

**LRB-2021-52**  
**21/01175/FLL – Change of use from agricultural land to garden ground and equine use and the erection of stables/storage building (in retrospect), 11 Kinfauns Holdings, West Kinfauns**

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**PAPERS SUBMITTED  
BY THE  
APPLICANT**



# NOTICE OF REVIEW

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

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

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

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

Use **BLOCK CAPITALS** if completing in manuscript

### Applicant(s)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail\*

### Agent (if any)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail\*

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

Yes  No

\* Do you agree to correspondence regarding your review being sent by e-mail?  Yes  No

Planning authority

Planning authority's application reference number

Site address

Description of proposed development

Date of application

Date of decision (if any)

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

**Nature of application**

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

**Reasons for seeking review**

- 1. Refusal of application by appointed officer
- 2. Failure by appointed officer to determine the application within the period allowed for determination of the application
- 3. Conditions imposed on consent by appointed officer

**Review procedure**

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

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

- 1. Further written submissions
- 2. One or more hearing sessions
- 3. Site inspection
- 4. Assessment of review documents only, with no further procedure

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

A flood-water report was not available before. Having read the reasoning behind the refusal we feel that our original application requires more in-depth reasoning.

**Site inspection**

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

- 1. Can the site be viewed entirely from public land? Yes  No
- 2. Is it possible for the site to be accessed safely, and without barriers to entry?

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

**Statement**

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

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

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

We would refer to the accompanying documents which are clearly referenced and highlight our observations, reasons and reasoning.

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

Yes  No

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

We have added a copy of the email from Mr Gemmell of PKDC to Mrs Doig which was not available before. We have gone into more detail on all matters previously raised.

**List of documents and evidence**

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

As listed on the accompanying issue sheet these are,

- (a) Appeal document AD 112.03
- (b) PKDC's "Report of Handling, Delegated Report".
- (c) Drawing number 112.03.A02 (rev.1) P.
- (d) Extract 1 - from PKDC "LOCAL DEVELOPMENT PLAN.
- (e) Extract 2 - from O.S. Map.
- (f) Extract 3 - " " " "
- (g) Extract 4 - from "Google Aerial Map.
- (h) Seven referenced photographs.
- (i) Copy of e-mail, Gemmett to Doig.

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

**Checklist**

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

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

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

**Declaration**

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

Signed

Date 20.12.21

Issue no: 03-11203

# nuts'n bolts

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email: [stewart@nutsagusbolts.co.uk](mailto:stewart@nutsagusbolts.co.uk)

Mr & Mrs R Doig,  
11 Kinfauns Holdings,  
West Kinfauns,  
Perth, PH2 7JY.

to: The Secretary, Local Review Body,  
Perth & Kinross District Council,  
Committee Services, Council Building,  
2 High Street, Perth, PH1 5PH.  
18<sup>th</sup> December, 2021.  
planning ref: 21/01175/FLL

## **Change of use from agricultural land to garden ground and equine use and the erection of stables/storage building (in retrospect) at 11 Kinfauns Holdings, West Kinfauns, Perth, PH2 7JY.**

1. Drawings already tendered supporting original planning application:
  - 11203-A01 (rev 1) ..... Location Plan 1.
  - 11203-A02 (rev 1) ..... Location Plan 2.
  - 11203.A03 (rev 1) ..... Site Plan – Garden/Stables.
  - 11203.A04 (rev 1) ..... Plans/Elevations at Stable Block.

### **Supporting documentation for appeal regarding refusal of proposed development.**

2. Additional (attached) Documents supporting this appeal.
  - a) Appeal Document AD112.03 on 8 pages.
  - b) PKDC Planning Department's "Report of Handling, Delegated Report" (RHDR) – on 7 pages giving policy references and reasons for refusal.
  - c) drg no 112.03.A02 (rev 1)P ..... Original application drawing overmarked to indicate origin and direction of Photo's numbered 1 to 6 – ref (h) below.
  - d) 'Extract 1' from PKDC "Local Development Plan" showing West Kinfauns Settlement Boundary
  - e) 'Extract 2' from O.S. Map – showing historical position of outbuildings to no. 11
  - f) 'Extract 3' from O.S. Map – showing historical position of outbuildings to no. 11
  - g) 'Extract 4' from 'Google' aerial map overmarked similarly to (c) above.
  - h) Seven reference photographs of the 'proposed' stable block to convey lack of visual intrusion of stable block.
  - j) Copy of email from Mr Gemmell to Mrs Doig regarding rainwater and flood risk.



**The Secretary, Local Review Body,  
Perth & Kinross District Council,  
Committee Services, Council Building,  
2 High Street, Perth, PH1 5PH.**

*nuts'n bolts*

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18<sup>h</sup> December, 2021.

subject:  
Mr & Mrs R Doig,

Appeal Document AD112.03

11 Kinfauns Holdings,  
West Kinfauns,  
Perth, PH2 7JY.

planning application ref: 21/01175/FLL

**Change of use from agricultural land to garden ground and equine use and the erection of stables/storage building (in retrospect) at 11 Kinfauns Holdings, West Kinfauns, Perth, PH2 7JY.**

We refer to your communication of 27<sup>th</sup> September, 2021 refusing Planning Permission for this 'development' and thank you for your comments and considerations. For ease of reference we repeat hereunder your 'Reasons for Refusal'.

- 1. The proposed development is contrary to Policy 6 of the Perth and Kinross 'Local Development Plan 2 (2019)' as it would be located outwith the settlement boundary of west Kinfauns and there is no justification to permit the development.*
- 2. Approval would be contrary to Policy 43 of the Perth and Kinross 'Local Development Plan 2 (2019)' as the position of the stables building within the Greenbelt will result in a level of visual intrusion which would have a detrimental impact on the character and landscape setting of the Greenbelt and dilute the Greenbelt's relationship with the settlement boundary.*
- 3. The proposal is contrary to Policy 52: Flooding, of Perth and Kinross 'Local Development Plan 2 (2019)' as it has not been demonstrated that the development will not result in an increase of surface water and flood risk to property.*

If you would be good enough to consider the reasoning outlined in this document as forming an appeal against your initial decision on this application we would be most grateful.

From the applicants' perspective the application includes three distinct but clearly related parts, and for simplicity and clarity we shall address each of these parts individually below. Mr and Mrs Doig would be grateful if, after considering this appeal, you would be good enough to note a decision and reasoning applicable to each of the three parts individually. We do understand that the perspective of P&KDC does not exactly match ours but as far as we can infer from your communication all three parts have been refused for the above three reasons and so our reasoning is based upon that.

**Part 1.** Permission for a change of use of a strip of land, approximately nine metres wide by thirty eight metres (width of garden) long from 'agricultural' use to 'garden' use.

This strip runs along, and immediately adjacent to, the northernmost edge of the existing garden and is clearly marked on our drawing no 112.03.A03. We appreciate that this is further complicated by the fact that this strip is apparently within the 'Green Belt' area and outwith the 'settlement boundary'.

As intimated at the time of the original application this part of the application (extending the garden Northwards) was not a vital part of any plan that Mr & Mrs Doig had regarding the equestrian land use, nor the permanent stable block. It just seemed like a logical extension. When the existing garden fence, which had been in any case in an advanced state of decay, finally collapsed there just did not seem to be any practical point in replacing it. Mr Doig had already replaced the old (also decaying) field fence which was located approximately nine metres North of the old (collapsed) garden fence so there was no immediate danger of the horses escaping into the garden. If the Council deem that this is a bad idea and that some kind of physical demarcation be reintroduced and located where it was previously then that shall be undertaken.

- - - - -

**Part 2.** Permission for a change of use to the field (as shown 'fringe-hatched' in red on drg no 112.03.A02) which lies to the North of the property at 11 Kinfauns holdings from 'Agricultural Use' to 'Equestrian Use'.

This field is the property of Mr and Mrs Doig and is currently home to their horses. The horses and indeed the stables were 'in-position' before attention was drawn to the fact that permission (of any kind) was required. Ignorance, we understand is no excuse in law but, be that as it may, it must still be upheld as a mitigating factor in contributing to a lack of action.

We assume that your first 'Reason for Refusal' (located outside settlement boundary) does not apply here and so can be disregarded because clearly the field is outside the settlement boundary and will remain so whatever its 'status' may be.

Regarding point two of your 'Reasons for Refusal' this point refers specifically to the stables and so our assumption is that this has no relevance to the status of the field itself and so again may be disregarded as being not relevant to this part.

Point three of your 'Reasons for Refusal' (Policy 52) regarding possible increase in surface water, please refer to the attached email from Mr Andrew Gemmell of 'The Flooding Team' at Perth and Kinross Council's 'Housing & Environment Services Department'. We feel that this indicates that there will be no adverse consequences regarding surface water if this 'change of use' were to be approved.

We are happy to confirm that there are no plans nor aspirations to construct any kind of permanent or semi-permanent arena for the purposes of training or exhibition, nor yet any further buildings. For the purposes of this part of the application we would hope only that the horses may be grazed, homed, ridden and exercised within these fields. This exercising might include the temporary (very temporary – hours rather than days) siting of jumps so that the horses and their riders might practice and develop their skills. We are happy to confirm that any such barriers, forming these 'jumps' would be easily demountable and stored in their de-constructed form, normally out of site adjacent to the stables. They would not form a permanent standing feature in any part of the fields.

Hence we would be very grateful if you could look again at the change of use of the fields from 'Agricultural' to 'Equestrian' and perhaps agree that the land and the local environment would actually be improved by this move; indeed, has already been improved.

We take this opportunity to under-score points which were made in the original application, but perhaps not clearly enough to be sympathetically considered.

The land itself has already been vastly improved over the past few years by the labours of Mr & Mrs Doig. It may well be that the area within which the their property is situated is described officially as 'Green Belt' land, but had an 'official' comb been run through the grass in these fields what would have been revealed would have been piles of rubble, rusting steelwork (which would be measured in tons

rather than kilograms and comprised structural sections, sheets of cladding, agricultural machinery and fencing), discarded building materials and mounds of what may be garden and/or domestic refuse, suggesting that a more accurate description might have been 'Brown-Field'. All this work was undertaken (and paid for) to improve the quality of the land and to remove the dangerous overburden that was found to be occupying it. While no pretence is made here that all these toils were for anything other than the improvement of the land for the wellbeing of the horses, that motivation has made these fields safer for everybody in the locality: leisure walkers, dog-exercisers, nature rambles - as well as the horses themselves. In addition to these fore-mentioned materials, hazardous in themselves, a pile of discarded asbestos-cement cladding was removed by a specialist contractor and stands of giant hogweed dug out and destroyed in accord with the proposed methods of the "Scottish Invasive Species Initiative". Who was responsible for the deposition of these materials remains one of life's mysteries, but the land has already been immeasurably improved under the stewardship of Mr & Mrs Doig and can only be viewed as a greener place because of their labours.

Over the past two or three summers these fields have played host to sheep owned by a nearby farmer. This has served both parties well inasmuch as the farmer has had lighter grazing on his own fields and, as sheep are less prone to the adverse health effects of some weed consumption than horses, they have cleared some weedy patches from the 'subject' fields which have enabled these areas to be further improved and re-seeded. It is hoped that this is an exercise that may be repeated, and that a successful application for this change of use (Agricultural to Equestrian) would not preclude it.

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**Part 3.** Permission to site the existing 'portable' field shelters in a permanent location, as a small stable block including shelters for farm machinery and bedding material at the location and of the form shown on drawings 112.03.A02, A03 and A04 (of original application).

May we reiterate that the portable field shelters in question were purchased so that they could (as their name suggests) be moved from time to time around the subject fields to various different locations to follow the grazing rotation that would be required to maintain healthy grass growth while affording the animals the shelter that they might require in inclement weather? Like so many other 'good plans' this was later found to be perhaps not quite the best idea in this instance. The original benefits foreseen in the portability aspect of the shelters was found to be outweighed by three factors.

Firstly: the reality that the shelters needed to be carefully positioned to avoid areas that were subject to localised flooding. These fields are not 'billiard-table' smooth; they are located within the River Tay flood plain; are underlain by 'not-so-permeable' clay and so subject, at times of heavy rainfall, to a large amount of localised puddling. Hence field positioning of the shelters was restricted, by this characteristic alone, to local 'high-spots'.

Secondly: the horses require daily feed-supplements and fresh bedding. Of course this meant that used bedding material required to be removed daily and replaced with fresh straw. The animals needed to be 'tucked-up' in their shelters in the evening and released to graze in the morning. These requirements meant that normally two tractor runs to the shelters were required each morning and, occasionally, another in the evening. When the horses and shelters were located towards the East of the fields this meant that the tractor would operate maybe as close as forty metres to two or three neighbouring, domestic residences. The tractor in question is of the small, horticultural variety and so does not produce the same level of sound that a large, agricultural tractor would but nevertheless it is powered by an internal, combustion engine. One of the neighbours had 'mentioned' the nuisance that

this was causing him and so more use was made of a quad-bike rather than the tractor where this was possible. Closer comparisons revealed that the lighter quad-bike was actually noisier than the slower-revving tractor and so this swap was reversed. If shelters were not positioned to the East of the fields then this would not be a problem.

Thirdly: over the past few years many instances have been reported in the press of wilful injury enacted upon domesticated, ruminant animals with a distinct 'preference' for horses. Yet another such occurrence prompted Mr & Mrs Doig to seek a location for the shelters which was closer to the house. Obviously the safety of the animals *had* to be the foremost consideration in the location equation.

The 'Possible Alternative Stable Position' as indicated on the attached drawings '112.03.A02 (rev1)P' (attached) was considered as it clearly filled the requirement of proximity to the house and was large enough to accommodate the shelters. This general area was the only position within the garden area where siting would have been possible; however at times of high rainfall this area is subject to severe flooding with water depths close to one metre. Any attempt to infill this area in order to counter the flooding problems would not only be prohibitively expensive but, more importantly, would result in the flood water being displaced into a neighbouring property as well as the adjacent main road. A neighbour drew their attention to the fact that historically outbuildings belonging to no 11 had been located for many years (refer to Map Extracts 1, 2 and 3 attached) in a position to the north of the garden, partially sheltered by existing trees and on land with an elevation slightly greater than the surrounding land. This historical site appeared to offer the obvious solution. It was very visible from their house, but virtually invisible (ref Photos 1-6 and drg. no. 112.03.A02) to most other domestic properties in the village; it was partially sheltered by the row of trees and would almost certainly be free from flooding. The Doigs sited the field-shelters exactly where these old buildings had been. As is so often the case: pay heed to how your antecedents surmounted their challenges.

One slight problem was made apparent when puddling did occur under the shelters during high rainfall. There appeared to be a very slight hollow centrally on the site and as the footprint of the old buildings exceeded that of the 'new stable' this water pooled in and around the 'new building'; not a huge amount, but quite enough to soak the horses' bedding. This was overcome by surcharging the immediate area with a very thin layer of free-draining, 'quarry-run' aggregate. This had the effect of raising the ground level locally by a notional amount and hence lifting the animals' bedding out of the water. Because this area was already naturally higher than the surrounding area of the field this exercise had no effect on the field drainage. This location now 'ticked all the boxes' (refer also to TAYplan policy 1B). This concludes the reasoning behind the positioning of the 'stable-block'.

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Moving on to the conclusions regarding specifically the siting of the stables and subsequent refusal of same, we note your 'Report of Handling - Delegated Report' (RHDR) which appears to contain the main basis for the refusal for the permanent siting of the stable block. To avoid ambiguity we have also attached a copy of this document and apologise for the length of this section as we try to respond to each of the points addressed by the RHDR.

Understandably this report refers extensively to the 'Perth and Kinross Local Development Plan 2' (PKLDP2) as well as the 'Tayplan Strategic Development Plan' (TAYplan) for its authority and reasoning. In turn these Plans are guided by Scottish Government planning policies as noted in the RHDR under the 'National Policy and Guidance' section; all these government documents are designed to guide and standardise planning 'concepts' to a common, nationally applicable format.

We note (and the RHDR quotes from) the TAYplan's praiseworthy 'vision' and we are sure that everyone will see the sense in this sentiment; moreover we feel that our proposal meets, indeed exceeds that vision. We address 'Policy 1' and 'Policy 2' of the TAYplan below.

'Policy 1' of 'TAYplan' considers 'Location Priorities' and 'Part A' of this section categorises the 'Principal Settlement Hierarchy'. West Kinfauns would be categorised as 'Tier 3' or, a settlement that 'will have the potential to play a more modest role in the regional economy and will accommodate a small share of the of the additional investment'. ---- Mr and Mrs Doig's investment to date has purged this small part of Tayside of foul dangerous and deadly overburdens. Assuredly the Green Belt is considerably greener on account of their labours.

'Part 1B' of 'TAYplan' goes on to explain the 'Sequential Approach' which should be applied to applications for developments in all three of the Tiers. This 'Sequential Approach' dictates that (assuming that the subject is 'consistent with 'Part A' of this Policy as well as Policy 2 ) then land release for development should (preference 1) be for 'Land contained within the boundary of the principle settlements' and if this is not possible then (preference 2) 'Land on the edge of principle settlements'. It then continues to 'preference 3', where the scale or nature of the development dictates that neither of the first two preferences is possible. Our interpretation of this is that in an application which complies with 'preference 1' then, all else being equal, will be looked upon favourably; in a 'preference 2' situation there will need to be further justification in order to be entertained sympathetically – and so on.

We feel that the 'permanent building' part of our application lies within 'preference 2' of this sequence as it is not possible to be located within the settlement boundaries, but lies instead *on* the settlement boundary. We would submit that as the proposed development does not physically alter the appearance of the area, either 'the settlement' or the Green belt; indeed that it enhances both, then it should meet with a favourable reception. It will serve the community well at no cost to the public or the public purse. In spite of some of the observations [refer to page 6 of the RHDR – 'Reason 2 – (Policy 43 of PKLDP2') '... level of visual intrusion that would have a detrimental impact on the character and landscape setting of the Green Belt and dilute the greenbelt's relationship with the settlement boundary'] ---- We would dispute every sentiment in that 'sentence'. We are quite adamant that the building is absolutely in keeping with a rural area where horticultural, equestrian or agricultural activities, be they stock or arable are practiced. The stable building is 100% in keeping with rural land use. We attach photographs numbered Photo 1 to Photo 6 in support of its lack of 'visual intrusion' along with drawing numbered 112.03.A02(rev 1)P and 'Extract 04' which show the origin and direction of these photographs. 'Extract 04' is simply an aerial view covering the same territory as the drawing. These photographs graphically display that the building is 'barely visible over approximately 170 degrees (from the A90 carriageway) and invisible through the remaining 190 degrees (from the settlement direction). We also attach photograph, Photo 7, which is a close-up shot on part of the stable block and includes, beyond it, an existing out-building in one of the adjacent properties which is of identical construction, colour and visual intrusion.

'Policy 1D of Tayplan – Green Belts': '... at both St Andrews and Perth to preserve their settings, views and special character including their historic cores; protect and provide access to open space; assist in safeguarding the countryside from encroachment; .... and define the types and scales of development that are appropriate within the green belt ....' ---- We are happy that the small, functional building for which we seek planning permission will not only preserve and enhance the rural setting in which we propose that it be situated but the location within which we 'intend' siting it is on the historical footprint of an old agricultural outbuilding which even served the same property. Also the clearing work undertaken to de-clutter and 'cleanse' the fields has already enhanced access to the countryside for riders and walkers alike and will undoubtedly assist in safeguarding the surrounding countryside from encroachment.

'Policy 2 – Shaping Better Quality Places'.

'Policy 2A. Place-led to deliver distinctive places by ensuring that the arrangement, layout, design, density and mix of development are shaped through enhancing natural and historic assets, natural processes .... ' This area has a recent, local history of equestrian activity (indeed one need only drive along the A90 in the Carse of Gowrie to appreciate that tradition) coupled with a more distant past tradition of working the land – agricultural and horticultural. In what better fashion could these traditional uses be built upon today other than by ensuring the continuation of that rural legacy?

Policy 2B. 'Active and healthy by design ....' ----- The proposal is closely integrated with existing infrastructure and facilities and will enhance them without adding any burden to them. The opportunity for leisure walking in the fields now that they are safe is a boon to the local community and along with the horse-riding offers an 'active travel environment combining different land uses with green space'.

Policy 2C. Resilience and future-readiness. In response to sub-section (ii) of Point 2C please refer to the summary of Mr Gemmell's report of 23rd November, 2021 which clearly indicates that none of the work carried out in the fields (including the construction of the stable-block) would have a detrimental influence on the flood risk in this area. Regarding sub-section (iii) the owners would be more than happy to co-operate with the agents of Perth and Kinross Council should any future mitigation plans arise.

POLICY 2D – Efficient Resource Consumption.

(i) Waste management – The biological, animal waste is stored at the Northernmost edge of the fields awaiting uplift by a local farmer for land fertiliser purposes. This occurs on a regular basis.

In summary, relating to the TAYplan guidance we feel that our application fulfills all of these laudable aspirations in a very positive and beneficial fashion.

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We refer in the following section to the contents and conclusions in the attached "Report of Handling – Delegated Report" and have labelled the relevant portions as in the report.

**SITE VISIT** (page 1 of the report)

We note that in this section a site visit was not deemed appropriate and that remote and electronic means to view the area were used. With the ongoing uncertainties and hazards posed by the current pandemic we totally sympathise with this conclusion, however we feel that a site visit may have yielded very different conclusions.

**Policy Appraisal.** (page 4-5 of the report) In this section we would note that the 'Policies' referred to are largely those of the PKLDP2 – the Perth and Kinross Local Development Plan 2.

Curtilage/Settlement Boundary.

Policy 6, Settlement Boundaries' is noted as being the relevant Policy and quotations from that Policy are included. The part of our application dealing with the proposed extension to the garden is deemed to 'not meet with any of the criteria' and hence is rejected. We would like to point out that it

does comply with 'Policy 6, section (d)'. While we do not propose this to be a discussion-winning revelation we would however also point out that, as shown on 'Extract 1' attached, the settlement boundary on its Northern edge is prone to considerable and irregular 'saw-toothing' along its length, the area immediately to the North of number 11 historically extended further North than the Northern end of the proposed stable-block (Extract 2); also several O.S. Publications (for example note the land colouration on drg no A02, attached) seem to dispute this boundary and Mr and Mrs Doig do, in any case, already own this land. As previously stated, however, this garden extension just seemed to be a logical conclusion rather than an urgent requirement for the applicants.

### Greenbelt

It is postulated here that neither 'Part 1' (the 'change of use of the land) nor yet 'Part 2' (the permanent siting of the stable block) complies in any way with Policy 43 and must therefore be rejected for this reason alone. We would take issue with this on several levels.

As noted, Part 6 (d) of Policy 43 refers to mitigations where there are benefits by "improving public access .... including recreational, educational and outdoor sports." We would again draw your attention to the fact that even just the 'preparation' to which the fields have already been subjected to render them a safe home for the horses has made them (now) safer for the public, more accessible and that the object of the whole exercise is to facilitate horseriding – a recognised outdoor sport.

PART 6 (e) of Policy 43. – We feel that "a positive benefit to the Green Belt can be demonstrated" not only by the points raised in the reference (above) to Point 6 (d) but also in the simple fact that the land, having been 'cleaned' is now being managed in a health-giving and responsible fashion rather than lying untouched and concealing all the horrors that it had contained. Furthermore, we would argue that any open, grassed field looks more appealing, interesting and healthy when it houses livestock and that the rustic, 'natural' character of their stables only enhances, rather than detracts from this. This being said we would underline that the 'low-rise', rural-style and careful positioning of the said stables results in a minimal, if positive visual impact. As noted in the summary to Policy 43 in the PKLDP2 "developments must be appropriate to the overall objectives of the Green Belt and enhance the character, landscape setting and identity of the settlements." We feel confident that this development not only fulfills all of these aspirations but, indeed exemplifies the.

### **Drainage and Flooding**

We would refer to Mr Gemmell's email to Mrs Doig (attached) following a recent site visit summarising his observations regarding this subject and point out his sympathetic conclusions.

### **Residential Amenity**

#### Noise and Odour

We note the comments of the 'Environmental Health' department and would be happy to discuss any further assurances that they may require and equally happy to welcome any visits which they may deem desirable.

## **CONCLUSION AND REASONS FOR DECISION**

We cannot refute these conclusions and reasons strongly enough and on the foregoing pages we have attempted to justify this position. We are confident that you will address these issues with openness and understanding and look forward to receiving your conclusions in due course.

*Yours sincerely,*

*Stewart Cassidy.  
(On behalf of Mr & Mrs Doig.)*

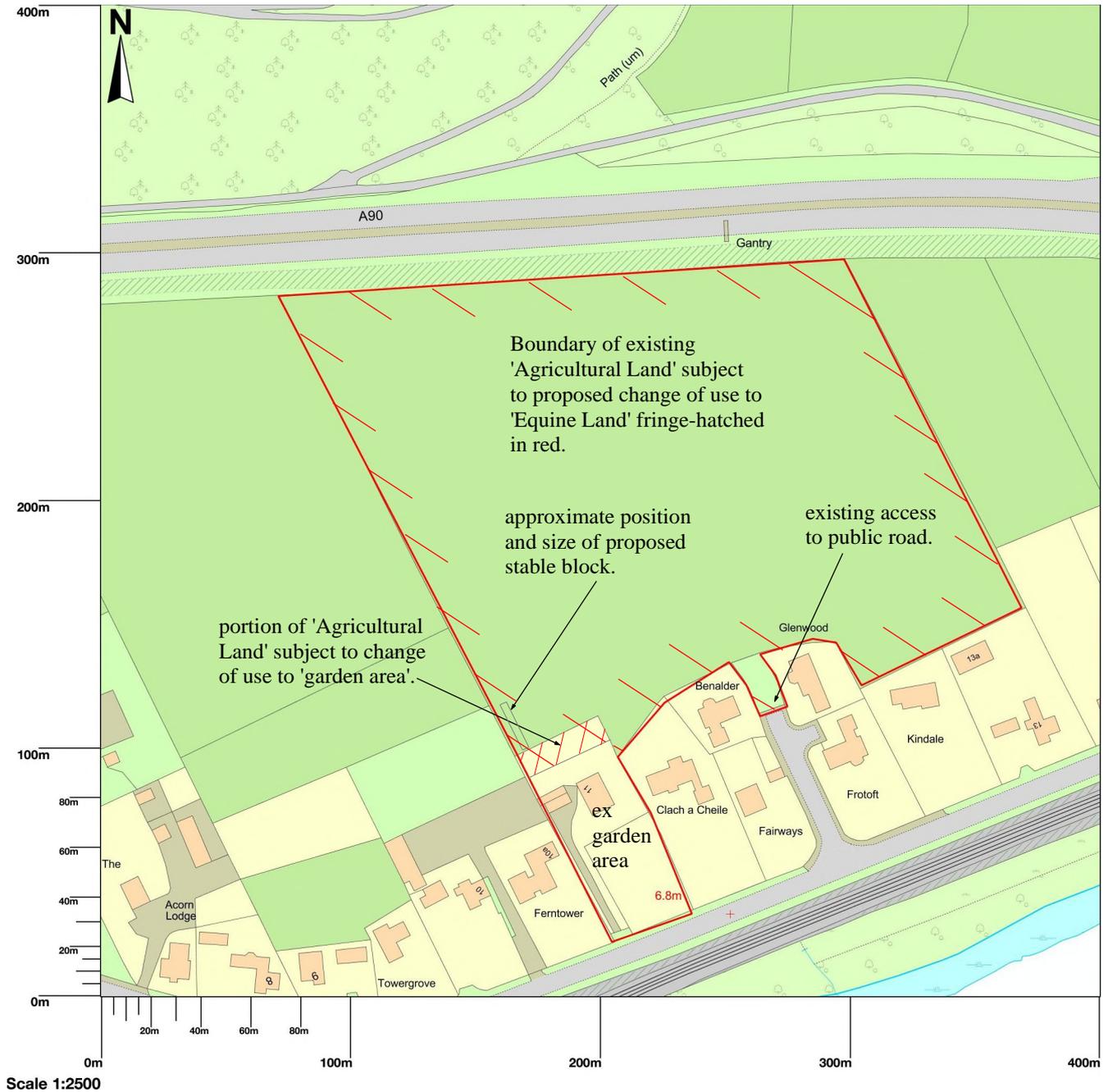
## 11 Kinfauns Holding, Kinfauns, Perth, PH2 7JY



Map area bounded by: 314014,722160 314156,722302. Produced on 21 July 2021 from the OS National Geographic Database. Reproduction in whole or part is prohibited without the prior permission of Ordnance Survey. © Crown copyright 2021. Supplied by UKPlanningMaps.com a licensed OS partner (100054135). Unique plan reference: p2cuk/652083/883632

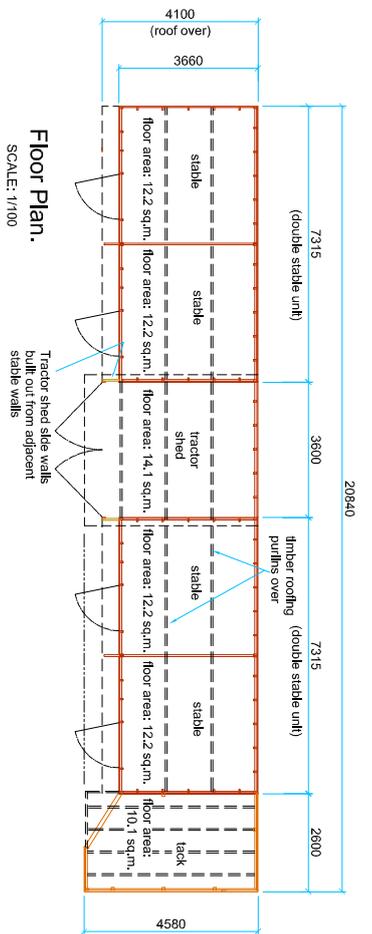
Drg no 112.03.A01 (rev 1)

## 11 Kinfauns Holding, Kinfauns, Perth, PH2 7JY



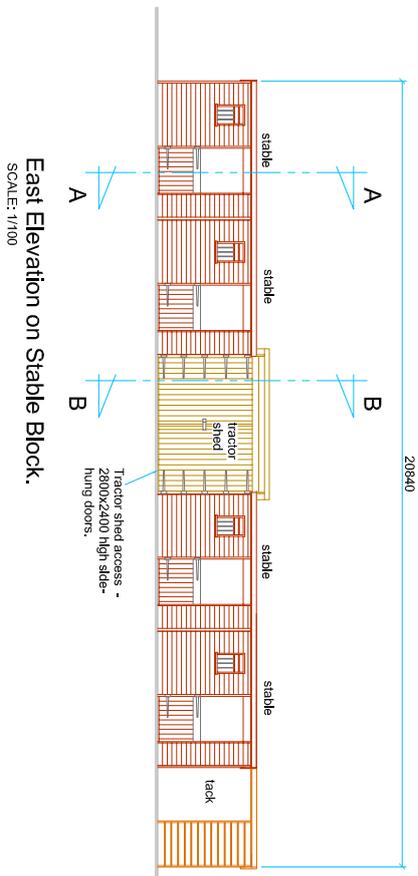
Map area bounded by: 313903,722166 314303,722566. Produced on 21 July 2021 from the OS National Geographic Database. Reproduction in whole or part is prohibited without the prior permission of Ordnance Survey. © Crown copyright 2021. Supplied by UKPlanningMaps.com a licensed OS partner (100054135). Unique plan reference: p16buk/652083/883626





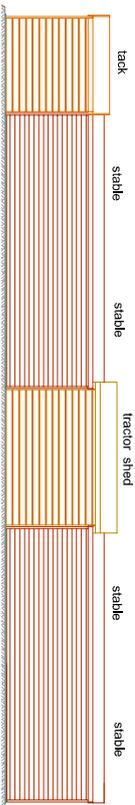
**Floor Plan.**

SCALE: 1/100  
total floor area: 73 sqm.



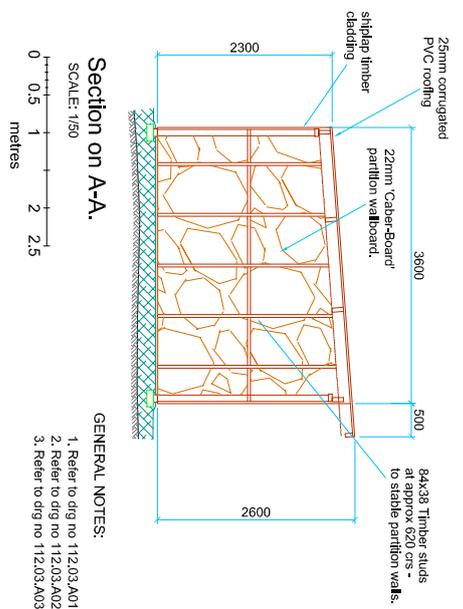
**East Elevation on Stable Block.**

SCALE: 1/100



**West Elevation on Stable Block.**

SCALE: 1/100

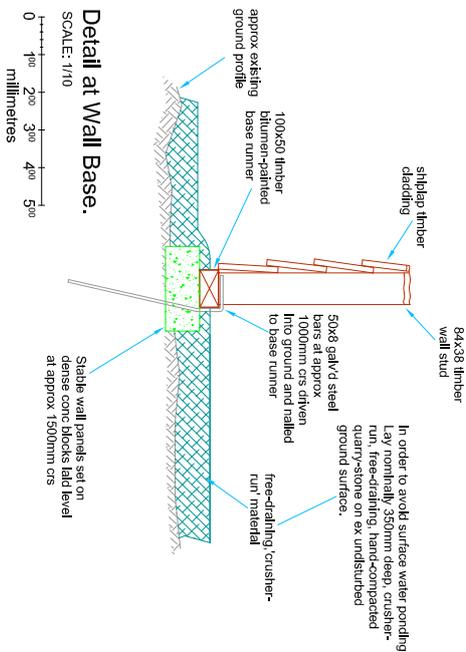


**Section on A-A.**

SCALE: 1/150

0 0.5 1 2 2.5 metres

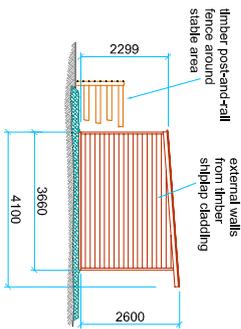
- GENERAL NOTES:**
1. Refer to dig no 112.03.A01 for garden boundaries of house.
  2. Refer to dig no 112.03.A02 for boundaries of fields in application.
  3. Refer to dig no 112.03.A03 for Site Plan incorporating stable block & garden area.



**Detail at Wall Base.**

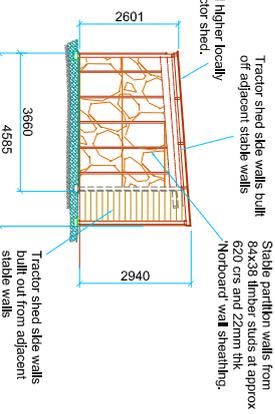
SCALE: 1/10

0 1 2 3 4 5 6 7 8 9 10 millimetres



**South Elevation.**

SCALE: 1/100



**Section on B-B.**

SCALE: 1/100

0 1 2 3 4 5 metres  
scale: 1/100 (or as shown) @ A2

1	SC.	20/07/21	Floor areas added.
rev	by	date	details
<b>client:</b> M/ & Mrs. Russell Dole, 11 Khrains Holdings, West Khrains, Perth, PH2 7LY.			
<b>project:</b> Proposed Stable Block and Change of Land Use.			
<b>title:</b> Plans & Elevation - As Proposed.			
<b>drawn:</b> S.C.	<b>date:</b> 28/05/21	<b>checked:</b>	
<b>notes:</b> gorton cottages, carse, tiberit, argyll, pa229 6ya, email: stevan@nutstnbolts.co.uk, telephone: 01880 820647, fax: 01880 820647			
<b>scale:</b> 1/100	<b>job no:</b> 112.03	<b>drawn by:</b> A04	<b>rev:</b> 1

**APPROVAL**

# REPORT OF HANDLING

## DELEGATED REPORT

Ref No	21/01175/FLL	
Ward No	P1- Carse Of Gowrie	
Due Determination Date	28th September 2021	
Draft Report Date	27th September 2021	
Report Issued by	JHR	Date 27.09.2021

**PROPOSAL:** Change on use from agricultural land to garden ground and equine use, and the erection of stables/storage building (in retrospect)

**LOCATION:** 11 Kinfauns Holdings West Kinfauns Perth  
PH2 7JY

### **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.

### **SITE VISIT:**

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

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

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

This application is for change of use agricultural land to garden ground and equine use, and the erection of stables/storage building (in retrospect) at 11 Kinfauns Holdings, West Kinfauns, Perth, PH2 7JY.

The site proposed for change of use is on the edge of the settlement and within the designated greenbelt.

## **SITE HISTORY**

09/01952/IPL Erection of a single storey dwellinghouse with garage 24 December 2009 Application Refused

19/00125/FLL Extension to dwellinghouse and formation of decking 18 March 2019 Application Approved

## **PRE-APPLICATION CONSULTATION**

Pre application Reference: None

## **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 2 (2019).

### **TAYplan Strategic Development Plan 2016 – 2036 - Approved October 2017**

Whilst there are no specific policies or strategies directly relevant to this proposal the overall vision of the TAYplan should be noted. The vision states *“By 2036 the TAYplan area will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice where more people choose to live, work, study and visit, and where businesses choose to invest and create jobs.”*

### **Perth and Kinross Local Development Plan 2 – Adopted November 2019**

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

The principal policies are:

Policy 1A: Placemaking

Policy 1B: Placemaking

Policy 6: Settlement Boundaries

Policy 43: Green Belt

Policy 52: New Development and Flooding

Policy 53C: Water Environment and Drainage: Surface Water Drainage

Policy 56: Noise Pollution

#### OTHER POLICIES

Placemaking SPG

Flood Risk and Flood Risk Assessments SPG

#### CONSULTATION RESPONSES

Environmental Health – No objection subject to conditional control.

Structures And Flooding – Objection lack of information.

Development Contributions Officer – No objection.

Planning And Housing Strategy - The proposal does not comply with current LDP2 policy on the settlement boundary or Greenbelt.

#### REPRESENTATIONS

The following points were raised in the 2 representation(s) received that object to the proposal:

- Flood risk
- Noise Pollution
- Environmental concerns
- Out of character with the area

The above issues are assessed under the appraisal section below.

#### ADDITIONAL STATEMENTS

Screening Opinion	EIA Not Required
Environmental Impact Assessment (EIA): Environmental Report	Not Required
Appropriate Assessment	Habitats Regulations AA Not Required
Design Statement or Design and Access Statement	Not Required
Report on Impact or Potential Impact eg Flood Risk Assessment	Required

#### APPRAISAL

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

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**

### Curtilage/Settlement Boundary

The site is not located within a designated settlement boundary. Consequently Policy 6 'Settlement Boundaries' is applicable. This specifies that development will not be permitted, except within the defined settlement boundaries which are defined by a settlement boundary plan.

The criteria contained within Policy 6 clearly states that "development on sites that adjoin these settlement boundaries will only be permitted" in certain circumstances including supporting rural business and diversification and locational need in terms of siting. The development of this site to incorporate additional garden ground would constitute an extension to the settlement boundary which does not meet with any of the criteria and therefore is contrary to the aims of Policy 6.

### Greenbelt

The site is also located within the 'Green Belt' and as such Policy 43 is applicable. Policy 43 only supports the creation of new buildings where they have a direct relationship with the land. Additionally, all proposals for new buildings or extensions to existing buildings must be of a suitable scale and form, located and designed in such a way so as not to detract from the character and landscape setting of the Green Belt. The full criteria is detailed below:-

- (a) it can be demonstrated that the development either supports an established use, or develops a new business within the Green Belt which has a direct relationship to the land; or
- (b) it can be demonstrated that the development is essential for agriculture, horticulture (including allotments) or forestry operations; or
- (c) it constitutes woodlands or forestry, including community woodlands; or
- (d) it constitutes uses which advance the Council's aims of improving public access to the countryside around Perth, including recreational, educational and outdoor sports; or

- (e) it complies with criteria (4) or (5) of the Policy 19: Housing in the Countryside and associated Supplementary Guidance, and a positive benefit to the Green Belt can be demonstrated; or
- (f) it constitutes essential infrastructure such as roads and other transport infrastructure, masts and telecom equipment, renewable energy developments, or new cemetery provision.

The change of use from agriculture to equine and the formation of permanent stable buildings doesn't conform with any of the policy 43 criteria.

While the use of the field for grazing horses on a personal basis is not considered to be incompatible with the Green Belt designation (there are other fields within the greenbelt utilised for this purpose). The permanent stable buildings siting and scale in the greenbelt and proximity to the settlement boundary dilutes this relationship and detracts from character and landscape setting, as such is contrary to Policy 43.

### **Drainage and Flooding**

Consultation with the Council's Flooding Section notes that there are known flooding issues at West Kinfauns. Significant runoff was seen from the agricultural field, which resulted in damage to the 'Clach a Cheile' garden grounds and substantially increased the risk of the property flooding. They note that further information on how this proposed development will not increase or, preferably, reduce flood risk to 'Clach a Cheile' should be provided.

As it stands there is a lack of information on flooding and the application cannot be assessed against policy 52.

### **Residential Amenity**

#### Noise and Odour

The Code of Good Practice "Prevention of Environmental Pollution from Agricultural Activity" recommends that residential housing should be at least 400 metres from buildings used to house livestock and where possible should be downwind of residential areas.

Environmental Health note that there a number of residential properties within 400m of the stable block, there is the potential for odour nuisance to arise, however, it is their understanding that the size of the stable block will only be capable of accommodating up to four horses and will be for personal use only. As such, Environmental Health are of the view that noise, odour and vemin issues can be controlled through an effective odour and waste management plan which could be secured by conditional control.

## **Roads and Access**

There is no road or access implications associated with this proposed development.

## **Developer Contributions**

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

## **Economic Impact**

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

## **VARIATION OF APPLICATION UNDER SECTION 32A**

This application was not varied prior to determination.

## **PLANNING OBLIGATIONS AND LEGAL AGREEMENTS**

None required.

## **DIRECTION BY SCOTTISH MINISTERS**

None applicable to this proposal.

## **CONCLUSION AND REASONS FOR DECISION**

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

Accordingly, the proposal is refused on the grounds identified below:

### **Reasons**

- 1 The proposed development is contrary to Policy 6 of the Perth and Kinross Local Development Plan 2 (2019) as it would be located out with the settlement boundary of Kinfauns and there is no justification to permit the development.
- 2 Approval would be contrary to Policy 43 of the Perth and Kinross Local Development Plan 2 (2019) as the position of the stables building within the Greenbelt will result in level of visual intrusion which would have a detrimental impact on the character and landscape setting of

the Green Belt and dilute the greenbelts relationship with the settlement boundary.

- 3 The proposal is contrary to Policy 52: Flooding of the Perth and Kinross Local Development Plan 2 (2019), as it has not been satisfactorily demonstrated that the development will not result in an increase of surface water and flood risk to property.

### **Justification**

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

### **Informatives**

None

### **Procedural Notes**

This case is to be passed back to the Council's Enforcement Officer for remedial action.

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

01

02

03

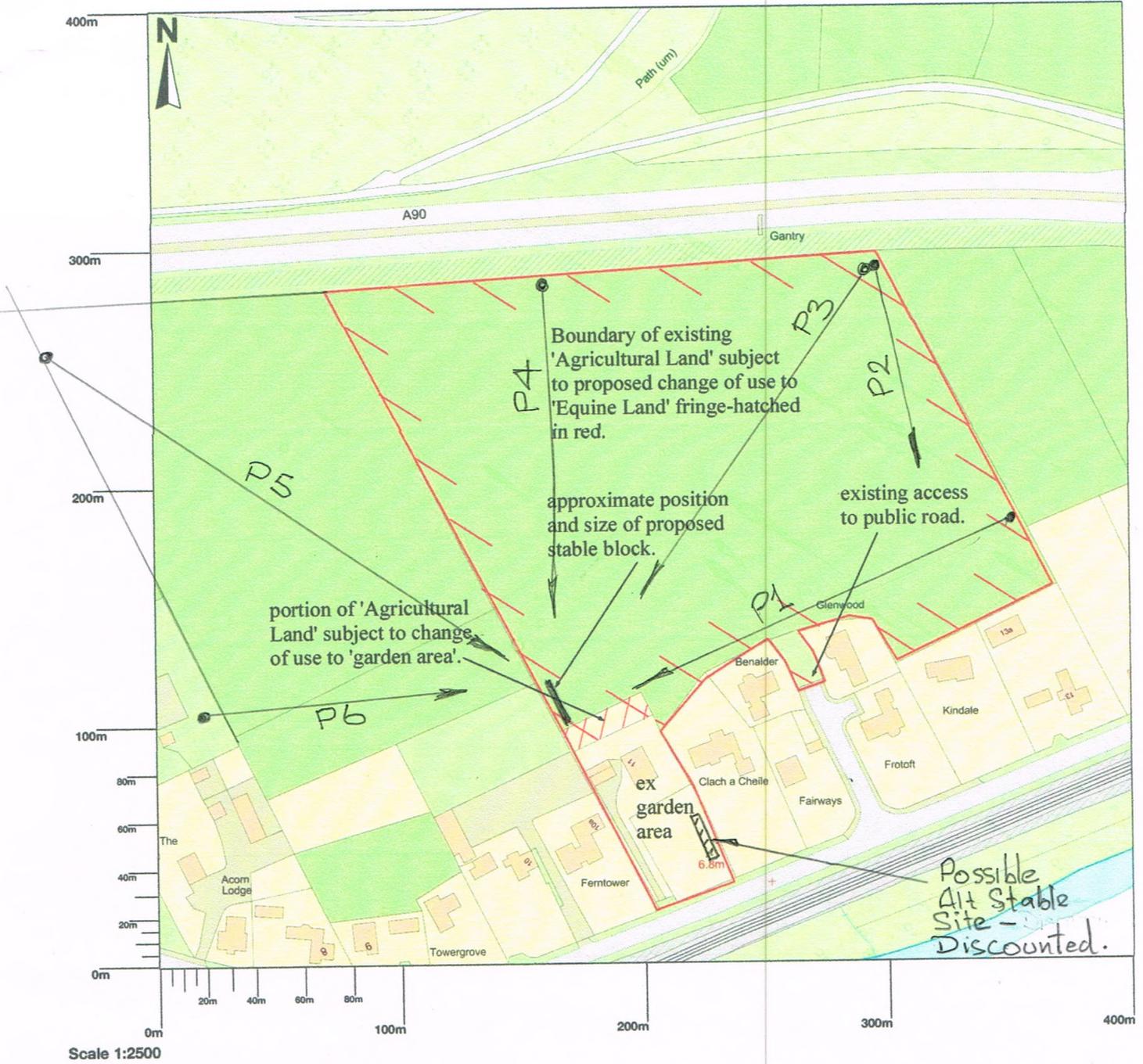
04

05





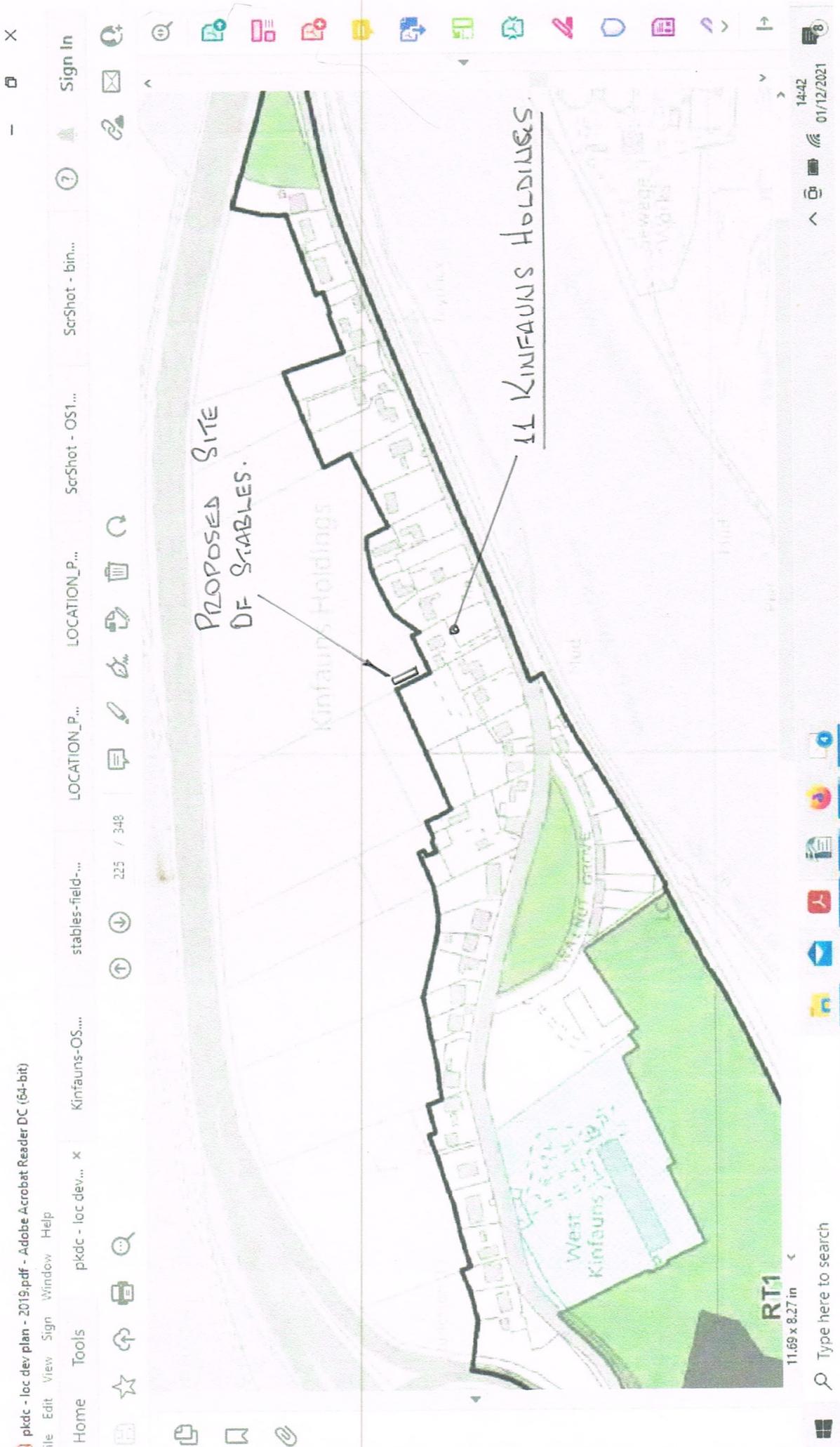
# 11 Kinfauns Holding, Kinfauns, Perth, PH2 7JY



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ORIGINAL DRG. A02 OVERMARKED WITH  
ORIGIN & DIRECTION OF PHOTOGRAPHS.  
REF. ALSO EXTRACT 04.

Drg no 112.03.A02 (rev 1) P.



PROPOSED SITE  
DF STABLES.

11 KINFAUNS HOLDINGS.

EXTRACT FROM PKDC LOCAL  
DEVELOPMENT PLAN SHOWING  
WEST KINFAUNS SETTLEMENT  
BOUNDARY, — EXTRACT 1.

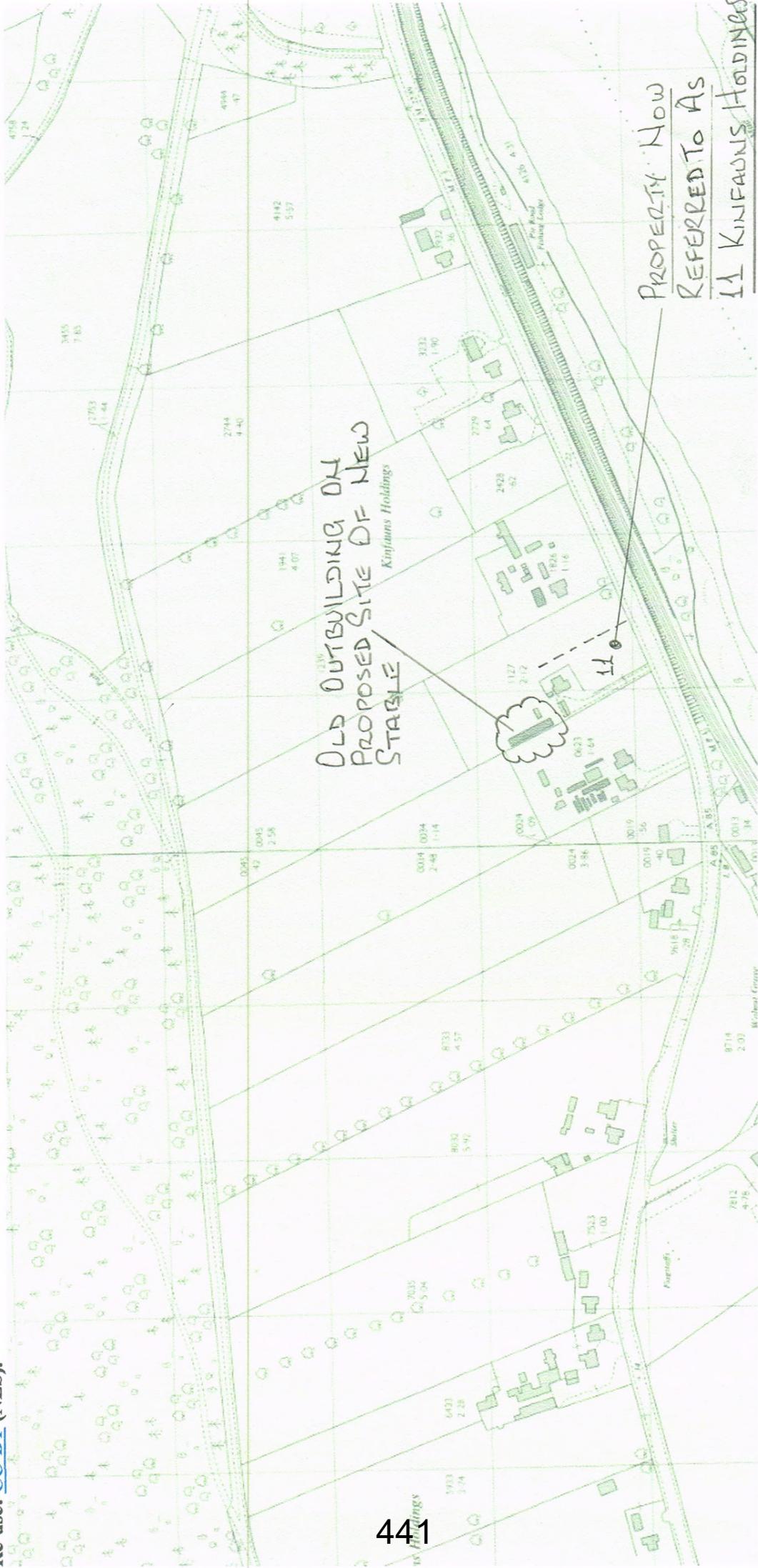
Screen prints may be made of these maps for non-commercial purposes ([further information](#)). To print, choose the 'Print' option / Ctrl + P, or to save screenshots, Right-click and choose "Save image as..."

**Change transparency of overlay:**  Draw / Trace Features

Return to Explore Georeferenced Maps

**SHIFT+click on map to add/move marker**

**Re-use: [CC-BY](#) (NLS).**



EXTRACT FROM O.S. 1/10560 MAP  
(1949-1970) — EXTRACT 2

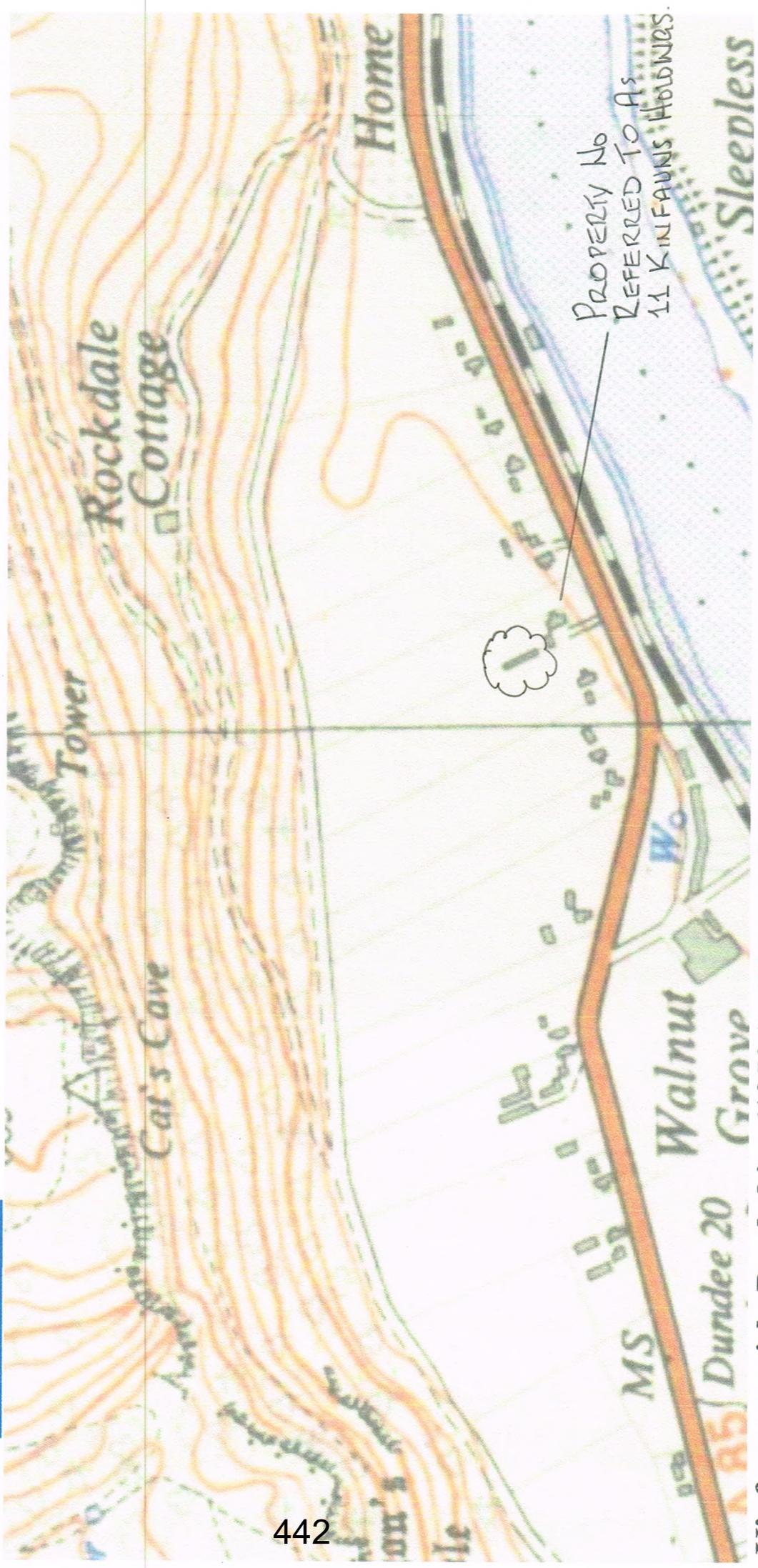
Screen prints may be made of these maps for non-commercial purposes ([further information](#)). To print, choose the 'Print' option / Ctrl + P, or to save screengrabs, Right-click and choose "Save image as..."

**Change transparency of overlay:** \_\_\_\_\_

Return to Explore Georeferenced Maps [Draw / Trace Features](#)

**SHIFT+click on map to add/move marker**

**Re-use: [CC-BY-NC-SA](#).**



**Kinfauns parish, Perthshire (1950s) - [View parish NO12](#), Revised: 1938 - 1954, Published: 1956 - [View this map](#)**

EXTRACT No 3



Imagery ©2021 Getmapping plc, Maxar Technologies, Map data ©2021 50 m

TO BE READ IN CONJUNCTION  
WITH DEC. 112.03.A01 (REV1) P

EXTRACT. 4



Photo 1.



Photo 2

stable



PHOTO 3

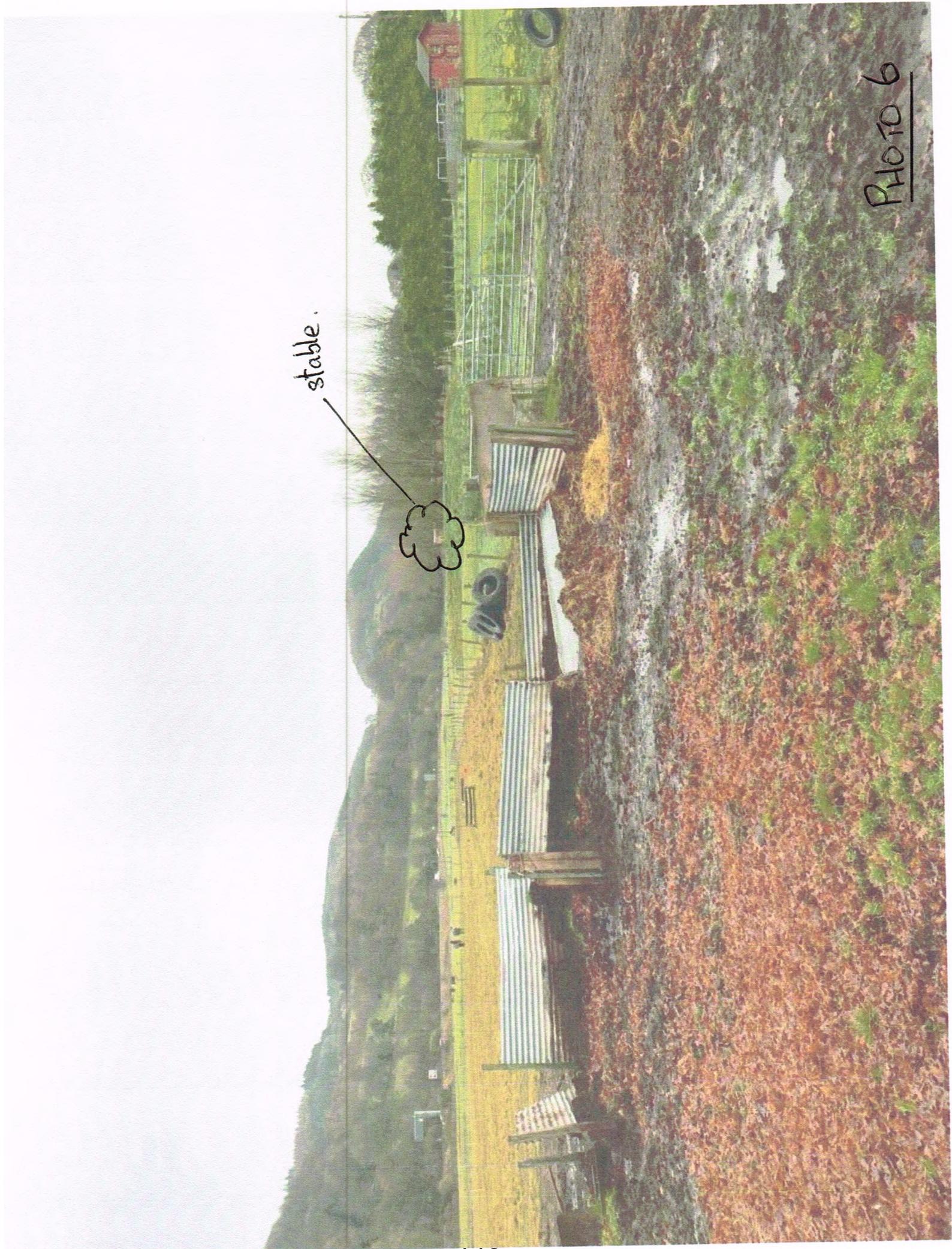


Photo 4

stable.



PHOTO 5



stable.

PHOTO 6

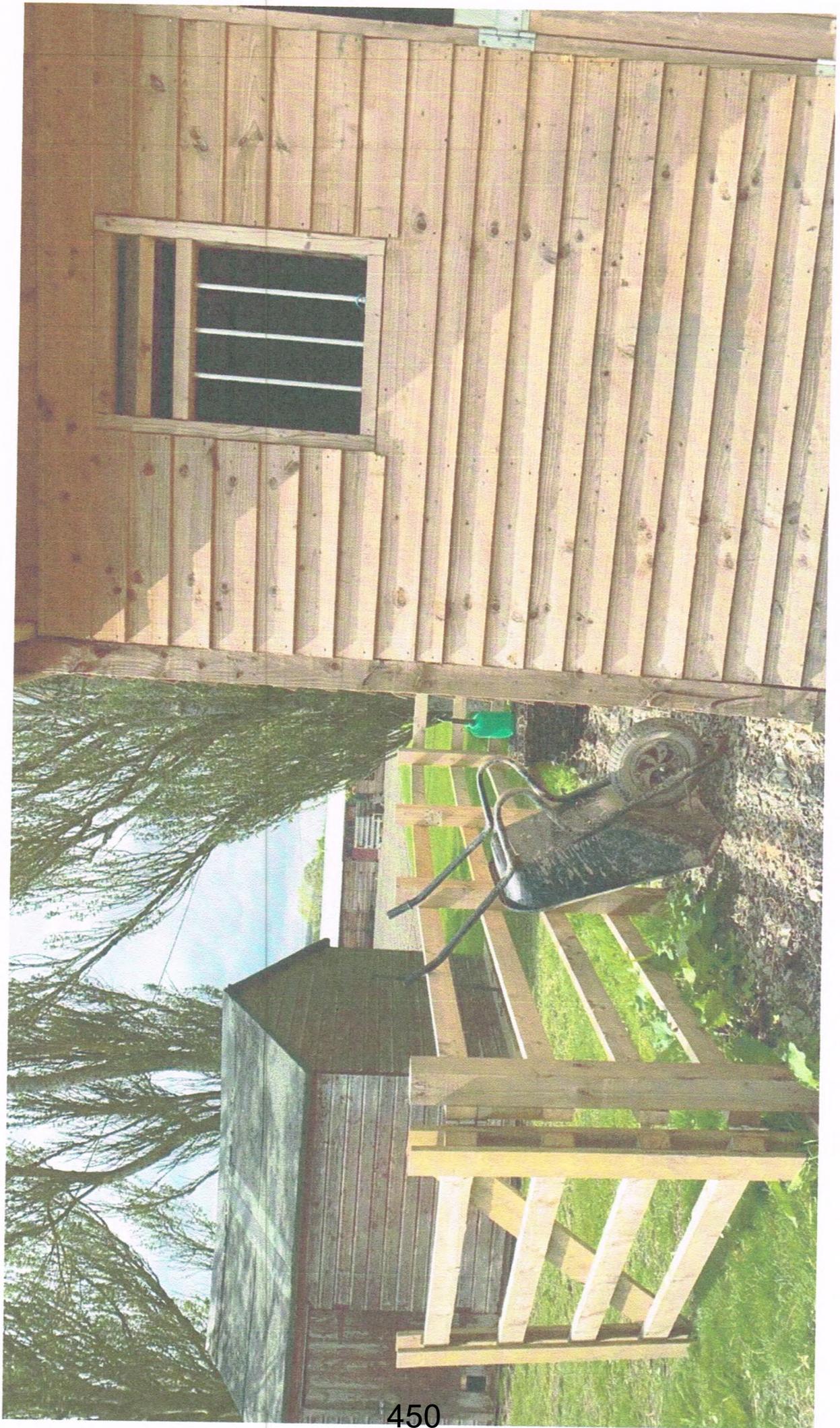


PHOTO 7

## Fwd: 11 Kinfauns Holding

From: morven cassidy [REDACTED]  
To: [REDACTED] <stewart@nutsagusbolts.co.uk>

---

Sent from my iPhone

Begin forwarded message:

**From:** morven cassidy [REDACTED]  
**Date:** 24 November 2021 at 07:16:18 GMT  
**To:** [REDACTED] <stewart@nutsagusbolts.co.uk>  
**Subject:** Fwd: 11 Kinfauns Holding

Sent from my iPhone

Begin forwarded message:

**From:** Andrew Gemmell [REDACTED]  
**Date:** 23 November 2021 at 13:05:40 GMT  
**To:** morven cassidy [REDACTED] >  
**Subject:** RE: 11 Kinfauns Holding

Hello Morven,

Thank you very much for allowing me to visit and inspect your property yesterday.

Following our conversations, it is clear to me that the works you have completed on the field have not significantly altered the landscape of the field and, as a result, have not significantly increased the risk of flooding for your neighbours.

Unfortunately, the garden grounds of 'Clach a Cheile' have been damaged by surface water runoff from the field, so I will be recommending that the owner of 'Clach a Cheile' installs some form of flood defence works to reduce the risk of this occurring in the future.

This may involve reinstating the 'ditch' along the border of his property and the No Man's Land, similar to what other neighbours have in place presently. This option may

not ultimately be chosen, however I would kindly request you allow Contractors onto your property to provide access to the No Man's Land if it is required.

As previously mentioned, the owner of 'Clach a Cheile' may choose another flood defence method which may be entirely contained within the boundary of their property.

With regards to your retrospective planning application, if you would please inform me when you do re-apply, along with the application number etc. I would be happy to review that on behalf of the flooding team.

If you require anything else, don't hesitate to get in touch.

Kind Regards,  
Andrew Gemmell  
Flooding Technician  
Flooding Team  
Housing and Environment Service  
Perth & Kinross Council  
Pullar House  
35 Kinnoull Street  
Perth PH1 5GD

---

**From:** morven cassidy [REDACTED]  
**Sent:** 18 November 2021 07:33  
**To:** Andrew Gemmell [REDACTED]  
**Subject:** Re: 11 Kinfauns Holding

Apologies, it wasn't till late last night I checked back on e mails and realised there was a digit wrong in phone number I gave you, correct number is , 07738059449, sorry for inconvenience. I know you said you were on holiday Thursday and Friday so I will see you Monday. Could you please just confirm that the neighbour who made the complaint re flooding has not been invited on Monday?

Apologies again and many thanks  
Morven

Sent from my iPhone

On 17 Nov 2021, at 14:44, Andrew Gemmell [REDACTED]  
wrote:

3:30 is great, I'll call you then.

Andrew

---

**From:** morven cassidy [REDACTED]  
**Sent:** 17 November 2021 14:27  
**To:** Andrew Gemmell [REDACTED]  
**Subject:** Re: 11 Kinfauns Holding

Is 3.30 ok?  
Many Thanks  
Morven

Sent from my iPhone

On 17 Nov 2021, at 13:04, Andrew Gemmell  
[REDACTED] wrote:

Hi Morven,

Would you be free for a chat this afternoon? I've had a meeting cancelled at 3pm, are you available for a call then?

Thanks,  
Andrew Gemmell  
Flooding Technician  
Flooding Team  
Housing and Environment Service  
Perth & Kinross Council  
Pullar House  
35 Kinnoull Street  
Perth PH1 5GD

---

**From:** morven cassidy [REDACTED]  
**Sent:** 16 November 2021 09:33  
**To:** Andrew Gemmell [REDACTED]  
**Subject:** Re: 11 Kinfauns Holding

Hi,  
Yes 1 fine thank you. If possible could you give me a quick call before this.  
Many Thanks  
Morven

Sent from my iPhone

On 16 Nov 2021, at 09:01, Andrew Gemmell

[REDACTED] wrote:

Hi Morven,

Would 1pm be okay for you? Happy to make it later if need be.

Regards,  
Andrew Gemmell  
Flooding Technician  
Flooding Team  
Housing and Environment Service  
Perth & Kinross Council  
Pullar House  
35 Kinnoull Street  
Perth PH1 5GD

---

**From:** morven cassidy

[REDACTED]  
**Sent:** 15 November 2021 19:53

**To:** Andrew Gemmell [REDACTED]

**Subject:** Re: 11 Kinfauns Holding

Hi,

Yes Monday afternoon good, what time suits?

Let me know if any information needed.

Many Thanks

Morven Doig

Sent from my iPhone

On 15 Nov 2021, at 16:10,

Andrew Gemmell

[REDACTED] wrote:

Hi Morven,

That's okay, I could come and visit on Monday afternoon if that suits you?

Regards,  
Andrew Gemmell  
Flooding Technician  
Flooding Team  
Housing and Environment Service  
Perth & Kinross Council  
Pullar House  
35 Kinnoull Street  
Perth PH1 5GD  
E-mail [AGemmell@pkc.gov.uk](mailto:AGemmell@pkc.gov.uk)

---

**From:** morven cassidy  
<[morvtrot@yahoo.com](mailto:morvtrot@yahoo.com)>  
**Sent:** 15 November 2021 14:21  
**To:** Andrew Gemmell  
<[AGemmell@pkc.gov.uk](mailto:AGemmell@pkc.gov.uk)>  
**Subject:** Re: 11 Kinfauns Holding

Hi,  
Yes I look forward to speaking to  
you in regard to this,  
unfortunately I am at a class at 11  
on Wednesday morning with my  
youngest daughter but if you  
would like to visit in the  
afternoon I would be happy to  
show you the field.  
Many Thanks  
Morven Doig  
07838059449

Sent from my iPhone

On 15 Nov 2021, at  
13:40, Andrew  
Gemmell  
<[AGemmell@pkc.gov.uk](mailto:AGemmell@pkc.gov.uk)>  
wrote:

Hello Ms Doig,

Thank you for  
getting back to me

following my letter.

I was hoping we might be able to speak on the phone regarding the surface water runoff from your field. Would you be free on Wednesday morning for a call, at around 11am? If not, let me know when would best suit you. I am on holiday Thursday and Friday this week.

Regards,  
Andrew Gemmell  
Flooding Technician  
Flooding Team  
Housing and  
Environment  
Service  
Perth & Kinross  
Council  
Pullar House  
35 Kinnoull Street  
Perth PH1 5GD



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**LRB-2021-52**

**21/01175/FLL – Change of use from agricultural land to garden ground and equine use and the erection of stables/storage building (in retrospect), 11 Kinfauns Holdings, West Kinfauns**

## **PLANNING DECISION NOTICE**

**REPORT OF HANDLING** *(included in applicant's submission, pages 431-437)*

**REFERENCE DOCUMENTS** *(part included in applicant's submission, pages 427-430)*





Mr And Mrs Russell Doig  
c/o Stewart Cassidy  
Gorten Cottage  
Carse  
Tarbert  
PA29 6YB

Pullar House  
35 Kinnoull Street  
PERTH  
PH1 5GD

Date of Notice: **27th September 2021**

## **TOWN AND COUNTRY PLANNING (SCOTLAND) ACT**

Application Reference: **21/01175/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 29th July 2021 for Planning Permission for **Change on use from agricultural land to garden ground and equine use, and the erection of stables/storage building (in retrospect) 11 Kinfauns Holdings West Kinfauns Perth PH2 7JY**

**David Littlejohn**  
**Head of Planning and Development**

### **Reasons for Refusal**

1. The proposed development is contrary to Policy 6 of the Perth and Kinross Local Development Plan 2 (2019) as it would be located out with the settlement boundary of Kinfauns and there is no justification to permit the development.
2. Approval would be contrary to Policy 43 of the Perth and Kinross Local Development Plan 2 (2019) as the position of the stables building within the Greenbelt will result in a level of visual intrusion which would have a detrimental impact on the character and landscape setting of the Green Belt and dilute the greenbelt's relationship with the settlement boundary.
3. The proposal is contrary to Policy 52: Flooding of the Perth and Kinross Local Development Plan 2 (2019), as it has not been satisfactorily demonstrated that the development will not result in an increase of surface water and flood risk to property.

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

**Plan Reference**

**01**

**02**

**03**

**04**

**05**

Attracted by the rural setting Mr and Mrs Doig purchased the property at 11 Kinfauns Holdings, West Kinfauns in 2015. The attraction was not just the prettiness of the area but also the fact that there were open fields to the north of the property some of which, according to local information, might be available, at some point, for purchase. [REDACTED]

While the existing domestic facilities offered by their new home were quite sufficient for their immediate needs they were not ideal and, with that in mind they embarked on applications for Planning and Building Warrant to extend the accommodation. During the application process, construction estimates provided the previous year seemed to escalate alarmingly. Also about this time, the latter months of 2019, owners of some of the fields adjacent to the property intimated that they would now be willing to consider a reasonable offer for the land. A decision had to be made as to whether to continue with the house improvement or to abandon it and try to negotiate purchase of the land. Their enthusiasm for horses won the day and they decided to go with the land purchase and abandon their extension aspirations. At this point, although they had several friends and acquaintances who owned ponies, they were not aware, and no-one made them aware, that there was a distinction between 'agricultural' land and land for 'equine purposes'. Indeed, most of their friends who stabled their horses in commercial stables shared their dream of owning their own fields to accommodate their animals. Furthermore in recent history these very fields were home to the big Clydesdale horses of the 'Heavy Horse Centre'. Recent correspondence indicates that advice should have been sought at that point, however if you are genuinely unaware of any such complications then clearly there is no instinct shouting out for further investigation?

Mr Doig spent many weeks clearing the fields of rusting agricultural debris and detritus in order that the animals could be safely accommodated. Painstaking work, walking the land, marking the positions of piles of rusting fencing, jagged, steel beams and piles of rubble, then returning with hired transport and assistance to recover the refuse and dispose of it. The fallow grassland was raked, rolled, and in many parts re-planted to bring it back to the good state of repair necessary to improve the grass quality for grazing the horses and re-invigorate the quality of the land itself, while non-functioning or missing fencing was renewed.

They purchased four ponies and the portable, field-shelters to accommodate them. Based on the information that Planning Permission was not required for these buildings, they were built and, over the course of the following months moved to several different locations as they rotated the animal grazing to suit conditions.

In recent years we have all become aware of 'outbreaks' of horse mutilations around the countryside and after another occurrence, this time near Edinburgh, the Doigs resolved to secure a safer overnight situation for their livestock, in a location where they could keep an eye on them without infringing on the visual amenities of their neighbours. Having scoured the possibilities it became

increasingly obvious why the 'Heavy Horse Centre' had stabled their beasts in the position that they had: the row of poplar trees offered some shelter from westerlies, the buildings, which are in any case, from their very nature, of a rural style, were not readily visible from any direction and yet were close enough to the house to afford convenient access and security. The decision was made to locate them pretty-much in the same position as the old stables of the 'H-H Centre'. There were several other benefits in this selection; namely the position selected was close enough to the house that 'mucking-out' and general husbandry work could be undertaken much more conveniently and the position meant that the shelters would be pretty-much invisible to most of the neighbouring properties. Having decided on the settled location for the field shelters/stables, Mr Doig took advantage of the two field shelters and locating them end-to-end, with a 3600mm space between, he constructed another shed between them to hold his tractor and agri-impliments, and then another extension at the far end as a tack-room (refer to drg. no. 112.03.A04).

That winter brought all the joys of seasonal, heavy rain highlighting the one downside of this location: there was a very slight hollow in the ground in the location of the old stables. One must presume that under the sheer weight of the Clydesdales coupled with the constant maintenance traffic at the old Heavy Horse Centre, the ground had compacted, forming a slight hollow in that part of the field where the 'Centre's stables had been located. Mr Doig ordered a few truckloads of 'crusher-run' aggregate from a local quarry and with it raised the ground level beneath and in front of the stable-block using this free-draining material to lift the area just a few inches above the previous puddle-inducing hollow. This kept the horses feet and the stable bedding dry while yielding a smooth and level surface for the animals' comfort and health. The infill material was simply overlain on the existing ground surface. The maximum thickness of this levelling layer is about 350mm grading down to approximately 100mm at the perimeter.

Two years of 'trial-and-error' had yielded the optimum position for the stable-block and the most suitable surface. Again, where the ground-levelling was undertaken, Mr Doig had not even thought that 'Planning' would be an issue. There were no excavations, no foundations, no existing drainage disturbed nor new drainage installed simply a slight raising of the ground level under and local to the stable-block.

Regarding the garden fence: a gateway was cut in the old back-garden fence to give access to the area of the stables. The old timber was in poor shape and a couple of new posts were required to stabilise it. When, at a later date, one of the ponies brushed against the old fence another section was damaged and, as for practical purposes a fence had been necessary around the stable-block, it seemed a bit excessive to also replace the old garden fence, as it was only a few metres distant. None of it was in good enough condition to be re-used, so it was piled into a trailer and taken to the 'dump'. There was no intent, as such, to extend the garden area and while the 'arrived-at' situation suited their purposes well, if a replacement fence is required in the position of the old one, then that will be arranged.

In summary, the applicants would like to apply for the following:

- 1) 'Change of Use' in relation to their fields from 'Agricultural Use' to 'Equine Use';
- 2) 'Change of Use' of that area of land (approximately ten metres, South-to-North) which forms the proposed land-gap between the new fence-line at the south end of the stables and the old fence delineating the rear of the garden.
- 3) Planning for the Permanent Siting of the modified 'Portable Field Shelters' in the position as shown on the supporting drawings.



**LRB-2021-52**

**21/01175/FLL – Change of use from agricultural land to garden ground and equine use and the erection of stables/storage building (in retrospect), 11 Kinfauns Holdings, West Kinfauns**

## **REPRESENTATIONS**



### Comments to the Development Quality Manager on a Planning Application

<b>Planning Application ref.</b>	21/01175/FLL	<b>Comments provided by</b>	Lucy Sumner
<b>Service/Section</b>	Strategy & Policy	<b>Contact Details</b>	<b>Development Contributions Officer:</b> Lucy Sumner 
<b>Description of Proposal</b>	Change on use from agricultural land to garden ground and equine use, and the erection of stables/storage building (in retrospect)		
<b>Address of site</b>	11 Kinfauns Holdings West Kinfauns Perth PH2 7JY		
<b>Comments on the proposal</b>	I have no comments to make on this proposal in terms of the Developer Contributions and Affordable Housing Supplementary Guidance.		
<b>Recommended planning condition(s)</b>			
<b>Recommended informative(s) for applicant</b>			
<b>Date comments returned</b>	05 August 2021		



### Comments to the Development Quality Manager on a Planning Application

<b>Planning Application ref.</b>	21/01175/FLL	<b>Comments provided by</b>	Andrew Gemmell
<b>Service/Section</b>	HE/Flooding	<b>Contact Details</b>	[REDACTED]
<b>Description of Proposal</b>	Change on use from agricultural land to garden ground and equine use, and the erection of stables/storage building (in retrospect)		
<b>Address of site</b>	11 Kinfauns Holdings West Kinfauns Perth PH2 7JY		
<b>Comments on the proposal</b>	<p>Objection – Further Flood Risk Info Required</p> <p>Following a site visit to ‘Clach a Cheile’ in April 2021, significant runoff was seen entering the property from the agricultural field, which resulted in damage to the ‘Clach a Cheile’ garden grounds and substantially increased the risk of the property flooding. Further information on how this proposed development will not increase or, preferably, reduce flood risk to ‘Clach a Cheile’ should be provided.</p>		
<b>Recommended planning condition(s)</b>	N/A		
<b>Recommended informative(s) for applicant</b>	The applicant is advised to refer to Perth & Kinross Council’s <a href="#">Supplementary guidance on Flood Risk and Flood Risk Assessments 2014</a> as it contains advice relevant to your development.		
<b>Date comments returned</b>	11/08/2021		



# Comments for Planning Application 21/01175/FLL

## Application Summary

Application Number: 21/01175/FLL

Address: 11 Kinfauns Holdings West Kinfauns Perth PH2 7JY

Proposal: Change on use from agricultural land to garden ground and equine use, and the erection of stables/storage building (in retrospect)

Case Officer: John Russell

## Customer Details

Name: Mr Stephen Windsor

Address: [REDACTED]

## Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

- Flooding Risk
- Noise Pollution

Comment: Although having no objections in principle to the change of use of the land applied for, and commend Mr Doig for his hard work on repurposing the field he purchased, we would like to raise the following points in relation to the planning application in retrospect:

1). Since the works were carried out our garden has suffered from excessive flooding in times of heavy rainfall. This has weakened a patio wall, water runs along the side of the house and onto our front driveway and collects in a pool just inside our gate. This did not occur before the works were carried out and it is our belief that the field drains have been disrupted by the drainage works to avoid water collecting on our neighbour's field. The applicant claimed it was nothing to do with him when approached on this matter.

2). There are concerns regarding noise pollution in that heavy machinery accesses the site via Mr Doig's front drive at unsociable hours e.g., a lorry delivering chips at after midnight with noise from reversing alarms. As our bedroom is facing to the rear of our property and its adjacent to the neighbouring property, this is very disruptive. Additionally, quad bikes are used from early hours in the field adjoining the stable block, it appears for leisure purposes as well as agricultural use.

3). Environmental concerns: the burning of straw waste from the stables creates smoke, and smell which permeates our house; there have been problems with vermin from the neighbouring property, i.e. rats, which chewed a hole through our thick wooden garage door. This has been reported to pest control. Although Mr Doig was approached regarding the rats, he said he knew about them and had done nothing. I believe that traps have subsequently been set out. As well as horses, he keeps chickens on the property.

In summary, the work for which the retrospective planning application has been submitted has caused flooding damage, vermin damage, and noise pollution to our property. It is our hope that

these issues can be resolved before planning is approved

# Comments for Planning Application 21/01175/FLL

## Application Summary

Application Number: 21/01175/FLL

Address: 11 Kinfauns Holdings West Kinfauns Perth PH2 7JY

Proposal: Change on use from agricultural land to garden ground and equine use, and the erection of stables/storage building (in retrospect)

Case Officer: John Russell

## Customer Details

Name: Dr Phyllis Windsor

Address: [REDACTED]

## Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

- Flooding Risk
- Inappropriate Land Use
- Out of Character with the Area

Comment: I have owned the neighbouring property since 1994. The larger part of the application site is outside of the defined settlement boundary for Kinfauns at page 225 of the Local Development Plan but lies within the Green Belt geographical definition of the Perth Green Belt is shown at page 77 of the LDP.

Development within the Green Belt is covered by Policy 43: Green Belt (p. 76). This sets out a presumption against development with limited exceptions. Under Policy 43 (b) development is allowed if it is essential to 'agriculture, horticulture (including allotments) or forestry operations'. There is no exception made for equine uses, and clearly presumes against allowing this form of development.

In regard to that part of the site that is outwith the Green Belt and inside the settlement boundary (the 10-metre strip as described in the applicant's statement), I consider that the proposal will lead to a change in the character of what is a residential area with rear gardens, to an equine facility. This would be out of keeping with the character and appearance of the area, to the detriment of the occupants and the surroundings. We have already experienced late night deliveries of materials and noise disturbance due to the use of quad bikes. There have been issues on my property to date with flooding, and I would consider there is a need for the applicant to submit a full flood risk assessment with the application, in the absence of such a robust, independent flood risk assessment it would not be competent or reasonable for the Council to approve the application.



# Memorandum

To	Development Management & Building Standards Service Manager	From	Regulatory Service Manager
Your ref	21/01175/FLL	Our ref	DS
Date	8 September 2021	Tel No	01738 476481

Communities

Pullar House, 35 Kinnoull Street, Perth PH1 5GD

## **Consultation on an Application for Planning Permission PKC21/01175/FLL RE: Change on use from agricultural land to garden ground and equine use, and the erection of stables/storage building (in retrospect) 11 Kinfauns Holdings West Kinfauns Perth PH2 7JY for Mr And Mrs Russell Doig**

I refer to your letter dated 23 August 2021 in connection with the above application and have the following comments to make.

### **Recommendation**

**I have no objection in principle to the application but recommend the under noted conditions be included on any given consent.**

### **Comments**

The applicant is proposing a change of use of existing agricultural land to garden ground, the change of use of agricultural land to equine use and the erection of a stable block (in retrospect) on land North of 11 Kinfauns Holdings.

### **Noise/Odour**

The Code of Good Practice "Prevention of Environmental Pollution from Agricultural Activity" recommends that residential housing should be at least 400 metres from buildings used to house livestock and where possible should be downwind of residential areas.

Given that there are a number of residential properties within 400m of the stable block, there is the potential for odour nuisance to arise, however, it is my understanding that the size of the stable block will only be capable of accommodating up to four horses and will be for personal use only. As such, I believe odour can be controlled through an effective odour and waste management plan.

To protect the residential amenity of neighbouring residential properties I recommend the following conditions be attached to any given consent.

### **Conditions**

- An effective odour and waste management plan for the stables and equine use land shall be put in place to ensure that odour is kept to a minimum. The plan should also include pest control procedures.

- EH11** All plant or equipment shall be so enclosed, attenuated and/or maintained such that any noise therefrom shall not exceed Noise Rating 35 between 0700 and 2300 hours daily, or Noise Rating 20 between 2300 and 0700 hours daily, within any neighbouring residential property, with all windows slightly open, when measured and/ or calculated and plotted on a rating curve chart.
- EH31** All external lighting shall be sufficiently screened and aligned so as to ensure that there is no direct illumination of neighbouring land and that light spillage beyond the boundaries of the site is minimised to a degree that it does not adversely affect the amenity of the neighbouring land.

## CDS Planning Local Review Body

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**From:** Stephen Windsor [REDACTED]  
**Sent:** 10 January 2022 10:33  
**To:** CDS Planning Local Review Body  
**Subject:** 21/01275/FLL  
**Attachments:** IMG\_20211229\_111109786.jpg; IMG\_20211229\_111117551.jpg; IMG\_20211229\_111123809.jpg; IMG\_20220105\_143553898.jpg; IMG\_20220105\_143614619.jpg

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

I refer to the above planning application which was refused and now appealed to the LRB. In addition to my original objections I should like to submit the following for the LRB to consider during their deliberations.

All planning applications...MUST...be determined in...ACCORDANCE...with...the local development plan....unless there are good reasons to the contrary ( s.25 Town and Country Planning ( Scotland) Act 1997). There is no exceptions made for Equine uses. Thus, the policy clearly...presumes against...allowing this form of development.

We have lived in our home since 1994 and until the applicant carried out works we had no problems with flooding. Since these works initiated, in particular the scraping of the surface of the field behind our property and installing hard standing, a section of our garden has been the subject of flooding and this has caused damage to brick work and turned a section of our garden into a mud bath.

The damage has to be repaired and this is currently in the hands of our solicitor.

The applicant admits that the field is prone to flooding yet arrogantly refused to discuss the matter or view said damage dismissing the matter as global warming!

Had the applicant followed planning rules he would have had to have carried out a robust, independent flood risk assessment...it would not be competent or reasonable for approval of the application.

I am attaching pictures and short video to highlight my points on flooding and damage. These were taken after light rain in December. Some will be sent under separate cover.

The most recent appeal to the LRB for our area concerned the building of a small church. The appeal was subsequently refused . One of the grounds for refusal was....detracting views from Kinnoull hill which would equally apply to this current appeal.

Stephen Windsor  
[REDACTED]











**The Secretary, Local Review Body,  
Perth & Kinross District Council,  
Committee Services, Council Building,  
2 High Street, Perth, PH1 5PH.**

*nuts'n bolts*

Gorten Cottage, Carse, Tarbert,  
Argyll, PA29 6YB.  
tel 07824 661914  
email: [stewart@nutsagusbolts.co.uk](mailto:stewart@nutsagusbolts.co.uk)

28<sup>h</sup> January, 2022.

subject:  
Mr & Mrs R Doig,

Appeal Document AD112.03

11 Kinfauns Holdings,  
West Kinfauns,  
Perth, PH2 7JY.

planning application ref: 21/01175/FLL

**Change of use from agricultural land to garden ground and equine use and the erection of stables/storage building (in retrospect) at 11 Kinfauns Holdings, West Kinfauns, Perth, PH2 7JY.**

We refer to your communication of 21<sup>th</sup> January, 2022 and thank you for the opportunity to respond to this representation. We do so hereunder in the same order as in Mr Windsor's representation.

1. We obviously agree with the sentiment regarding compliance with the Perth and Kinross Development Plan, but would reiterate our belief that, while Acts of Parliament offer parameters within which decisions such as these are to be considered by our Planning professionals, these decisions are finally to be judged on a benefits-versus-detriments scenario. Why would we employ skilled professionals if they were simply undertaking box-ticking exercises? We would politely suggest that there is more to local planning than that.

2. Regarding the flooding problems that afflict his garden, we can certainly sympathise with the problem. Mr and Mrs Doig have the same problem, but their's occurs in their front garden, immediately adjacent to Mr Windsor's drive. The depth of water in this situation can be considerable at times of heavy rainfall (up to a metre). It might appear frivolous to suggest that the construction of the drive servicing Mr Windsor's property has exacerbated this flooding; some of which certainly would have existed long before said construction works (and so, live-and-let-live, we shall refrain from this suggestion). Since time immemorial fields in a 'floodplain' situation which gently slope downwards towards a river have drained in that same direction. The fields just north of West Kinfauns are no exception to this general rule and so when in 1994 builders erected three or four houses (including that one now owned by Mr Windsor) in this 'floodplain' they presumably took measures to prevent any possible flooding of the properties. We might suggest that perhaps these historic mitigations could be reviewed and if they have in any way been breached then refurbishment of them may yield a good solution. Regarding the 'works' undertaken at the stable block, may we reiterate that this location is a local, high point in the field (refer to any topographical map) where previously agricultural/horticultural buildings were situated? As previously stated the occurrence of a very shallow hollow (4-5 centimetres) within the footprint of the old buildings caused a puddle to develop under the block. Mr Doig scraped away the offending mud and spread it thinly on the field surface in the vicinity of the M90 boundary, replacing it with uncompacted, 'quarry-run', free-draining material to prevent any such recurrence under the stable block. There was no excavation, no foundations, no interference with any pre-existing drainage nor yet installation of new drainage. We can categorically state (even without a discipline-specific qualification) that this could not, in any way, have affected the general field drainage. Please refer to your Mr Gemmell's comments, as noted in the appeal document of 18<sup>th</sup> December, 2021.

3. We note the third point of the representation commenting on the recent planning refusal for the erection of a church in the proximity of West Kinfauns; the grounds of refusal being, apparently, that it would detract from the views of Kinnoull Hill. We have no knowledge of this application and feel that it is outwith our remit. However we take this opportunity to underline the fact that the proposed location of the stables would in no way detract from any local views and would be happy to host any site visit which might be deemed necessary to confirm this. In fact, we would positively encourage a site visit as it might clarify many of the points raised in not only the representation, but also the application itself. Thank you again for the opportunity to respond.

*Yours sincerely,*

*Stewart Cassidy.  
(On behalf of Mr & Mrs Doig.)*