for **Removal of condition 2 of permission 99/01746/FUL relating to occupancy of residential annex East Hill Murrayshall Perth PH2 7PL** for the reasons undernoted.

Development Quality Manager

Reasons for Refusal

1. The proposal is contrary to policy RD3 of the Local Development Plan 2014 and the Council's Housing in the Countryside Guide 2012 as the proposal fails to satisfactorily comply with any of the categories (1) Building Groups, (2) Infill Sites, (3) New Houses in the Open Countryside, (4) Renovation or Replacement of Houses, (5) Conversion or Replacement of Redundant Non Domestic Buildings, and (6) Rural Brownfield Land. The site is located adjacent to and part of an established building group but the proposed site fails to relate to the existing building group and its associated landscaped containment. Approval would be of detriment to the existing natural visual amenity and established character of the area.

Justification

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

The plans 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

15/00132/1

15/00132/2

15/00132/3

15/00132/4

REPORT OF HANDLING

DELEGATED REPORT

Ref No	15/00132/FLL	
Ward No	N1- Carse Of Gowrie	
Due Determination Date	25.03.2015	
Case Officer	Craig Swankie	
Report Issued by		Date
Countersigned by		Date

PROPOSAL: Removal of condition 2 of permission 99/01746/FUL relating to occupancy of residential annex

LOCATION: East Hill Murrayshall Perth PH2 7PL

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: 13 February 2015

SITE PHOTOGRAPHS





BACKGROUND AND DESCRIPTION OF PROPOSAL

Application 99/01746/FUL was approved in 2000 for the erection of a garage and ancillary accommodation (granny flat) at East Hill, Pitroddie, Perth.

Condition 2 of 99/01746/FUL states 'The proposed accommodation shall be ancillary to the existing house at East Hill and occupied together with the existing house at East Hill by a single or extended family unit.'

The present application seeks to remove that condition. This would allow a dwelling on site without any use restrictions, effectively creating a new standalone dwelling. Whilst the ancillary dwelling is yet to be constructed, the garage has been erected.

In the submitted Planning Statement the applicant outlines reasons for the present application such as difficulty in obtaining a mortgage for the development and need for future accommodation at East Hill. Previous planning applications have been approved at East Hill to extend the existing cottage. It is now believed that development has reached a point where any further development would be detrimental to the cottage in terms of character. Therefore the erection of the granny annex is considered to be a suitable way of providing further accommodation at East Hill, if used within the requirements of condition 2 of 99/01746/FUL. Previous applications for the removal of similar conditions have been acceptable where restrictions on use have related to agricultural workers. This present application relates solely to the use of the annex being ancillary to the existing cottage at East Hill as a detached family unit. The removal of this condition would therefore create a new dwelling on the site, with no restrictions on its use. Accordingly the proposal will be assessed as an application for a standalone dwelling house in the countryside.

SITE HISTORY

97/01340/FUL Erection of a dormer window at 11 November 1997 Application Permitted

99/01746/FUL Erection of a garage and ancillary accommodation (granny flat) at 1 February 2000 Application Permitted

05/00897/FUL Extension to dwellinghouse 10 June 2005 Application Permitted

08/00439/OUT Erection of a dwellinghouse (in outline) 13 June 2008 Application Refused

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 was adopted by Perth and Kinross Council on 3 February 2014. It is the most recent statement of Council policy and is augmented by Supplementary Guidance.

The principal policies are, in summary:

Policy PM1A - Placemaking

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

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 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.

OTHER POLICIES

PKC Developer Contributions Supplementary Planning Guidance 2014

PKC Housing in the Countryside Guide 2012

CONSULTATION RESPONSES

Environmental Health – No objections.

Contributions Officer – As the proposals would create a new dwelling in the countryside a contribution of £6395 is required towards Primary Education. A Transportation Infrastructure contribution is not required for this single dwelling.

REPRESENTATIONS

No representations were 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	Not Required

APPRAISAL

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

Plan for the area comprises the approved TAYplan 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

The site is located within a countryside area where policy RD3, Housing in the Countryside, of the Perth and Kinross Local Development Plan, applies.

Policy PM1A – Placemaking and Policy PM3 - Infrastructure Contributions are also to be considered.

The housing in the countryside policy aims to safeguard the character of the countryside and supports development subject to satisfying a number of criteria.

The Council will support proposals for the erection, or creation through conversion, of single houses and groups of houses in the countryside which fall into at least one of the following categories:

- (a) Building Groups.
- (b) Infill sites.
- (c) New houses in the open 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 addition proposals should comply with the guiding principles contained in the Council's current Guidance on the Siting and Design of Houses in Rural Areas and subsequent detailed design guidance. The proposal, in terms of scale, layout and design should also be appropriate to, and have a good fit with, the landscape character of the area.

Following assessment of the application, the proposed removal of condition 2 would create a development which is not considered to be acceptable in terms of any of the categories defined by policy RD3, Housing in the Countryside.

The only potential category for the proposals to be considered under is Policy RD3 (c) New houses in the open countryside on defined categories of sites as set out in section 3 of the Supplementary Guidance. Under section 3.1 a) of the Supplementary Guidance consideration can be given to existing gardens. New dwellings may be appropriate in established gardens, associated with a country/estate house, which provide an appropriate landscape setting, but where development would not fundamentally affect the qualities and integrity of the site.

East Hill is not considered as a country/estate house given the overall small size of the existing Cottage and existing grounds at Easthill (2.9h).

At present East Hill is considered to be in keeping with the established character of this rural area, dispersed developments of individual properties with gardens or farm buildings in compact clusters. Should the annex be used as a separate dwelling these characteristics would be impacted.

In summary, I do not consider that the proposed site meets with the criteria of Policy RD3.

Design and Layout

The site is roughly triangular in shape, with the dwelling to be positioned at the top of a grass slope.

Policy PM1A requires development to contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place. As previously assessed the design of the annex is considered acceptable when deemed ancillary to East Hill, the building is small in scale and is to be constructed of similar materials to East Hill Cottage.

The use of the building as a dwelling on the site, unrelated to East Hill would be contrary to Policy RD3 and would not provide a positive contribution to the surrounding area.

Landscape

The proposed removal of condition 2 would not have any direct impacts on the landscape, beyond those previously assessed. Whilst the dwelling would site at the top of a slope, mature woodland provides a suitable level of backdrop to the site.

Residential Amenity

The site is in a rural location, and the only neighbouring property will be East Hill. No concerns have been raised in terms of the proposals impacts on the areas residential amenity.

Roads and Access

The present access arrangements are not affected by the removal of condition 2. The dwelling would be accessed from the existing track to East Hill.

Drainage and Flooding

There are no known flood risks to the site.

Developer Contributions

The proposals would require an Education Contribution of £6395 as a standalone dwelling. As the development would not create a significant increase in traffic no Transport Contribution is required.

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 fail 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 refusal.

APPLICATION PROCESSING TIME

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

LEGAL AGREEMENTS

None required.

DIRECTION BY SCOTTISH MINISTERS

None applicable to this proposal.

RECOMMENDATION

Refuse the application

Conditions and Reasons for Recommendation

The removal of the occupancy condition would create a new dwelling house in the countryside. The proposal is contrary to policy RD3 of the Local Development Plan 2014 and the Council's Housing in the Countryside Guide 2012 as the proposal fails to satisfactorily comply with any of the categories (1) Building Groups, (2) Infill Sites, (3) New Houses in the Open Countryside, (4) Renovation or Replacement of Houses, (5) Conversion or Replacement of Redundant Non Domestic Buildings, and (6) Rural Brownfield Land.

The site is located within the grounds of East Hill but does not meet the criteria of Policy RD3 with regard to site categories 1, 2, 3, 4, 5 or 6 and is

therefore not in accordance with the Local Development Plan 2014.
Accordingly the application is recommended for refusal.

Justification

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

Procedural Notes

Not Applicable.

PLANS AND DOCUMENTS RELATING TO THIS DECISION

15/00132/1

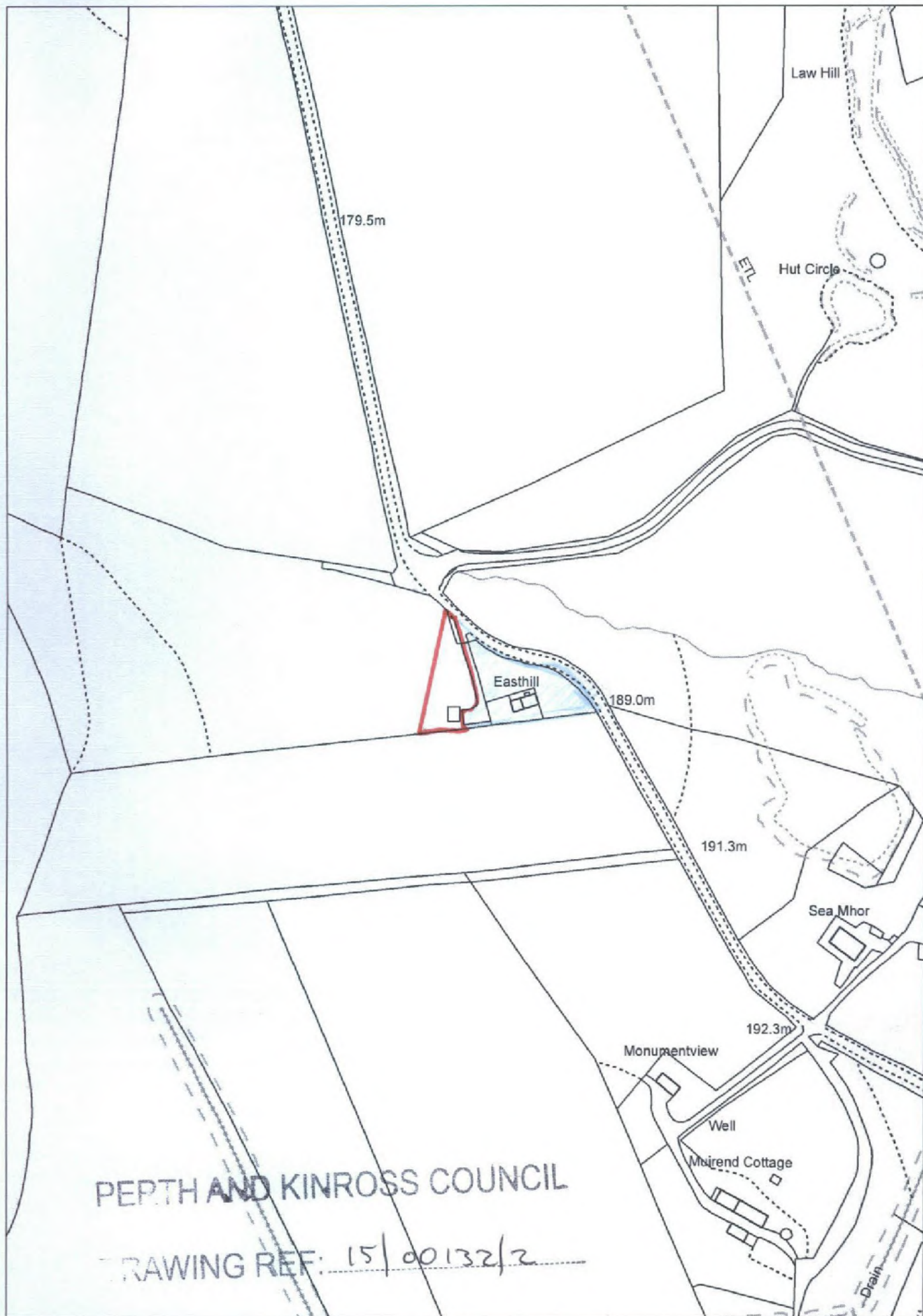
15/00132/2

15/00132/3

15/00132/4

Planning Statement

Date of Report 09.03.2015



1:2,500

0 15 30 60 90 120 Meters

Easthill Pitroddie by Perth PH2 7PL

38

Location Plan @A4 paper size



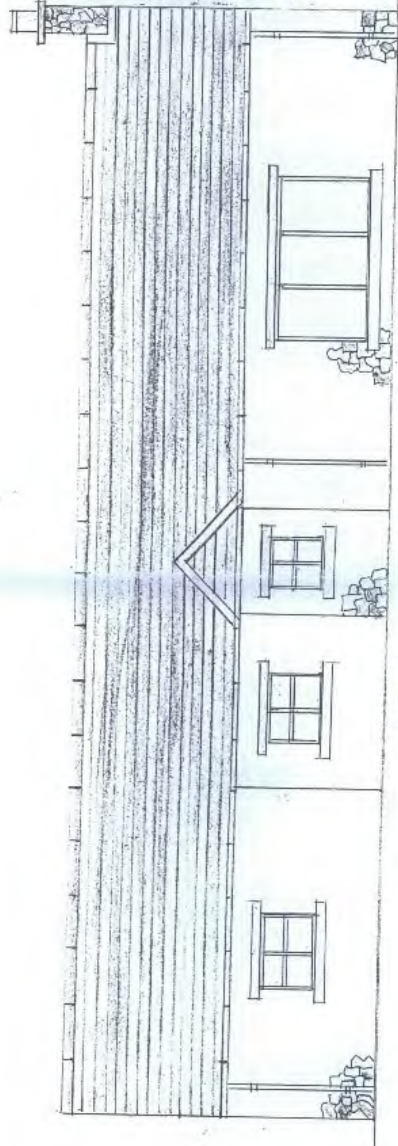
Easthill Pitroddie by Perth PH2 7PL
Location Plan @A4 paper size

PERTH AND KINROSS COUNCIL

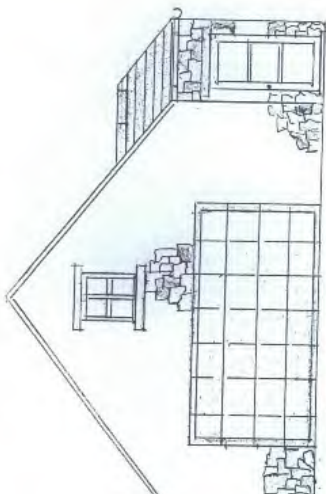
DRAWING REF: 15/00132/3

PERTH & KINROSS COUNCIL
 APPLICATION No. PK/990716
 APPROVED CONDITIONALLY/UNCONDITIONALLY
 UNDER THE TOWN AND COUNTRY PLANNING
 (SCOTLAND) ACTS AND REFERRED TO IN THE
 APPROVAL DATED 15 FEB 2000

DIRECTOR OF PLANNING & DEVELOPMENT
 PERTH 11 FEB 2000

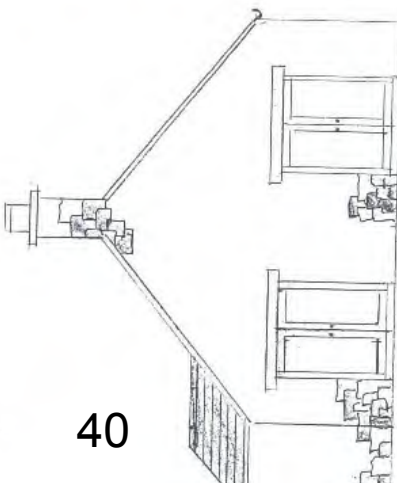


NORTH ELEVATION

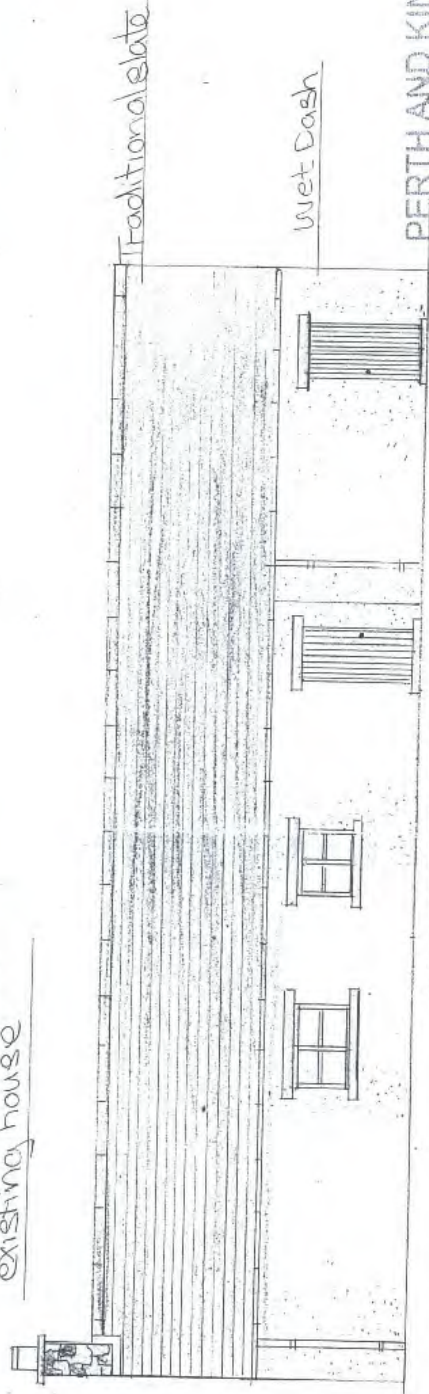


EAST ELEVATION

Stonework to match
 existing house



WEST ELEVATION



SOUTH ELEVATION

Traditional slate

Wet Dash

PERTH AND KINROSS COUNCIL

DRAWING REF: 15/00132/4

PREVIOUSLY APPROVED PLANS
 PROPOSED ERECTION OF GARAGE
 & ANCILLARY ACCOMMODATION
 APPLICANT
 MR & MRS M. EIPHINSTONE
 EAST HILL, PITRODDIE, RA
 DATE 18.1.2000
 SCALE 1:100

TCP/11/16(364)**Planning Application 15/00132/FLL – Removal of condition 2 of permission 99/01746/FUL relating to occupancy of residential annex, East Hill, Murrayshall, Perth, PH2 7PL**

REPRESENTATIONS

- Representation from Development Negotiations Officer, dated 10 February 2015
- Representation from Regulatory Services Manager, dated 10 February 2015

Comments to the Development Quality Manager on a Planning Application

Planning Application ref.	15/00132/FLL	Comments provided by	Euan McLaughlin
Service/Section	Strategy & Policy	Contact Details	Development Negotiations Officer: Euan McLaughlin Tel: 01738 475381 Email: emclaughlin@pkc.gov.uk
Description of Proposal	Removal of condition 2 of permission 99/01746/FUL relating to occupancy of residential annex		
Address of site	East Hill Murrayshall Perth PH2 7PL for Mr Martin Elphinstone		
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, or likely to be operating following completion of the proposed development and extant planning permissions, at or above 80% of total capacity.</p> <p>This proposal is within the catchment of Robert Douglas Memorial Primary School.</p> <p>This proposal is seeking a change of Condition 2 which relates to the occupancy of the existing building. The development at present is tied to the existing dwellinghouse and therefore in terms of the Developer Contributions Supplementary Guidance is not a standalone dwelling which would have additional impact on the primary school estate. The removal of this condition would create a new standalone dwelling. Paragraph 4.7 of the Guidance states '<i>conversions from alternative uses to residential where the units comprises two or more bedrooms, will make a full contribution.</i>' Through the removal of Condition 2 there would be no restriction on the dwelling being used as a single home and it would be converted from annex accommodation. In terms of this the proposal is creating a new dwellinghouse and a contribution towards primary education is required.</p>		

	<p>Transport Infrastructure</p> <p>With reference to the above planning application the Council Transport Infrastructure Developer Contributions Supplementary Guidance requires a financial contribution towards the cost of delivering the transport infrastructure improvements which are required for the release of all development sites in and around Perth.</p> <p>This proposal is seeking a change of Condition 2 which relates to the occupancy of the existing building. While this would in effect create a standalone dwellinghouse which is not tied to the existing property it is unlikely to increase the overall level of traffic which is generated from the site. The Transport Infrastructure Developer Contributions Supplementary Guidance will not apply.</p>
Recommended planning condition(s)	<p>Summary of Requirements</p> <p>Education: £6,395 (1 x £6,395) Transport Infrastructure: £0</p> <p><u>Total: £6,395</u></p> <p>Phasing</p> <p>It is advised that payment of the contribution should be made up front of release of planning permission. The additional costs to the applicants and time for processing legal agreements for single dwelling applications is not considered to be cost effective to either the Council or applicant.</p> <p>The contribution may be secured by way of a Section 75 Agreement. Please be aware the applicant is liable for the Council's legal expense in addition to their own legal agreement option and the process may take months to complete.</p> <p>If a Section 75 Agreement is entered into the full contribution should be received 10 days after occupation.</p>
Recommended informative(s) for applicant	<p>Payment</p> <p>Before remitting funds the applicant should satisfy themselves that the payment of the Development Contributions is the only outstanding matter relating to the issuing of the Planning Decision Notice.</p> <p>Methods of Payment</p> <p>On no account should cash be remitted.</p> <p>Scheduled within a legal agreement</p> <p>This will normally take the course of a Section 75 Agreement where either there is a requirement for Affordable Housing on site which will necessitate a Section 75 Agreement being put in place and into which a Development Contribution payment schedule can be incorporated, and/or the amount of Development Contribution is such that an upfront payment may be considered prohibitive. The signed Agreement must be in place prior to the issuing of the Planning Decision Notice.</p>

NB: The applicant is cautioned that the costs of preparing a Section 75 agreement from the applicant's own Legal Agents may in some instances be in excess of the total amount of contributions required. As well as their own legal agents fees, Applicants will be liable for payment of the Council's legal fees and outlays in connection with the preparation of the Section 75 Agreement. The applicant is therefore encouraged to contact their own Legal Agent who will liaise with the Council's Legal Service to advise on this issue.

Other methods of payment

Providing that there is no requirement to enter into a Section 75 Legal Agreement, eg: for the provision of Affordable Housing on or off site and or other Planning matters, as advised by the Planning Service the developer/applicant may opt to contribute the full amount prior to the release of the Planning Decision Notice.

Remittance by Cheque

The Planning Officer will be informed that payment has been made when a cheque is received. However this will require a period of 14 days from date of receipt before the Planning Officer will be informed that the Planning Decision Notice may be issued.

Cheques should be addressed to 'Perth and Kinross Council' and forwarded with a covering letter to the following:

Perth and Kinross Council
Pullar House
35 Kinnoull Street
Perth
PH15GD

Bank Transfers

All Bank Transfers should use the following account details;

Sort Code: 834700

Account Number: 11571138

Education Contributions

For Education contributions please quote the following ledger code:
1-30-0060-0001-859136

Direct Debit

The Council operate an electronic direct debit system whereby payments may be made over the phone.

To make such a payment please call 01738 475300 in the first instance. When calling please remember to have to hand:

- a) Your card details.
- b) Whether it is a Debit or Credit card.
- c) The full amount due.
- d) The planning application to which the payment relates.
- e) If you are the applicant or paying on behalf of the applicant.
- f) Your e-mail address so that a receipt may be issued directly.

Indexation

All contributions agreed through a Section 75 Legal Agreement will be linked

	<p>to the RICS Building Cost Information Service building Index.</p> <p>Accounting Procedures</p> <p>Contributions from individual sites will be accountable through separate accounts and a public record will be kept to identify how each contribution is spent. Contributions will be recorded by the applicant's name, the site address and planning application reference number to ensure the individual commuted sums can be accounted for.</p>
Date comments returned	

Memorandum

To Development Quality Manager From Regulatory Services Manager

Your ref PK15/00132/FLL Our ref SP

Date 10 February 2015 Tel No (01738) 476 460

The Environment Service

Pullar House, 35 Kinnoull Street, Perth PH1 5GD

Consultation on an application for Planning Permission

RE: Removal of condition 2 of permission 99/01746/FUL relating to occupancy of residential annex East Hill Murrayshall Perth PH2 7PL for Mr Martin Elphinstone

I refer to your letter dated 10 February 2015 in connection with the above application and have the following comments to make

Environmental Health (assessment date 10/2/15)

Recommendation

I have no objection in relation to the application.

Comments

This is an application for the removal of condition 2 of Planning permission 99/01746/FUL to allow unrestricted use of the garage and associated residential annex for use by a member of the applicant's family. The proposed site is in a rural location close to the village of Scone and the closest residential property is over 200m away. As far as I can ascertain there have been no objections to the proposed development

The application site is surrounded by farmland and there may be noise and odour associated with this. The countryside experiences noise, and sometimes odour, from transport, farming and other rural enterprises and at appropriate levels these are an acceptable part of rural life. It is my contention that future occupants of the proposed development will be aware of the use character of the area and that there is potentially a certain amount of noise and odour associated with such a location, and therefore I do not foresee this presenting a problem.



