

TCP/11/16(296)
Planning Application 13/02044/FLL – Erection of a dwellinghouse and detached garage, Easter Balcraig, Murrayshall, Perth, PH2 7PG

INDEX

- (a) Papers submitted by the Applicant (***Pages 451-490***)
- (b) Decision Notice (***Pages 477-478***)
 - Report of Handling (***Pages 493-497***)
 - Reference Documents (***Pages 485-489 and 499***)
- (c) Representations (***Pages 501-508***)

TCP/11/16(296)
Planning Application 13/02044/FLL – Erection of a
dwellinghouse and detached garage, Easter Balcraig,
Murrayshall, Perth, PH2 7PG

**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 000085152-001

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:	Cockburn's Consultants
Ref. Number:	
First Name: *	Brent
Last Name: *	Quinn
Telephone Number: *	07708971120
Extension Number:	
Mobile Number:	447708971120
Fax Number:	
Email Address: *	cockburnsconsultants@gmail.com

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

Building Name:	
Building Number:	29
Address 1 (Street): *	Ryehill Terrace
Address 2:	
Town/City: *	Edinburgh
Country: *	UK
Postcode: *	EH6 8EN

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

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title: *	<input type="text" value="Mr"/>
Other Title:	<input type="text"/>
First Name: *	<input type="text" value="David"/>
Last Name: *	<input type="text" value="Harris"/>
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="Per Agent"/>
Building Number:	<input type="text"/>
Address 1 (Street): *	<input type="text" value="Per Agent"/>
Address 2:	<input type="text"/>
Town/City: *	<input type="text" value="Per Agent"/>
Country: *	<input type="text" value="Per Agent"/>
Postcode: *	<input type="text" value="Per Agent"/>

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="Easter Balcraig"/>	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 7PG"/>
Address 4:	<input type="text"/>		

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

Northing	<input type="text" value="725522"/>	Easting	<input type="text" value="315266"/>
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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)

Erection of a dwellinghouse and detached garage

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.

See attached Grounds of Appeal

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)

All Plans, Application Form, Decision Notice, etc.
Supporting Statement

Application Details

Please provide details of the application and decision.

What is the application reference number? *

13/02044/FLL

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

25/10/13

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

15/01/14

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: Brent Quinn

Declaration Date: 14/03/2014

Submission Date: 14/03/2014

Local Review Body Case - Grounds of Appeal
Statement:

For Mr & Mrs Harris
Erection of Single House and Garage at Mains of
Balcraig, Perthshire
Planning Reference: 13/02044/FLL



Prepared by:
Brent Quinn MA(Hons) MRTPI PRINCE2
Cockburn's Consultants
March 2014
www.cockburnsconsultants.com

Executive Summary

- Planning Permission in Principle (PPP) was granted for precisely the same proposal as this appeal application on 28 October 2010 (Ref: 10/01504/IPL).
- A detailed planning application (13/02044/FLL) was subsequently made in accordance with the PPP conditions on 25 October 2013 i.e. within 3 years of the date of the extant permission. This Local Review Body (LRB) appeal relates to the refusal of that application.
- This was initially considered invalid and was only registered on 25 November 2013.
- However, the submission itself was made within the 3 years of the date of the PPP, thus complying with Condition 1 of that Decision Notice.
- Throughout the course of this appeal planning application, the (Local Development Plan) LDP has only ever been a material consideration and was not adopted until the 4th of February 2014 i.e. after the date of the refusal.
- It therefore follows that, in terms of material consideration, the planning officer should have given substantially more weight to the extant planning permission which was less than 3 years old rather than draft planning policy.
- At the time of determination, in terms of the Development Plan, TAYplan (the strategic plan) suggests an aspiration for a Green Belt around Perth, including this site, although it is down to the LDP to specifically designate the boundaries thereof. The LDP was at draft stage only whilst the adopted Perth Area Local Plan was the Local Plan in force throughout the entire time of the application process. Under this Plan, exactly the same set of circumstances applied as per the Planning Permission in Principle case, which had been approved only 3 years ago.
- It would have been prudent for the Planning Policy team to have acknowledged the extant PPP permission and to exclude that from the Green Belt in the LDP.
- The proposal is entirely in compliance with the 'Housing in the Countryside' (HITC) Policy
- Scottish Planning Policy seeks to facilitate appropriate development in rural areas, such as that proposed.
- The application complies fully with Condition 2 of the PPP Decision Notice in that the following details are proven to be acceptable:
 - Scale, massing, design, means of access, landscaping and car parking
- There were absolutely no objections from statutory consultees and no letters of objection.
- Overall, the appellants feel that the Planning authority have not given due consideration of the PPP and have been both incorrect and unreasonable in their weighting of material considerations in this case, which are where the refusal is centred.

Contents

1.	Introduction, Site & Proposal	4
2.	Background.....	7
3.	Planning Policy	9
4.	Assessment.....	12
5.	Proposed Conditions	17
6.	Conclusion	18

Appendix 1: All Plans, Application Form & Decision Notice

1. Introduction, Site & Proposal

The appeal site to which this Local Review Body (LRB) case relates is at Mains of Balcraig, Perth & Kinross (site plan Appendix 1). An application for planning permission to erect a single Class 9 Dwellinghouse ((Appendix 1)) was subsequently made on 25 October 2013, which was deemed invalid and was then registered on 21 November 2013 as planning application ref: 13/02044/FLL. The application was refused on the 15th of January 2014. Two reasons for refusal were cited, as follows:

1. The site falls within the area identified as Green Belt where Policy NE5 of the Proposed Local Development Plan 2012 applies. The proposal is contrary to policy NE5 as it does not lie in one of the categories of acceptable development outlined within the policy.
2. Within the adopted local plan the site is within the landward area where policy 1 applies. This generally restricts developments to agriculture, forestry, recreational or tourism developments where a countryside location is essential. The proposal is not related to agriculture, forestry, recreation or tourism that requires a countryside location and as such is contrary to Policy 1 of the adopted Perth Area Local Plan 1995.

It is very important in the consideration of this LRB appeal to be mindful that Planning Permission in Principle (PPP) for the 'Erection of a dwellinghouse (in principle)' at this site was granted on the 28th of October 2010 (Ref: 10/01504/IPL). The application that is the subject of this LRB appeal is for Matters Specified in Conditions attached to an application for Planning Permission in Principle, namely the conditions specified in Planning Permission 10/01504/IPL. Condition one of this permission states that an application for approval must be submitted, *inter alia* before 3 years of the expiration of the Planning Permission in Principle. The application to which this LRB appeal relates was duly submitted in advance of the 28th of October 2013, but was deemed invalid on account of insufficient details of the proposed garage.

Site

The application site is a grassed area of approximately 0.2ha situated to the east of Balcraig House, south east of Scone. The site is bounded to the west by a small group of residential properties, by a public road to the north, by existing trees to the east and an existing hedge to the south.

A plan showing the appeal site and its context is shown below in Figure 1.



Figure 1: Site Plan (not to scale)

Proposal

Planning permission is sought for the erection of a dwellinghouse and detached garage. The application is for a detached five bedroom dwellinghouse finished in a mix of stone and render with a slate roof. The property is to be sited on the eastern part of the site.

Figure 2, below, shows the design of the proposed house (principle elevations) in more detail.

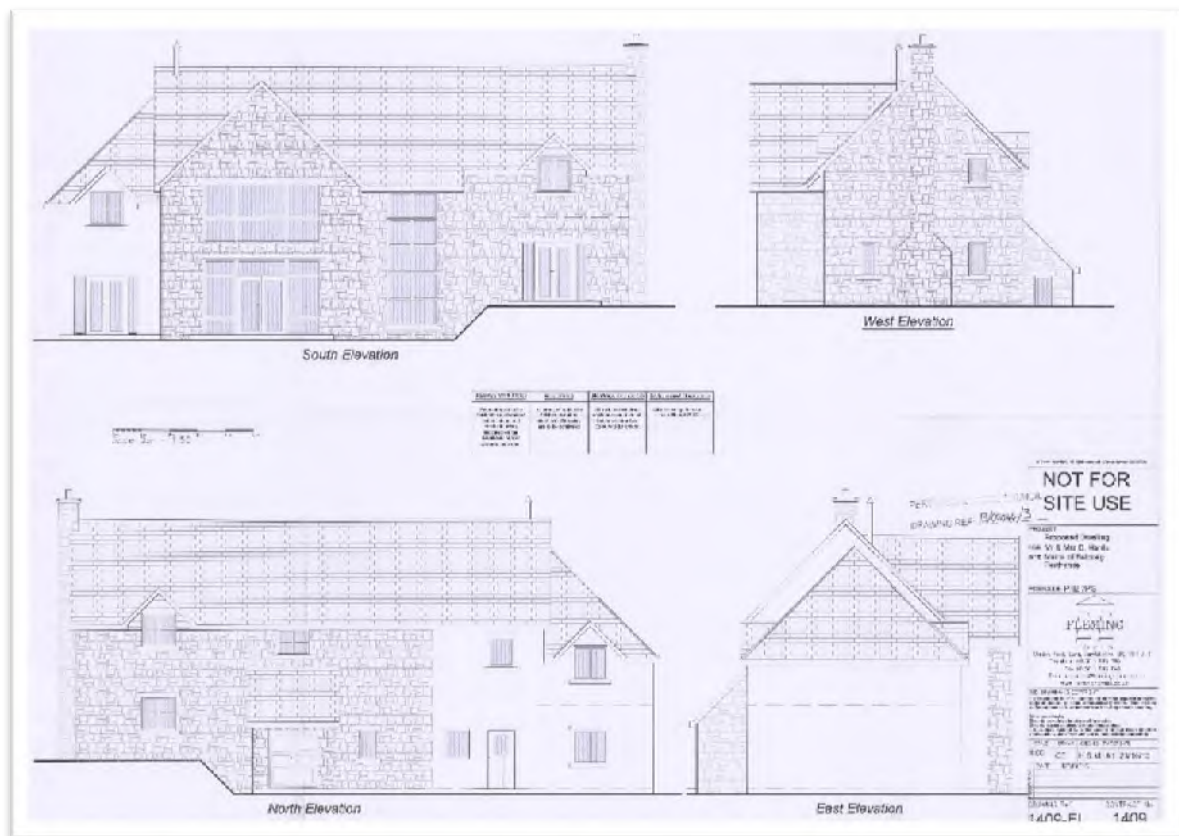


Figure 2: Principle Elevations of Proposed House (not to scale)

The proposed house would be owned and occupied by the appellant and his family.

Report Structure

Following this introduction, this report comprises:

- Section 2: Background
- Section 3: Planning Policy
- Section 4: Assessment; and
- Section 5: Conclusion.

It is respectfully requested that this LRB appeal is upheld.

2. Background

Context & History

Rationale:

The appellants in this case have roots in the local area and are keen to return to the area to have the support of nearby relatives in respect of their children. This will help the appellant establish a more settled lifestyle, having been placed in several different locations across the world with the RAF for the last ten years. The appellant's wife's parents are not in good health, and living in such proximity will allow them the opportunity to be on hand to support and care for them as they get older. Further, the appellant is seeking employment at Scotland's Charity Air Ambulance based at Perth Scone Aerodrome, to fly the Air Ambulance which would be an excellent opportunity to do some good work for the community. The appellant is a cyclist and would seek to cycle to work and this, combined with proximity to family will result in fewer car borne journeys in the rural area.

It is appreciated and recognised that the above factors are not material planning considerations in themselves but equally it is important that the LRB are aware of the context and rationale behind this proposal.

History:

Planning Permission in Principle for single house (Ref 10/01504/IPL)

This application was granted on the on 28th of October 2010. It was granted on the grounds that a) Policy 1 of the Perth Area Local Plan (1995) was applicable, but that 2) that it complied with the criteria set out in the 'Housing in the Countryside' (HITC) (2005) Policy.

Consultations:

PKC Transportation

No objection.

PKC Education Planning

Developer contributions are required for Robert Douglas Memorial Primary School..

PKC Planning Policy

Within the adopted Perth Area Local Plan (1995) the site is within the landward area where policy 1 applies. This generally restricts developments in the countryside to agriculture, forestry, recreational or tourism developments where a countryside location is essential. The proposal is not related to

agriculture, forestry, recreation or tourism that requires a countryside location and as such is contrary to Policy 1 of the adopted Perth Area Local Plan 1995.

The Policy Team have unreasonably concluded that the application is contrary to the terms of policy NE5 of the proposed Local Development Plan and also is contrary to Policy 1 of the Perth Area Local Plan. This latter conclusion is completely incorrect, particularly taking cognisance of the previous Planning Permission in Principle.

Scottish Water

No issues.

Representations:

Absolutely no representations were made in respect of either this case, or the case previously submitted for Planning Permission in Principle (ref: 10/01504/IPL). This is in spite of all neighbours nearby being notified as part of the application process.

3. Planning Policy

Determining Issues

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.

The development plan in this case includes:

- TAYplan, as approved, (June 2012)
- Perth Area Local Plan (PALP)(adopted 1995) (Incorporating Alteration No1, Housing Land 2000).
- Perth & Kinross Local Development Plan (adopted February 2014)(NB Not adopted at time of either submission or determination)
- 'Housing in the Countryside' 2005 policy document (HITC)

National Planning Policy & Guidance

Scottish Planning Policy 2010

- This SPP is a statement of Scottish Government policy on land use planning and contains:
- the Scottish Government's view of the purpose of planning,
- the core principles for the operation of the system and the objectives for key parts of the system;
- statutory guidance on sustainable development and planning under Section 3E of the Planning etc. (Scotland) Act 2006;
- concise subject planning policies, including the implications for development planning and development management; and
- the Scottish Government's expectations of the intended outcomes of the planning system.

Of relevance to this application are:

- Paragraphs 66-91, Housing
- Paragraphs 159-164, Green Belts.

TAYplan Strategic Development Plan 2012 – 2032 - Approved June 2012

Within the Tay Plan, the principle of a Green Belt around the City of Perth, including the site area has been approved. Specific reference to the Green Belt is made within the plans Vision and Objectives, within the Proposal 1 Map, Policy 1 (Location Priorities) and Policy 3 (Managing Tay Plans Assets). The

underlying themes of the Tay Plan are to ensure that the Green Belt around Perth is designated through the emerging Local Development Plan and to ensure that only appropriate forms of development are allowed within this area, which will be based on Scottish Planning Policy.

Perth Area Local Plan, 1995

In terms of the PALP, the following policies are applicable:

Policy 1 : General Policies

This policy seeks (amongst other things) to ensure that all new developments have a good landscape setting within which the development proposed can be set and that the proposed development is compatible with existing land uses.

Policy 32 : Housing in the Countryside Policy

This policy is the Local Plan version of the Housing in the Countryside Policy. Within the text of this policy, it is explicitly stated that within the AGLV, there will be a presumption against new houses except on the basis of operational need.

Perth & Kinross Local Development Plan (draft at time of determining appeal application, subsequently adopted on 4 February 2014)

Policy RD3 : Housing in the Countryside

This policy offers support for new housing in the open countryside subject to specific criteria being met. However, the Local Development Plan explicitly states that this policy does not apply in the Green Belt.

Policy NE 5 : Green Belt

This policy states that within the area designated as Green Belt, development will only be permitted where:

- (a) it can be demonstrated that the development is essential for agriculture, horticulture (including allotments) or forestry operations that are appropriate to the Green Belt; or
- (b) It constitutes woodlands or forestry, including community woodlands; or
- (c) It constitutes uses which advance the Council's aims of improving public access to the countryside around Perth and are appropriate to the character of the Green Belt, including recreational, educational and outdoor sports development including modest related buildings which are located and designed in such a way as not to detract from the character of the Green Belt; or
- (d) For buildings, where it involves alterations, extensions and changes of use to existing buildings these must not detract from the character of the Green Belt, (in the case of changes of use to residential property, these will only be permitted where the building is of suitable architectural quality); or

- (e) For essential infrastructure such as roads and other transport infrastructure, masts and telecom equipment it must be demonstrated that they require a Green Belt location; and
- (f) For all development within the Green Belt appropriate measures may require to mitigate any adverse impact on the character of the Green Belt.

OTHER POLICIES

Developer Contributions 2012

The Primary Education Contributions element of the Guidance is applicable to all new mainstream housing proposals within Perth and Kinross. In instances when the development is located within the catchment of a school which is at capacity (or would be as a result of the development proposed), a financial contribution towards improved educational infrastructure provision will be required.

Housing in the Countryside 2012 (HITC)

This policy is the most recent expression of Council policy towards new housing in the open countryside and offers scope for new housing in the open countryside providing the proposals meet certain criteria.

4. Assessment

The key issues in this case are:

- (1) understanding that the proposal is acceptable in principle
- (2) whether the proposal complies with other policies within the adopted Perth Area Local Plan and the Council's Housing in the Countryside (HITC) Policy , and
- (3) are the matters referred to in the Planning Permission in Principle (10/01504/IPL) satisfactorily met, specifically condition 2?

It is considered that the following will respond to each of these issues and demonstrate that the proposal is wholly compliant and that consequently this LRB appeal should be upheld.

Planning Policy Changes

Before any of these issues can be assessed further, it is important to note that key planning policy has changed, both from the original Planning Permission in Principle and from the date of submission of the appeal application to the consideration of this LRB case. At the date of the original Planning Permission in Principle (2010), the Local Development Plan (LDP) for Perth and Kinross was only at Main Issues Report stage. Through the course of this appeal planning application case, the LDP was reaching conclusion. Subsequent to the Decision Notice being issued, on the 4th of February 2014, the Plan was adopted. However, at the time the submission was made, the LDP was only at Proposed Plan stage and was therefore a material consideration only in the determination of the case.

In the approved TAYPlan (2012), the site now falls in the Green Belt that is to be designated around Perth. Policy 3 applies. However, it is clear that it is for the LDP to designate the precise boundaries of said Green Belt, including any exclusions. The site lies within the blanket area identified as Green Belt in the proposed LDP within this area whereby Policy NE5 applies. However, the LDP was only at draft stage at the time of determining the appeal application.

It is fully understood that planning policy must be flexible and responsive to contemporary issues and needs. However, in the interests of equity, there should also be an allowance for flexibility terms of a transitional period for implementation. In this case, the planning officer has taken the most extreme negative interpretation of the change in policy and has failed to give the extant Permission the correct weighting in his assessment.

In addition to the above, both the appellants and their family who live in the adjacent property to the site, were completely unaware that any planning policy changes were being proposed either on, or adjacent to their land as they have received no notification at any point. Whilst it may not have been a

legislative requirement for this to have been undertaken, given the freshness of the granting of the Planning Permission in Principle (10/01504/IPL) case, it is considered that a reasonable and responsible Planning Authority would have advised the appellants of this proposed key change so that they would have the opportunity to take any action as required. In this case, an argument would have been put forwards to quite reasonably request that the site be excluded from the Green Belt designation.

Principle (issue 1)

A key reason in both Reasons for Refusal centres on the above change of designation of the land to which the case relates. Within the adopted Perth Area Local Plan (1995) the site is within the landward area where policy 1 applies. This generally restricts developments in the countryside to agriculture, forestry, recreational or tourism developments where a countryside location is essential. The proposal is not related to agriculture, forestry, recreation or tourism that requires a countryside location and as such would be contrary to Policy 1 of the adopted Perth Area Local Plan 1995. Under the new LDP the site is designated as Green Belt land, where there similar restrictions for new housing proposals apply.

Before the LDP was adopted (4th February 2014 i.e. after the decision notice was issued), the Council's HITC policy applied across the Council area. This document encouraged "opportunities for housing in rural areas as a means of creating a prosperous rural economy". It was under the auspices of this document that the previous Planning Permission in Principle case was approved.

The first paragraph of this Policy states that it applies across the whole local authority area except where a more relaxed Policy applies. Therefore, it supersedes the individual local plan policies as has been confirmed by a number of appeal decisions.

This document states that the Council will support proposals for the erection, or creation through conversion of single houses and groups of houses in the countryside, which fall in to at least one of the categories 1-6. The most relevant category to this application is category 1 (Building Groups).

This document provides a definition of a "building group" as being "groups of at least 3 or more buildings of a size at least equivalent to a traditional cottage". Within building groups consent will be granted for proposals that;

- Do not detract from the residential and visual amenity of the group;
- Extend the group in to definable sites formed by existing topography and landscape features;
- All proposals must respect the character, layout and building pattern of the group; and
- Demonstrate that an adequate standard of residential amenity can be achieved for the existing and proposed houses.

The Planning Permission in Principle case has demonstrated that the appeal proposal is in full compliance with the above and the HITC policy in general.

Both at the time of submission and determination of this appeal case application this document remained fully in force as it formed part of the Development Plan for the area. The LDP was only at draft stage at that point and was therefore only a material consideration in the determination of the case. Section 25 of the Town and Country Planning (Scotland) Act 1997 is clear that planning decisions should be made in accordance with the development plan. In this case, it is considered that the planning officer did not take due consideration of this and that he got the weighting of material considerations incorrectly balanced.

Notwithstanding the above, in terms of principle, the crux of this case is that a) a Planning Application in Principle (10/01504/IPL) was granted on the 28th of October 2010 and b) that a subsequent application (that related to this appeal) was made within 3 years of that date, in compliance with condition 1(iii) of said permission. The appellant unfortunately did not provide the full details of the garage as part of that application and the submission was considered invalid, but ultimately the application had been made within the statutory timescale. Whilst the garage does form part of the application, it is not a crucial element of the proposal and the details could reasonably have been submitted immediately post validation. The planning officer has completely missed this crucial point in the determination of the case. The planning permission in Principle had not therefore technically lapsed at the time of the initial submission and therefore it follows that the principle of this case is absolutely acceptable. Indeed, it is not in question. The interpretation taken by the planning officer in this case is considered to be incorrect and also unreasonable.

Outwith the nuances of policy and the timing thereof discussed above in this case, the site lies within a clearly defined curtilage which can reasonably and meaningfully accommodate an additional house as proposed and a suitably proportionate gardenspace. Essentially, it is an obvious gap site within a small building group that has been demonstrated through the Planning Permission in Principle case to fully comply with the Council's HITC 2005 policy.

Compliance with the Perth Area Local Plan (1995) and Housing in the Countryside Policy (2005) (issue 2)

Since the adoption of the Perth Area Local Plan, in 1995 (and Alteration No1, in 2000), the Scottish Government, in conjunction with PAN 72, issued further policy guidance (SPP15, later enshrined in SPP) which, in general terms, seeks to facilitate appropriate development in rural areas. With regard to new development paras 10 & 18 are particularly relevant and, in the opinion of the appellants, offer clear support for this proposal. The appellants acknowledge that Perth & Kinross Council have, generally, been amongst the more pro-active Planning Authorities in seeking to embrace the tenets of rural planning policy, and were surprised and shocked that consent was refused, when this proposal a) meets the criteria set out in all of the above documents and b) Planning Permission in Principle had been approved.

This consideration is also specifically dealt with in para.29 of PAN 73 (Rural Diversification), which makes specific reference to both (now out of date) SPP's 3 & 15, where it states that "Limited new build...may be

acceptable where it results in a cohesive grouping, well related to its landscape setting. " It is submitted that these views support the contention that a constructive approach to development proposals, wherein they are viewed from the aspect of whether or not they compromise the aims, and objectives, behind specific development plan policies, rather than simply contravene the literal wording, offers an opportunity to reach a much more rational solution.

The second reason for refusal completely defies Development Plan Policy and the previous Planning Permission in Principle (10/01504/IPL). It relates to Policy 1 of the Perth Area Local Plan, which is superseded by the HITC document, and was the reason the aforementioned Planning Permission in Principle was granted. This reason for refusal is considered to be simply invalid.

Overall, it is considered that the principle of the proposed dwellinghouse at this location is unequivocally acceptable. The findings outlined above lead to the conclusion that while aspects of the LDP policy (which was not ratified and adopted at the time of the determination), may be breached by the proposal, it is in accord with the replacement 2005 policy and with extant Government policy guidance and advice. None of the other matters raised in the submissions justify any conclusion that conditional planning permission should be withheld.

Design, Scale and Massing (Per condition 2 of Planning Ref: 10/01504/IPL)(issue 3)

In his assessment the planning officer asserts that, on account of his view that the principle was not acceptable, he did not then go on to 'fully consider the details of the proposal'. It is suggested that this is very poor practice and is a very disappointing approach. The application fee had been paid fully and consequently the appellants were at least entitled to a full and comprehensive assessment of the proposal. This has not been delivered and it is reasonable to conclude that the case has only been partially considered as a result. This is not the level of service that one would expect from a modern day Planning Authority.

Notwithstanding, the proposed house is considered to be acceptable in respect of condition 2 of the Planning Permission in Principle Decision Notice. This states:

2. The development shall not commence until the following matters have been approved by the Planning Authority: the siting, design and external appearance of the development, the landscaping of the site, all means of enclosure, the car parking and means of access to the site.

These matters are discussed in detail below.

The proposed house incorporates a scale and massing that is entirely in keeping with the context within which it sits. Indeed, the main reference in this respect was a balance derived from a mix of the adjacent

configuration arrangement. Similarly, the proportions in terms of the openings and fenestration also are sympathetic to both the immediate area and the local Perthshire area in general.

Further, the design incorporates traditional features, materials and styles that are commonplace in the local vernacular. For example, on all elevations there is a mix of natural stone and roughcasting. All openings are to be of a timber construction and the roof would be entirely clad in natural slate.

The proposed garage will also incorporate the same materials as that in the principle dwellinghouse, and will act as a suitable enclosure for car parking for the occupants. The access to the site utilises the existing access track for the properties to the west. There were no objections from the Council's transportation officers and the proposal is therefore considered to be acceptable in this regard.

The site is naturally well defined, particularly to the north where there is a historic wooded area. Further, bunding to the east provides visual separation when approaching the site from the entrance of the access track. A post and wire fence would act as the boundary for the whole site, in keeping with the approach taken by the majority of households rural Scotland, whilst additional tree planting would strengthen natural vegetation on the boundary to the west.

The proposed house therefore fully complies with Condition 2 of the approved Planning Permission in Principle.

Letters of Representation

In both this case and the previous Planning Permission in Principle application, there were no letters of representation whatsoever. In normal circumstances, if there are any concerns from neighbouring properties, these are usually presented in the form of a representation letter, email, etc. In this case, it is understood, through anecdotal evidence that all of the neighbouring households are entirely comfortable with the proposal. This is demonstrated by the fact that absolutely no letters, either objecting or stipulating any concerns at all, were received in respect of the application.

Conclusion

Overall, the foregoing demonstrates that the proposal is fully acceptable with planning policy and with the conditions, both in terms of timescales and the detail of the proposal as set out in Planning Permission 10/01504/IPL. The principle has already been accepted and it remains that the proposal complies with the HITC document. Both reasons for refusal have been demonstrated to be invalid in the foregoing discussion. There are no material considerations that outweigh the development plan presumption in favour of the proposal.

The key area of concern here lies with consistency. In a modern planning system, certainty is key, but the inconsistency in this case has left the appellants baffled and frustrated.

5. Proposed Conditions

Should this LRB appeal be upheld, it is suggested that the following three draft conditions would be attached to the planning permission:

- (1) The development hereby permitted shall be commenced within 5 years of the date of this decision notice.

Reason: to comply with section 58 of the Act

- (2) Prior to the commencement of any work on site, details (and where appropriate samples) of all external finishes and materials shall be submitted for the written approval of the council. The development shall thereafter be implemented in accordance with the approved details.

Reason: to ensure the council retains full control over all external finishes and materials.

- (3) Prior to the commencement of development full details of boundary treatment and the landscaping of the site shall be submitted for the written approval of the council. The landscaping details shall include details of tree and shrub planting, grassed areas and the treatment of all hard surfaces, and shall include a timescale for implementation. The development shall thereafter be implemented in accordance with the approved details. Any trees or shrubs which in the opinion of the council become diseased, severely damaged or die within 5 years of planting shall within the next planting season be replaced by others of similar size and species.

Reason: to ensure the satisfactory integration of the development.

6. Conclusion

The appellants believe that the submitted proposal complies with the terms, aim and objectives set out in all of the most up-to-date advice, and guidance, issued by The Scottish Government, as well as the Planning Authority's own advice relating to HITC. In addition, the appellants are of the view that, whilst the LDP was being progressed at the time of the application, ultimately the proposal did not contravene any adopted/approved Development Plan policies.

However, the appeal submission was made within the 3 years of the date of the PPP, thus complying with Condition 1 of that Decision Notice.

Throughout the course of this appeal planning application, the (Local Development Plan) LDP has only ever been a material consideration and was not adopted until the 4th of February 2014 i.e. after the date of the refusal. It therefore follows that, in terms of material consideration, the planning officer should have given substantially more weight to the extant planning permission which was less than 3 years old rather than draft planning policy.

At the time of determination, in terms of the Development Plan, TAYplan (the strategic plan) suggests an aspiration for a Green Belt around Perth, including this site, although it is down to the LDP to specifically designate the boundaries thereof. The LDP was at draft stage only whilst the adopted Perth Area Local Plan, which was the Local Plan in force throughout the entire time of the application process. Under this Plan, exactly the same set of circumstances applied as per the Planning Permission in Principle case, which had been approved only 3 years ago.

It would have been prudent for the Planning Policy team to have acknowledged the extant PPP permission and to exclude that from the Green Belt in the LDP.

The proposal is entirely in compliance with the HITC Policy and Scottish Planning Policy seeks to facilitate appropriate development in rural areas, such as that proposed.

The application complies fully with Condition 2 of the PPP Decision Notice in that the following details are proven to be acceptable:

- Scale, massing, design, means of access, landscaping and car parking

There were absolutely no objections from statutory consultees and no letters of objection.

Overall, the appellants feel that the Planning authority have not given due consideration of the PPP and have been both incorrect and unreasonable in their weighting of material considerations in this case, which are where the refusal is centred.

Consequently, it is the appellants submission that the refusal of detail planning permission was not based on sound planning considerations, and that the reasons set out for refusing consent cannot be sustained. The LRB is, consequently, respectfully requested to uphold this appeal.

PERTH AND KINROSS COUNCIL

Mr David Harris
c/o Fleming Homes
FAO Chris Eadie
Station Road
Duns
TD11 3HS

Pullar House
35 Kinnoull Street
PERTH
PH1 5GD

Date 15th January 2014

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT

Application Number: **13/02044/FLL**

I am directed by the Planning Authority under the Town and Country Planning (Scotland) Acts currently in force, to refuse your application registered on 20th November 2013 for permission for **Erection of a dwellinghouse and detached garage Easter Balcraig Murrayshall Perth PH2 7PG** for the reasons undernoted.

Development Quality Manager

Reasons for Refusal

1. The site falls within the area identified as Green Belt where Policy NE5 of the Proposed Local Development Plan 2012 applies. The proposal is contrary to policy NE5 as it does not lie in one of the categories of acceptable development outlined within the policy.
2. Within the adopted local plan the site is within the landward area where policy 1 applies. This generally restricts developments to agriculture, forestry, recreational or tourism developments where a countryside location is essential. The proposal is not related to agriculture, forestry, recreation or tourism that requires a countryside location and as such is contrary to Policy 1 of the adopted Perth Area Local Plan 1995.

Justification

The proposal is not in accordance with the Development Plan nor with the Proposed Local Development Plan. There are no material reasons which justify departing from the Development Plan.

Notes

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

13/02044/1

13/02044/2

13/02044/3

13/02044/4

13/02044/5

13/02044/6

Print Form

APPLICATION FOR PLANNING PERMISSION

Town and Country Planning (Scotland) Act 1997
The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008

Please refer to the accompanying Guidance Notes when completing this application
PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS
ELECTRONICALLY VIA <https://eplanning.scotland.gov.uk>

1. Applicant's Details		2. Agent's Details (if any)	
Title	Mr	Ref No.	1409
Forename	David	Forename	Chris
Surname	Harris	Surname	Eadie
Company Name		Company Name	Fleming Homes
Building No./Name		Building No./Name	
Address Line 1		Address Line 1	Station Road
Address Line 2		Address Line 2	
Town/City		Town/City	Duns
Postcode		Postcode	TD11 3HS
Telephone		Telephone	01361 883785
Mobile		Mobile	
Fax		Fax	
Email		Email	chris@fleminghomes.co.uk
3. Postal Address or Location of Proposed Development (please include postcode)			
Mains of Balcraig Perthshire PH2 7PG			
NB. If you do not have a full site address please identify the location of the site(s) in your accompanying documentation.			
4. Type of Application			
What is the application for? Please select one of the following:			
Planning Permission	<input checked="" type="checkbox"/>		
Planning Permission in Principle	<input type="checkbox"/>		
Further Application*	<input type="checkbox"/>		
Application for Approval of Matters Specified in Conditions*	<input type="checkbox"/>		
Application for Mineral Works**	<input type="checkbox"/>		
NB. A 'further application' may be e.g. development that has not yet commenced and where a time limit has been imposed a renewal of planning permission or a modification, variation or removal of a planning condition.			
*Please provide a reference number of the previous application and date when permission was granted:			
Reference No:	10/01504/IPL	Date:	27/08/10

****Please note that if you are applying for planning permission for mineral works your planning authority may have a separate form or require additional information.**

5. Description of the Proposal

Please describe the proposal including any change of use:

Erection of two story dwelling house and detached garage.

Is this a temporary permission?

Yes ☐ No ☒

If yes, please state how long permission is required for and why:

Have the works already been started or completed?

Yes ☐ No ☒

If yes, please state date of completion, or if not completed, the start date:

Date started:

Date completed:

If yes, please explain why work has already taken place in advance of making this application

6. Pre-Application Discussion

Have you received any advice from the planning authority in relation to this proposal?

Yes ☐ No ☒

If yes, please provide details about the advice below:

In what format was the advice given?

Meeting ☐ Telephone call ☐ Letter ☐ Email ☐

Have you agreed or are you discussing a Processing Agreement with the planning authority? Yes ☐ No ☐

Please provide a description of the advice you were given and who you received the advice from:

Name:

Date:

Ref No.:

7. Site Area

Please state the site area in either hectares or square metres:

Hectares (ha):

Square Metre (sq.m.)

2456.6

8. Existing Use

Please describe the current or most recent use:

Field.

9. Access and Parking

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

Yes ☒ No ☐

If yes, please show in your drawings the position of any existing, altered or new access and explain the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any changes to public paths, public rights of way or affecting any public rights of access?

Yes ☐ No ☒

If yes, please show on your drawings the position of any affected areas and explain the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application site?

0

How many vehicle parking spaces (garaging and open parking) do you propose on the site? (i.e. the total number of existing spaces plus any new spaces)

4

Please show on your drawings the position of existing and proposed parking spaces and specify if these are to be allocated for particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, etc.)

10. Water Supply and Drainage Arrangements

Will your proposals require new or altered water supply or drainage arrangements?

Yes ☒ No ☐

Are you proposing to connect to the public drainage network (e.g. to an existing sewer?)

Yes, connecting to a public drainage network

☒

No, proposing to make private drainage arrangements

☐

Not applicable – only arrangement for water supply required

☐

What private arrangements are you proposing for the new/altered septic tank?

Discharge to land via soakaway

☐

Discharge to watercourse(s) (including partial soakaway)

☐

Discharge to coastal waters

☐

Please show more details on your plans and supporting information

What private arrangements are you proposing?

Treatment/Additional treatment (relates to package sewer treatment plants, or passive sewage treatment such as a reed bed)

☐

Other private drainage arrangement (such as a chemical toilets or composting toilets)

☐

Please show more details on your plans and supporting information.

Do your proposals make provision for sustainable drainage of surface water?

Yes ☐ No ☐

Note:- Please include details of SUDS arrangements on your plans

Are you proposing to connect to the public water supply network?

Yes ☒ No ☐

If no, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site)

11. Assessment of Flood Risk

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

Yes ☐ No ☒

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

Do you think your proposal may increase the flood risk elsewhere? Yes ☐ No ☒ Don't Know ☐

If yes, briefly describe how the risk of flooding might be increased elsewhere.

12. Trees

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

Yes ☒ No ☐

If yes, please show on drawings any trees (including known protected trees) and their canopy spread as they relate to the proposed site and indicate if any are to be cut back or felled.

13. Waste Storage and Collection

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

Yes ☒ No ☐

If yes, please provide details and illustrate on plans.

If no, please provide details as to why no provision for refuse/recycling storage is being made:

Bin stances to be provided.

14. Residential Units Including Conversion

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

Yes ☒ No ☐

If yes how many units do you propose in total?

1

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

15. For all types of non housing development – new floorspace proposed

Does your proposal alter or create non-residential floorspace?

Yes ☐ No ☒

If yes, please provide details below:

Use type:

If you are extending a building, please provide details of existing gross floorspace (sq.m):

Proposed gross floorspace (sq.m.):

Please provide details of internal floorspace(sq.m)

Net trading space:

Non-trading space:

Total net floorspace:

16. Schedule 3 Development

Does the proposal involve a class of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008?

Yes ☐ No ☐ Don't Know ☒

If yes, your proposal will additionally have to be advertised in a newspaper circulating in your area. Your planning authority will do this on your behalf but may charge a fee. Please contact your planning authority for advice on planning fees.

17. Planning Service Employee/Elected Member Interest

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

Yes ☐ No ☒

Or, are you / the applicant / the applicant's spouse or partner a close relative of a member of staff in the planning service or elected member of the planning authority?

Yes ☐ No ☒

If you have answered yes please provide details:

DECLARATION

I, the applicant/agent certify that this is an application for planning permission. The accompanying plans/drawings and additional information are provided as part of this application. I hereby confirm that the information given in this form is true and accurate to the best of my knowledge.

I, the applicant/agent hereby certify that the attached Land Ownership Certificate has been completed

☒

I, the applicant /agent hereby certify that requisite notice has been given to other land owners and /or agricultural tenants

Yes ☐ No ☐ N/A ☒

Signature:



Name:

Chris Eadie

Date:

24/10/13

Any personal data that you have been asked to provide on this form will be held and processed in accordance with the requirements of the 1998 Data Protection Act.

LAND OWNERSHIP CERTIFICATES

Town and Country Planning (Scotland) Act 1997
Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008

CERTIFICATE A, B, C OR CERTIFICATE D MUST BE COMPLETED BY ALL APPLICANTS

CERTIFICATE A

Certificate A is for use where the applicant is the only owner of the land to which the application relates and none of the land is agricultural land.

I hereby certify that -

- (1) No person other than myself was owner of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the application. ☒
- (2) None of the land to which the application relates constitutes or forms part of agricultural land. ☐

Signed:

On behalf of:

Mr D. Harris

Date:

24/10/13

CERTIFICATE B

Certificate B is for use where the applicant is not the owner or sole owner of the land to which the application relates and/or where the land is agricultural land and where all owners/agricultural tenants have been identified.

I hereby certify that -

- (1) I have served notice on every person other than myself who, at the beginning of the period of 21 days ending with the date of the application was owner of any part of the land to which the application relates. These persons are: ☐

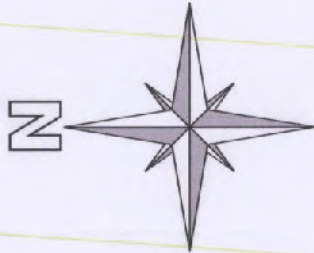
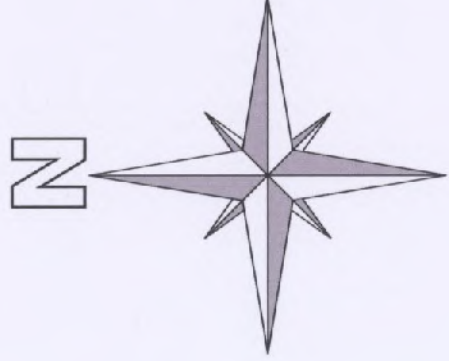
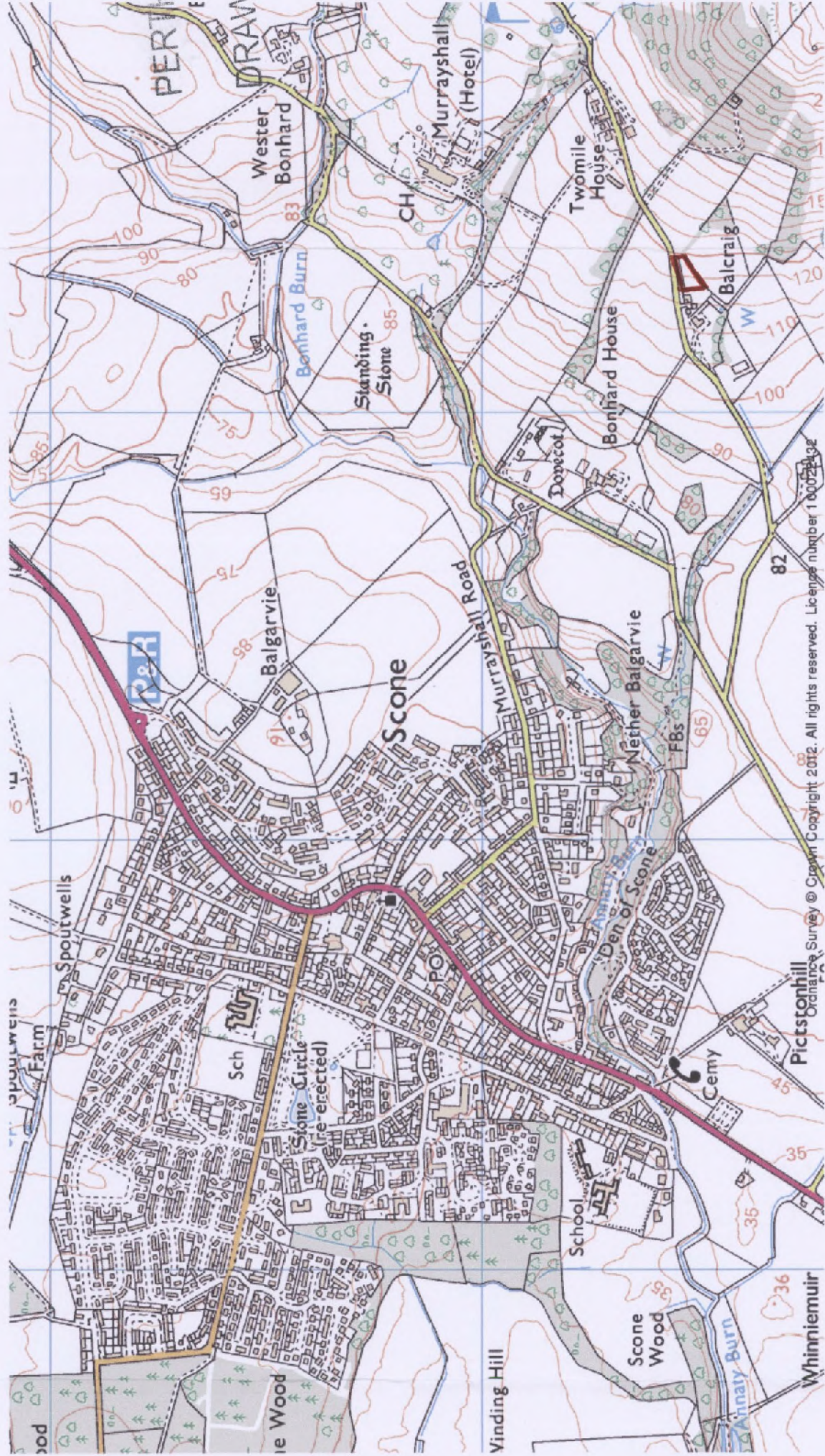
Name	Address	Date of Service of Notice

- (2) None of the land to which the application relates constitutes or forms part of agricultural land ☐
- or
- (3) The land or part of the land to which the application relates constitutes or forms part of agricultural land and I have served notice on every person other than myself who, at the beginning of the period of 21 days ending with the date of the application was an agricultural tenant. These persons are: ☐

Location Plan 1:200



Location Plan 1:25000



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**NOT FOR
SITE USE**

PROJECT
Proposed Dwelling
FOR Mr & Mrs D. Harris
SITE Mains of Balraig
Perthshire
Site Address-2

POSTCODE PH2 7PG

PERTH AND KINROSS COUNCIL
DRAWING REF. B/02044/2 **FLEMING**

H O M E S
Stilton Road, Duns, Berwickshire, UK, TD11 3HS
Telephone (01361) 883 785
Fax (01361) 883 898
Email: enquiries@fleminghomes.co.uk
www.fleminghomes.co.uk

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Fleming Homes Ltd and is not to be reproduced or used in any way without the written consent of Fleming Homes Ltd. The design of electrical, bathroom, kitchen and utility fittings. These indicated by Fleming Homes Ltd are demonstrative for building control purpose only.

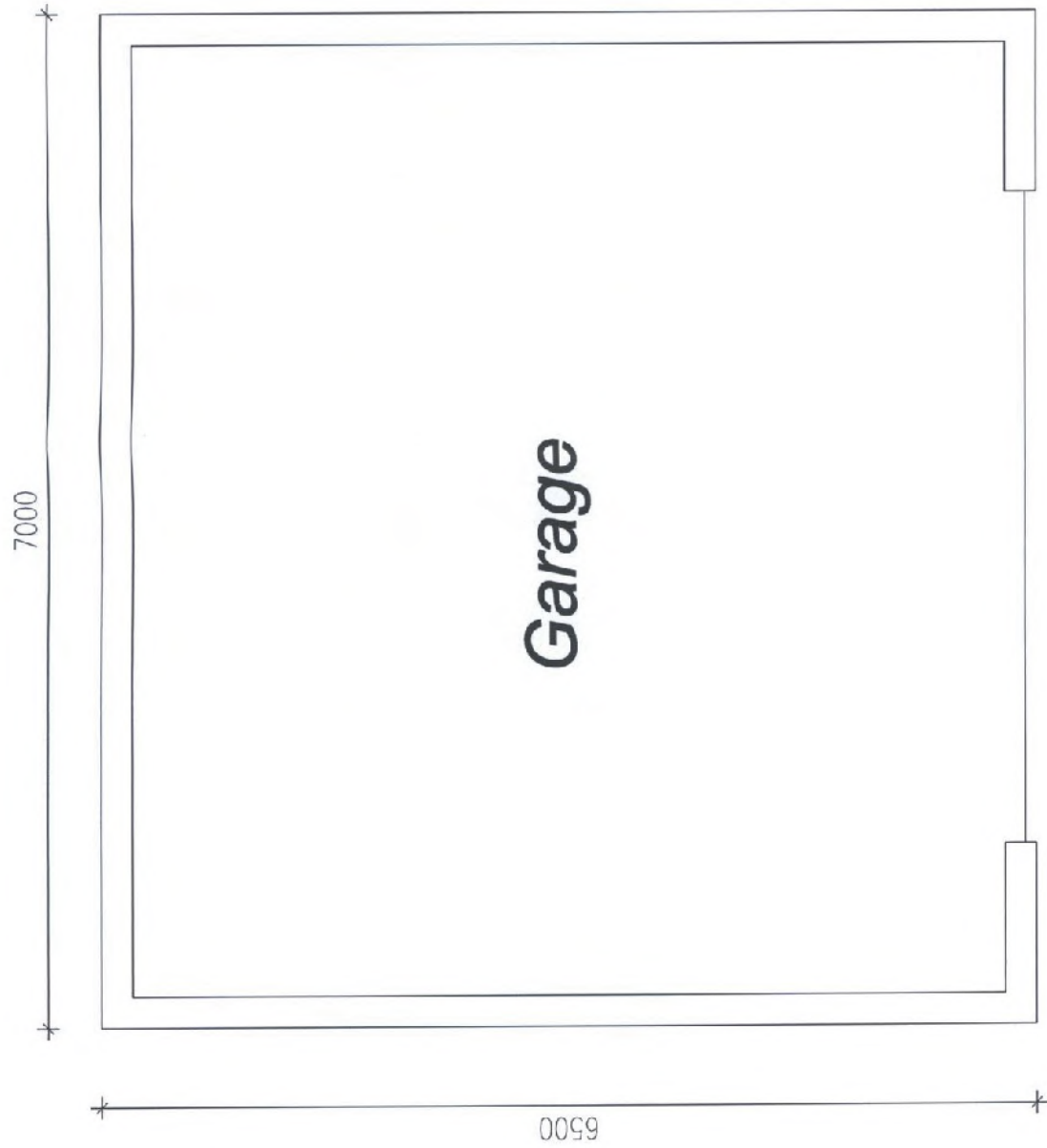
Do not scale drawing
Dimensions and areas are given as an indication only and are not to be used for construction purposes. Dimensions are given in metres unless otherwise stated. Dimensions are given to the centre of the line unless otherwise stated. Dimensions are given to the face of the line unless otherwise stated. Dimensions are given to the centre of the line unless otherwise stated. Dimensions are given to the face of the line unless otherwise stated.

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DATE	REVISIONS
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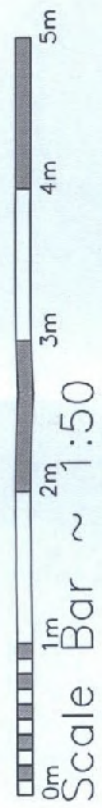
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1409-SP

CONTRACT No.
1409

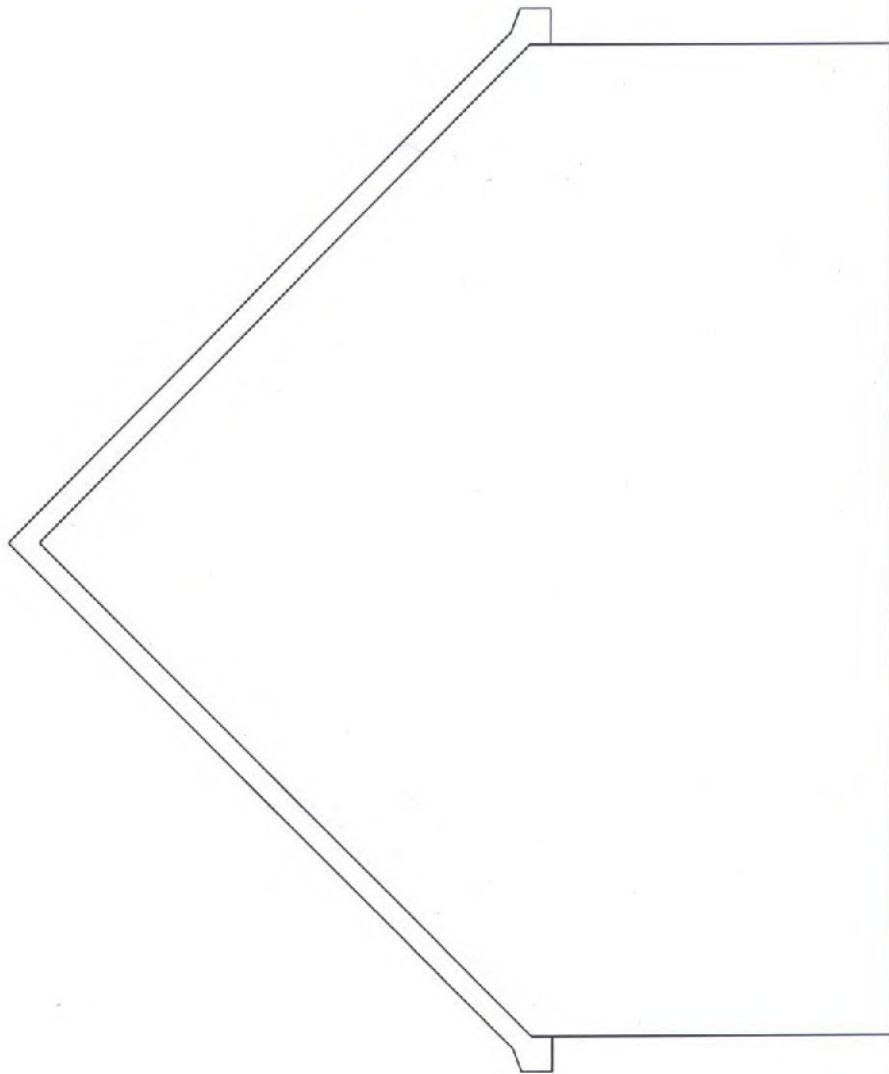


PERTH AND KINROSS COUNCIL
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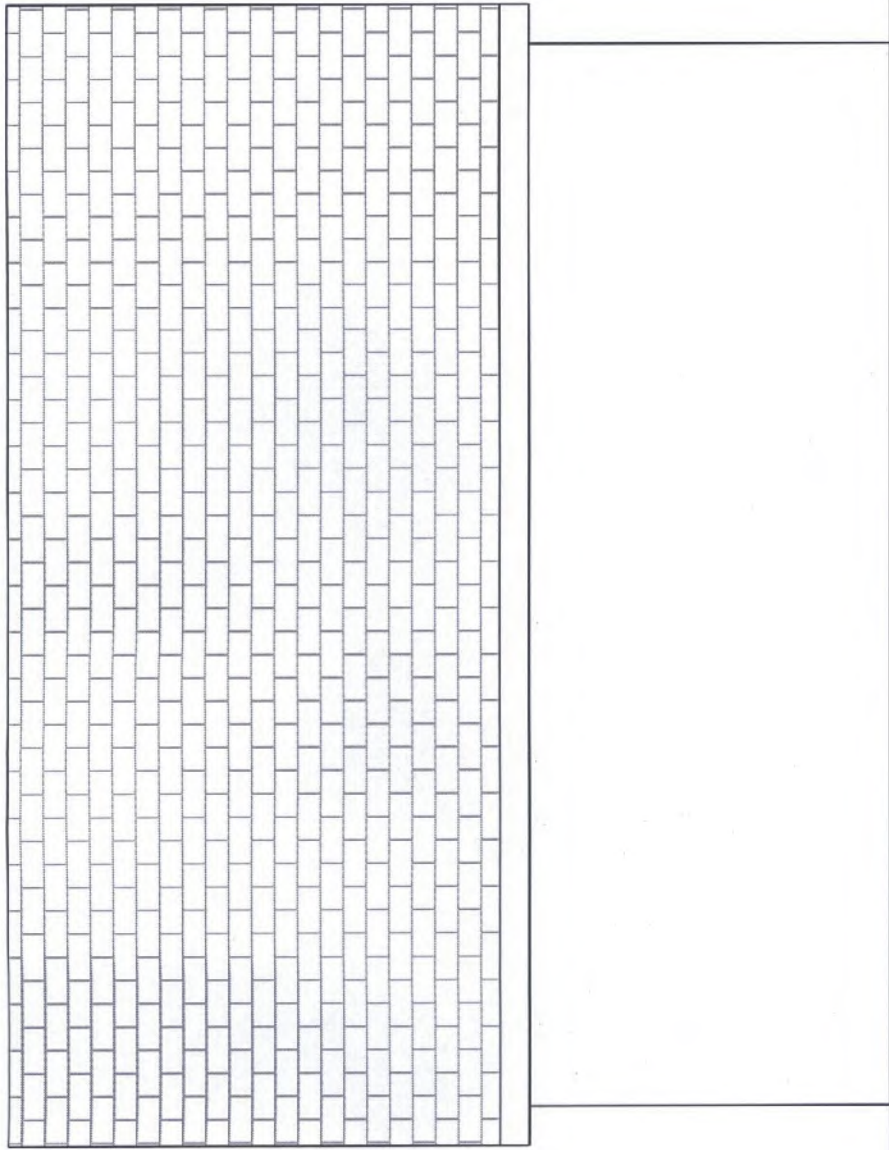
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External walls to be finished in render. render colour to be cream.	All areas of roof to be finished in natural slate. specific slates are to be confirmed	All external windows and doors are to be of timber construction. Colours to be cream.	All external gutters are to be Black UPVC



For Technical help in regards to these drawings, please contact Chris Eadie Telephone (01351) 883 785	THIS DRAWING IS COPYRIGHT Do not scale drawing Dimensions given are structural unless otherwise stated © Crown Copyright. All rights reserved. Licence Number 100047318	CLIENT Mr & Mrs D. Harris Mains of Balraig Perthshire	SCALE 1:50	PAPER A3	DRAWN CE	CHECKED HM	DATE 18/11/13	DRAWING Ref. 1409.GEL3	CONTRACT No. 1409
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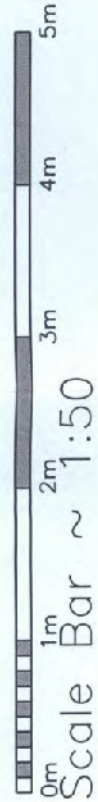


North Elevation




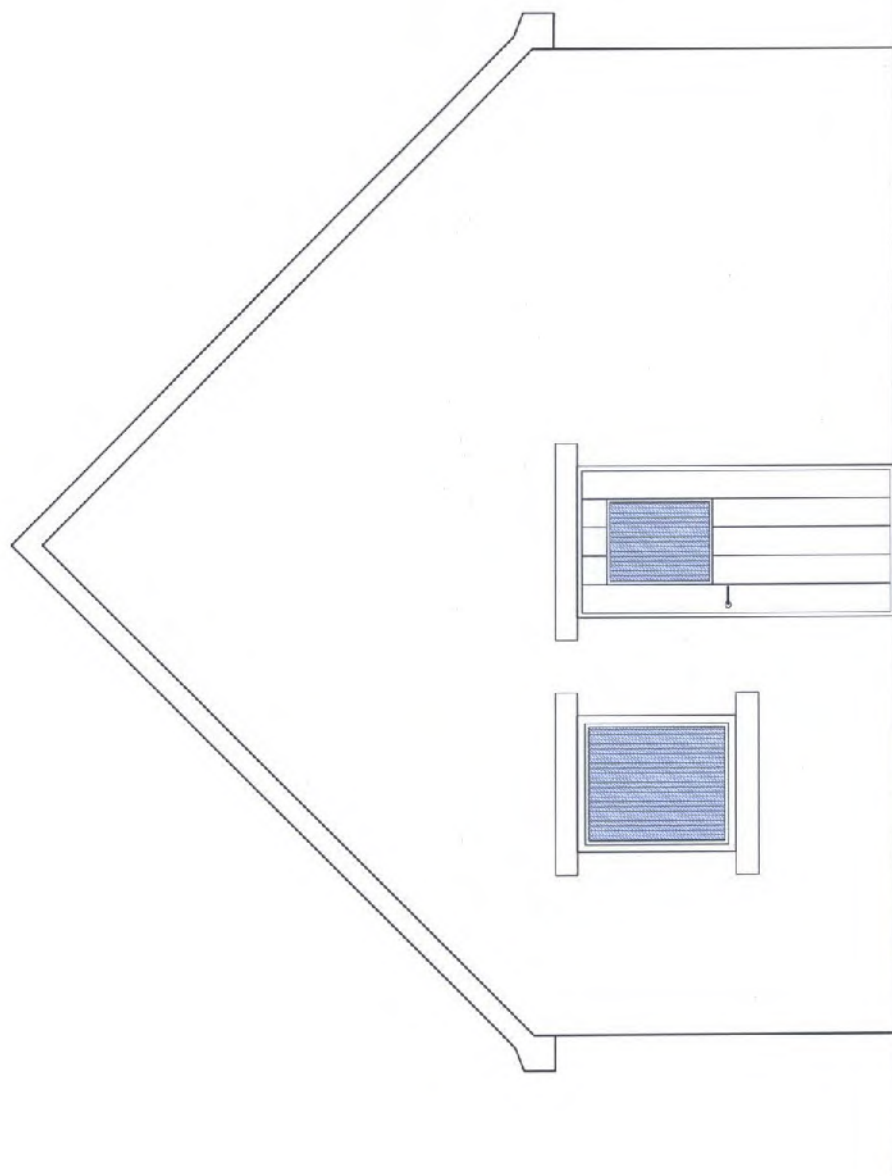
East Elevation

External Wall Finish	Roof Finish	Windows and Doors	Gutters and Downpipes
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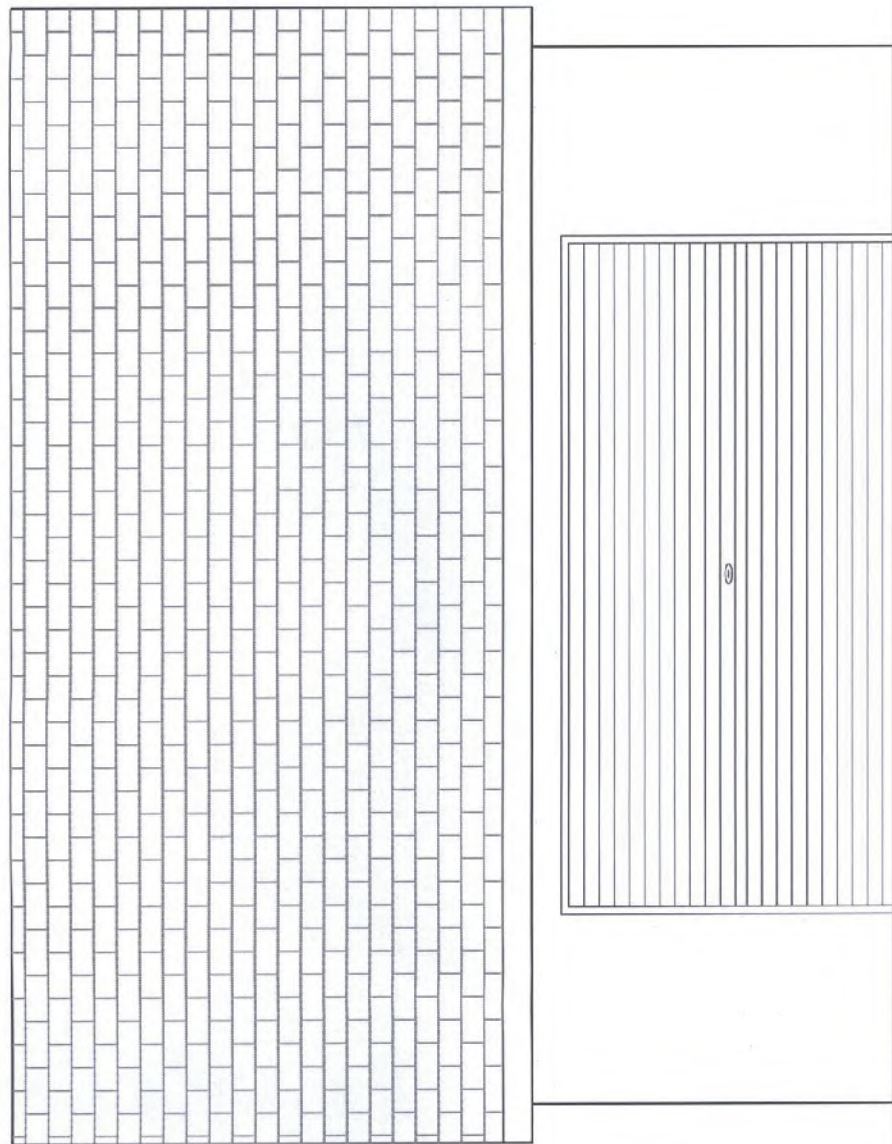


PERTH AND KINROSS COUNCIL
DRAWING REF: 13/02044/6.

 For Technical help in regards to these drawings, please contact A Member of the Drawing Team Telephone (01361) 883 785	THIS DRAWING IS COPYRIGHT Do not scale drawing Dimensions given are structural unless otherwise stated © Crown Copyright. All rights reserved. Licence Number 100047318	CLIENT Mr & Mrs D. Harris Mains of Balcraig Perthshire	SCALE	PAPER	DRAWN	CHECKED	DATE	DRAWING Ref.	CONTRACT No.
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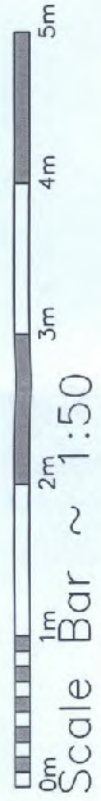
South Elevation

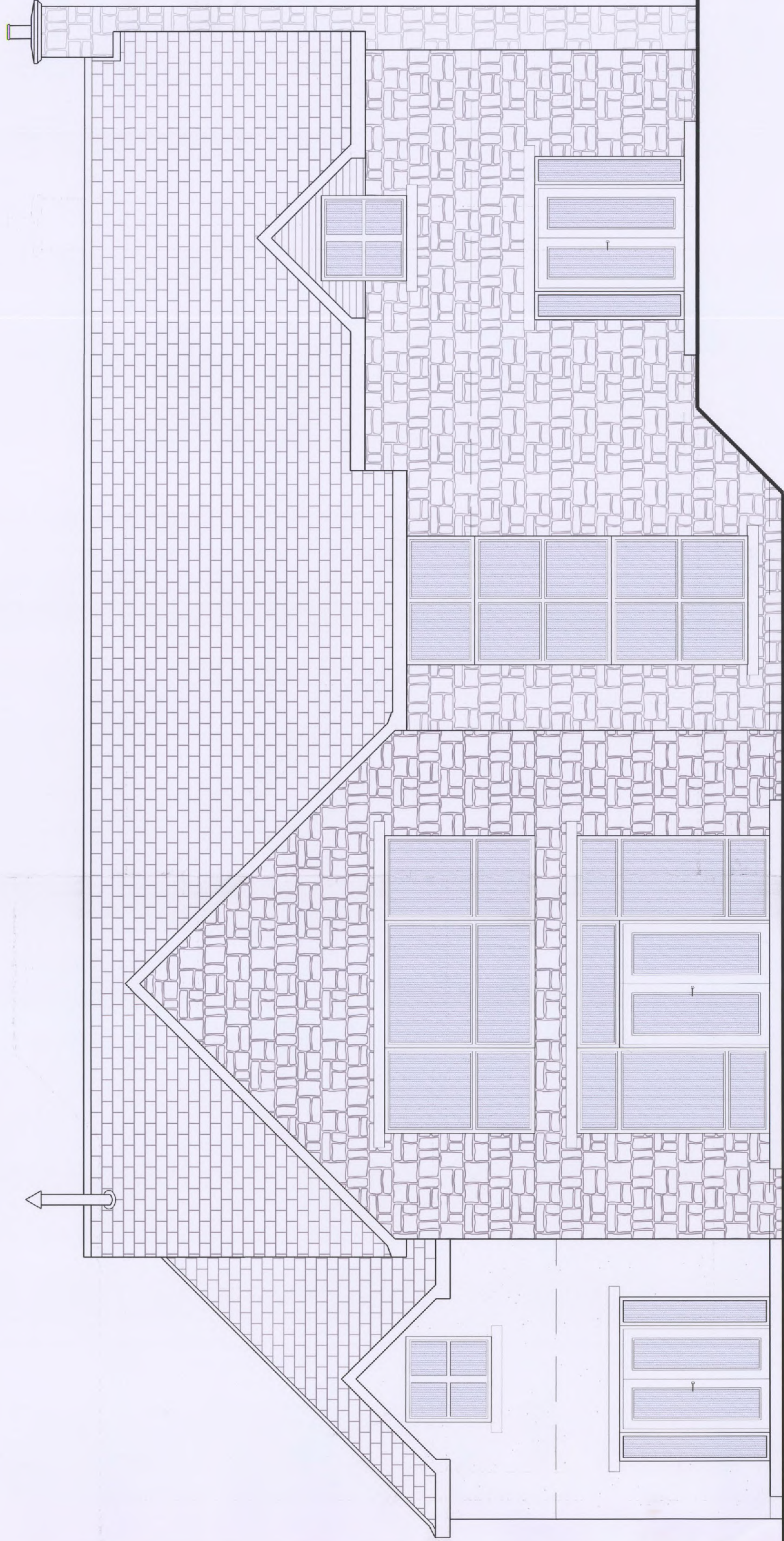


West Elevation

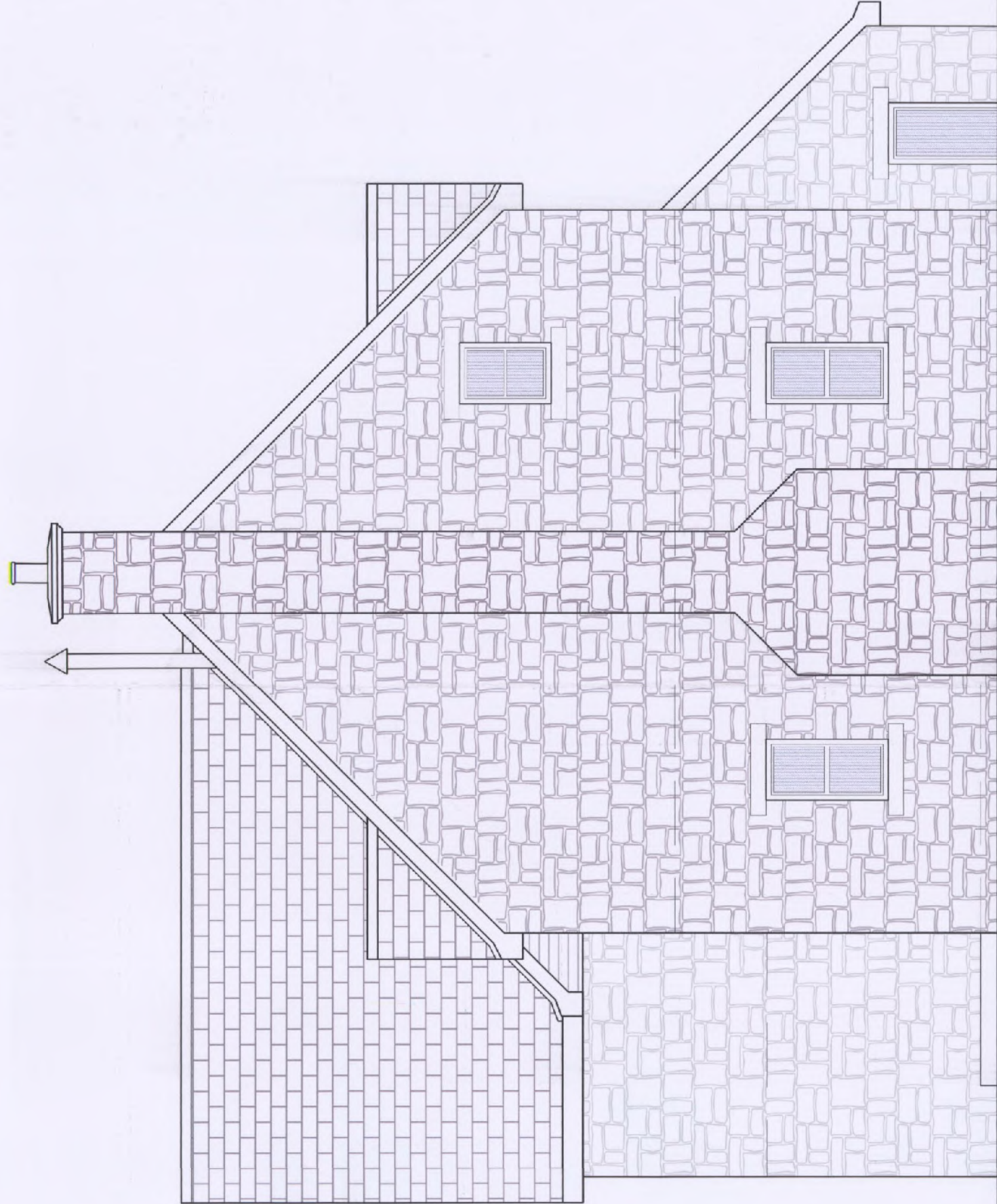
External Wall Finish	Roof Finish	Windows and Doors	Gutters and Downpipes
External walls to be finished in render. render colour to be cream.	All areas of roof to be finished in natural slate. specific slates are to be confirmed	All external windows and doors are to be of timber construction. Colours to be cream.	All external gutters are to be Black UPVC

PERTH AND KINROSS COUNCIL
DRAWING REF: 13/02044/4

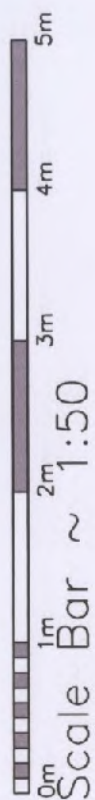




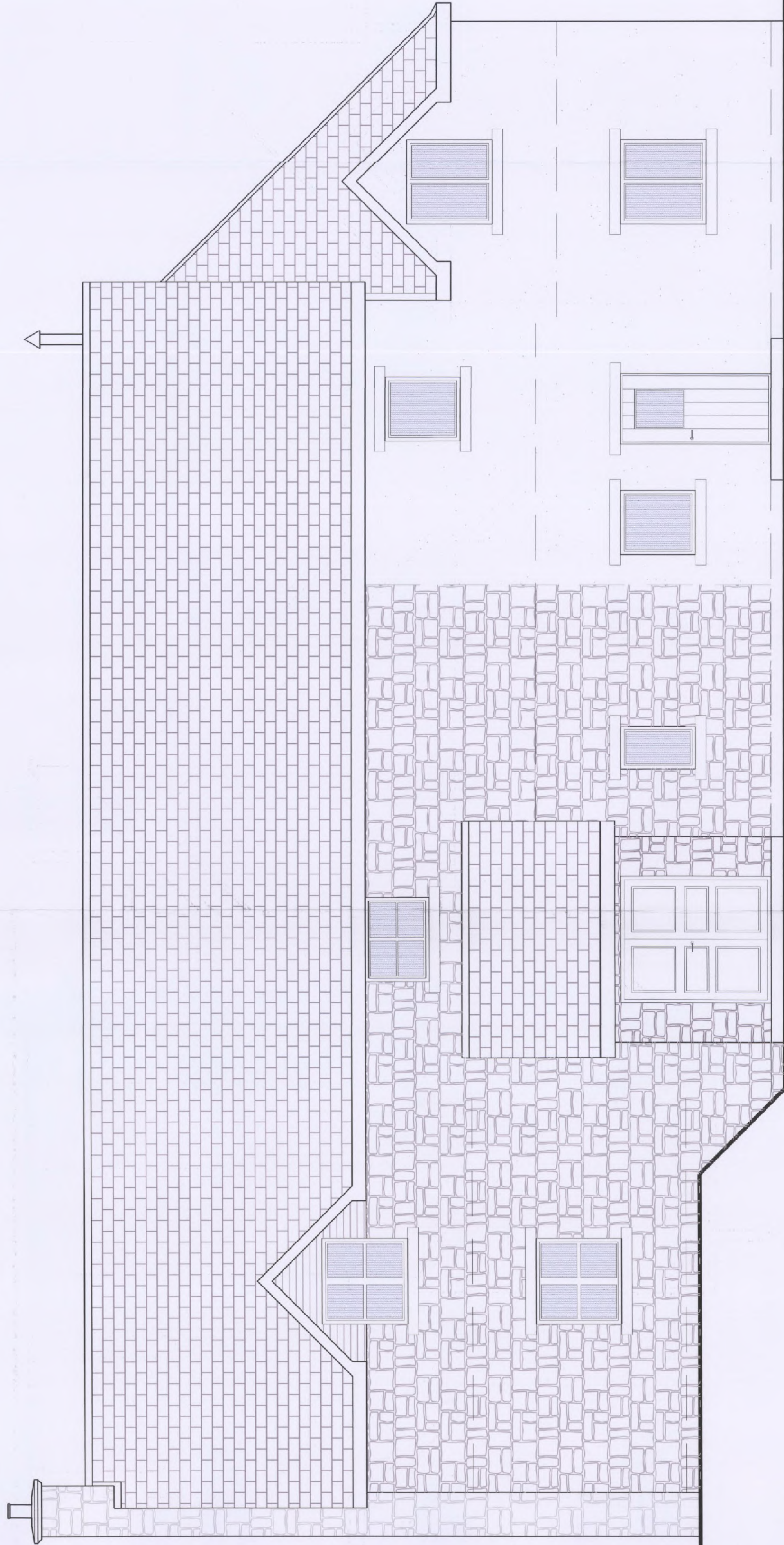
South Elevation



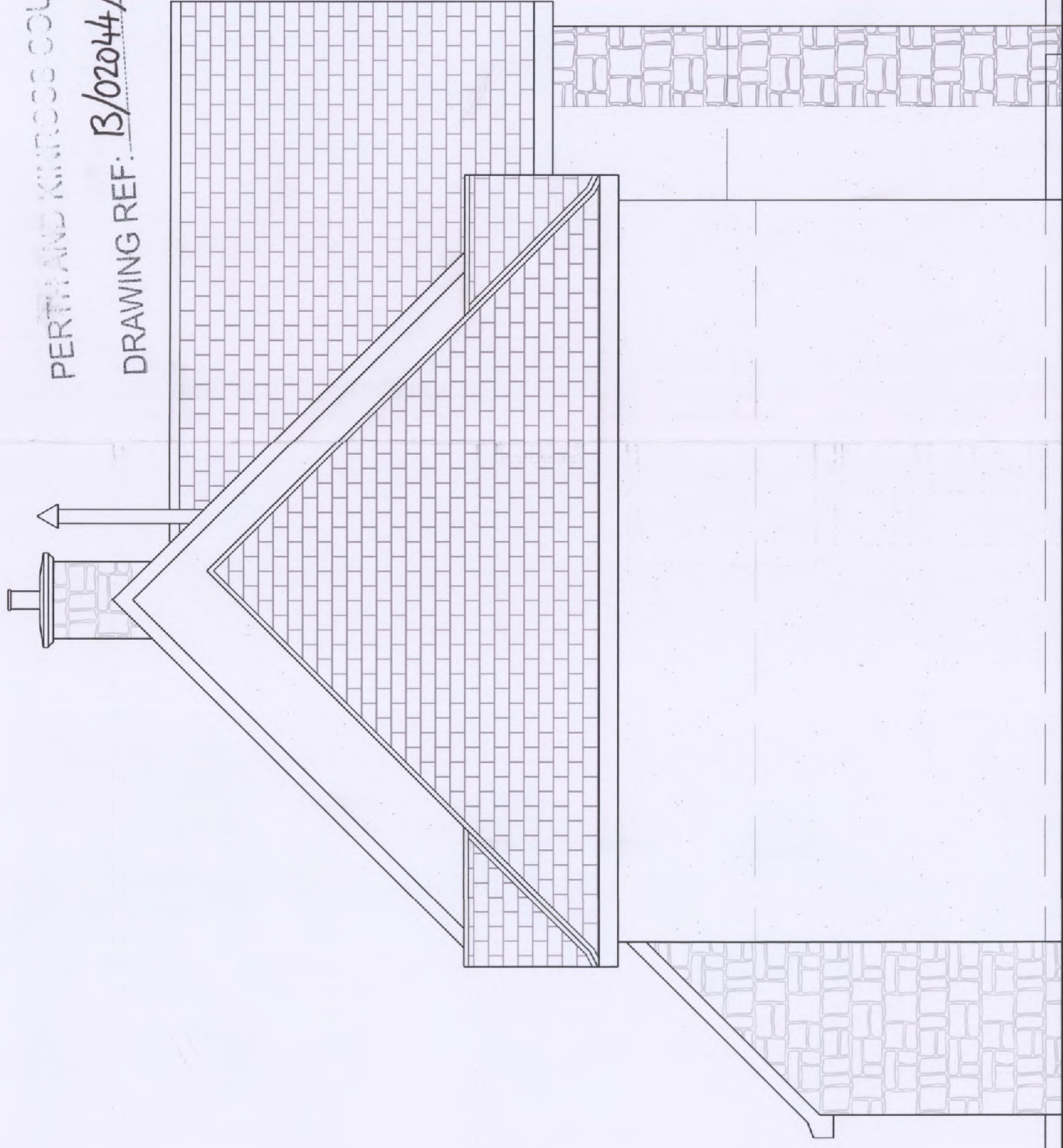
West Elevation



External Wall Finish	Roof Finish	Windows and Doors	Gutters and Downpipes
External walls to be finished in a mix of natural stone and render in areas indicated on the elevations. render colour to be cream.	All areas of roof to be finished in a mix of slate, specific slates are to be confirmed	All external windows and doors are to be of timber construction. Colours to be cream.	All external gutters are to be Black UPVC.



North Elevation



East Elevation

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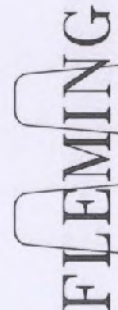
NOT FOR
SITE USE

PERTH AND KINROSS COUNCIL
DRAWING REF: 13/02044/3

PROJECT

Proposed Dwelling
FOR Mr & Mrs D. Harris
SITE Mains of Balraig
Perthshire

POSTCODE PH2 7PG



Station Road, Duns, Berwickshire, UK, TD11 3HS
Telephone (01361) 883 785
Fax (01361) 883 898
Email: enquiries@fleminghomes.co.uk
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It is the responsibility of the customer and contractor appointed for the final design and construction of the building to ensure that the building is constructed in accordance with the specifications and standards set out in this drawing. Fleming Homes Ltd are not responsible for building control purposes only.

On the scale shown
Dimensions given are structural unless otherwise stated
It is the entire responsibility of the customer to have ground conditions checked prior to start of work and have foundations designed accordingly

SCALE	DRAWN	CHECKED	PAPER	DATE
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REVISIONS				
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DRAWING Ref. 1409-EL CONTRACT No. 1409

TCP/11/16(296)

Planning Application 13/02044/FLL – Erection of a dwellinghouse and detached garage, Easter Balcraig, Murrayshall, Perth, PH2 7PG

PLANNING DECISION NOTICE *(included in applicant's submission, see pages 477-478)*

REPORT OF HANDLING

REFERENCE DOCUMENT *(part included in applicant's submission, see pages 485-489)*

REPORT OF HANDLING

DELEGATED REPORT

Ref No	13/02044/FLL
Ward No	N2- Strathmore

PROPOSAL: Erection of a dwellinghouse and detached garage

LOCATION: Easter Balcraig Murrayshall Perth PH2 7PG

APPLICANT: Mr David Harris

RECOMMENDATION: REFUSE THE APPLICATION

SITE INSPECTION: 27 November 2014



OFFICERS REPORT:

Planning permission is sought for the erection of a dwellinghouse and detached garage at Easter Balcraig, Murrayshall.

The application site is a grassed area of approximately 0.2ha situated to the east of Balcraig House, south east of Scone. The site is bounded to the west by a small group of residential properties, by a public road to the north, by existing trees to the east and an existing hedge to the south.

The application is for a detached five bedroom dwellinghouse finished in a mix of stone and render with a slate roof. The property is to be sited on the eastern part of the site detached from the existing building group.

Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) requires the determination of the application to be made in accordance with the provisions of the Development Plan, unless other material considerations indicate otherwise. The determining issues for this application are therefore 1) whether the proposal accords with the provisions of the Development Plan; and 2) whether there are any material considerations which justify approving or refusing the application contrary to the Development Plan.

The Development Plan comprises of TayPlan 2012 and the adopted Perth Area Local Plan 1995. Perth and Kinross Proposed Local Development Plan 2012 is a material consideration.

TayPlan 2012 requires a Green Belt to be designated around Perth. Policy 3 of TayPlan applies. The Green Belt is identified in the Perth and Kinross Proposed Local Development Plan 2012.

The site falls within the area identified as Green Belt where Policy NE5 of the Proposed Local Development Plan 2012 applies. This states that development in the Green Belt will only be permitted where it can be demonstrated that it is essential for agriculture, horticulture (including allotments) or forestry operations that are appropriate to the Green Belt. There is some scope within the policy for alterations, extensions or changes of use of existing buildings as well as some other developments including those for essential infrastructure or those that improve public access to the countryside and are appropriate to the character of the Green Belt.

In this case the erection of a dwellinghouse is contrary to policy NE5 as it does not lie in one of the categories of acceptable development. The housing in the countryside policy does not apply in the Green Belt

The reporters report from the LDP examination has been received and no modifications are proposed that affect this site or the associated policy framework. The Local Plan will be adopted early in 2014. The Proposed Local Development Plan and the sites Green Belt designation therefore carry significant weight as a material consideration.

Whilst in principle planning permission was granted in 2010 on the site the zoning for the site has changed to Green Belt since the previous application was considered. This planning permission has recently lapsed and in my view carries less weight as a material consideration than the Proposed Local Development Plan.

Within the adopted Perth Area Local Plan (1995) the site is within the landward area where policy 1 applies. This generally restricts developments in the countryside to agriculture, forestry, recreational or tourism developments where a countryside location is essential. The proposal is not related to agriculture, forestry, recreation or tourism that requires a countryside location and as such is contrary to Policy 1 of the adopted Perth Area Local Plan 1995.

I therefore conclude that the application is contrary to the terms of policy NE5 of the proposed Local Development Plan and also is contrary to Policy 1 of the Perth Area Local Plan.

As the principle of the development is not acceptable in policy terms I have not fully considered the details of the proposal. However, I do have some general concerns with regard to the scale of the proposed dwellinghouse and its proposed location detached from the existing building group.

In terms of economic impact of the proposal, if approved, the development would generate some local economic benefit primarily during the construction phase of the development.

In conclusion I consider that the proposal is contrary to Policy NE5 of the Proposed Local Development Plan 2012 and to Policy 1 of the adopted Perth Area Local Plan 1995. I recommend that the application be refused.

DEVELOPMENT PLAN

TayPlan 2012

Policy 3: Managing TAYplan's Assets

Includes designation of green belt around Perth to assist in safeguarding the countryside from encroachment; to manage the long term planned growth and define appropriate forms of development within the green belt.

Perth Area Local Plan 1995

P_001 Perth Area General Policies

Developments will generally be restricted to agriculture, forestry, or recreational and tourism projects where a countryside location is essential.

OTHER POLICIES

Proposed Local Development Plan 2012

On the 30 January 2012 the Proposed Plan was published. The Council's current adopted Local Plans will eventually be replaced by the Local Development Plan. The Council's Development Plan Scheme sets out the timescale and stages leading to adoption. The Proposed Local Development Plan has undergone an Examination following which a report was published on 11 October 2013 containing the Reporter's recommendations. The Council has a three month period to consider the Reporter's recommendations and the modified Plan will be published by 11 January 2014. This will be the Plan that the Council intends to adopt, subject to agreement by Scottish Ministers. Prior to adoption, the Proposed Local Development Plan 2012 is a material consideration in the determination of this application, reflecting a more up to date view of the Council than those contained in the relevant adopted Local Plan.

NE5: Green Belt

Policy seeks to protect character of the area in the green belt and restricts development in the green belt to that essential for agriculture, horticulture and forestry operations.

Policy HE2 - Listed Buildings - proposals should be appropriate to the character of the listed building and its setting.

SITE HISTORY

10/01504/IPL Erection of a dwellinghouse (in principle) 29 October 2010 Application Permitted

CONSULTATIONS/COMMENTS

Transport Planning	No objection subject to conditions.
Scottish Water	No objection.
Education And Children's Services	Request that the Finalised Primary Education and New Housing Contributions Policy be applied to this application.
Forward Planning	The application is contrary to the terms of policy NE5 (Green Belt) of the Proposed Local Development Plan 2012 and should be refused.

TARGET DATE: 20 January 2014

REPRESENTATIONS RECEIVED:

Number Received: 0

Summary of issues raised by objectors: N/A

Response to issues raised by objectors: N/A

Additional Statements Received:

Environment Statement	Not required
Screening Opinion	Not required
Environmental Impact Assessment	Not required
Appropriate Assessment	Not required
Design Statement / Design and Access Statement	None submitted.
Report on Impact or Potential Impact	None submitted.

Legal Agreement Required: Not required.

Direction by Scottish Ministers – n/a

Reasons:-

- 1 The site falls within the area identified as Green Belt where Policy NE5 of the Proposed Local Development Plan 2012 applies. The proposal is contrary to policy NE5 as it does not lie in one of the categories of acceptable development outlined within the policy.
- 2 Within the adopted local plan the site is within the landward area where policy 1 applies. This generally restricts developments to agriculture, forestry, recreational or tourism developments where a countryside location is essential. The proposal is not related to agriculture, forestry, recreation or tourism that requires a countryside location and as such is contrary to Policy 1 of the adopted Perth Area Local Plan 1995.

Justification

The proposal is not in accordance with the Development Plan nor with the Proposed Local Development Plan. There are no material reasons which justify departing from the Development Plan.

Notes

None.



Location Plan 1:1250



Site Map 1:500



Scale Bar ~
1:25000
0m 20m 40m 60m 80m 100m 120m 140m 160m 180m 200m

Scale Bar ~
1:1250
0m 2m 4m 6m 8m 10m 12m 14m 16m 18m 20m

Scale Bar ~
1:500
0m 2m 4m 6m 8m 10m 12m 14m 16m 18m 20m

Scale Bar ~
1:50
0m 2m 4m 6m 8m 10m 12m 14m 16m 18m 20m

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**NOT FOR
SITE USE**

PROJECT
Proposed Dwelling
for Mr & Mrs D. Harris
Site Mains of Balcarraig
Perthshire
Site Address-2

POSTCODE PH2 7PG

FLEMING

HOMES
Perth Road, Duns, Berwickshire, UK, TD11 3HS
Telephone (01361) 883 785
Fax (01361) 883 888
Email: enquiries@fleminghomes.co.uk
www.fleminghomes.co.uk

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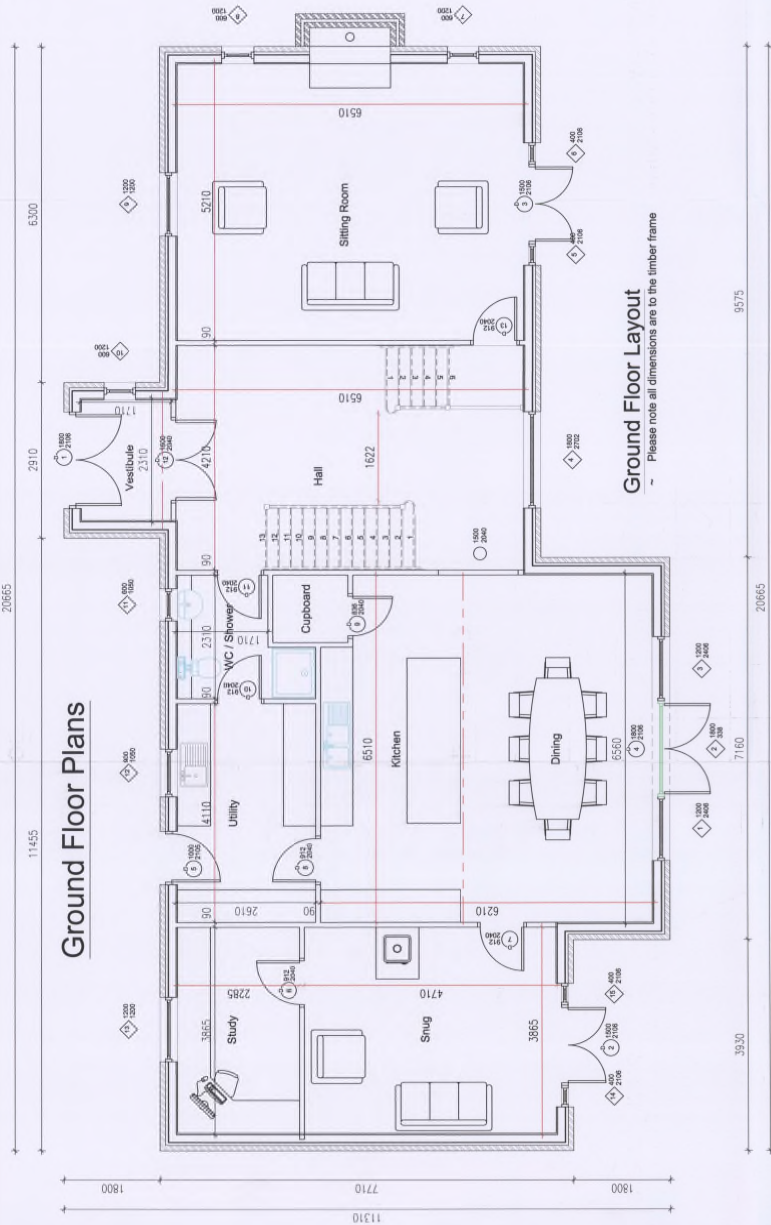
SCALE DRAWN CHECKED PAPER/DATE
CE HSM A1 23/10/13

DATE REVISIONS
A18/11/13 Revision A

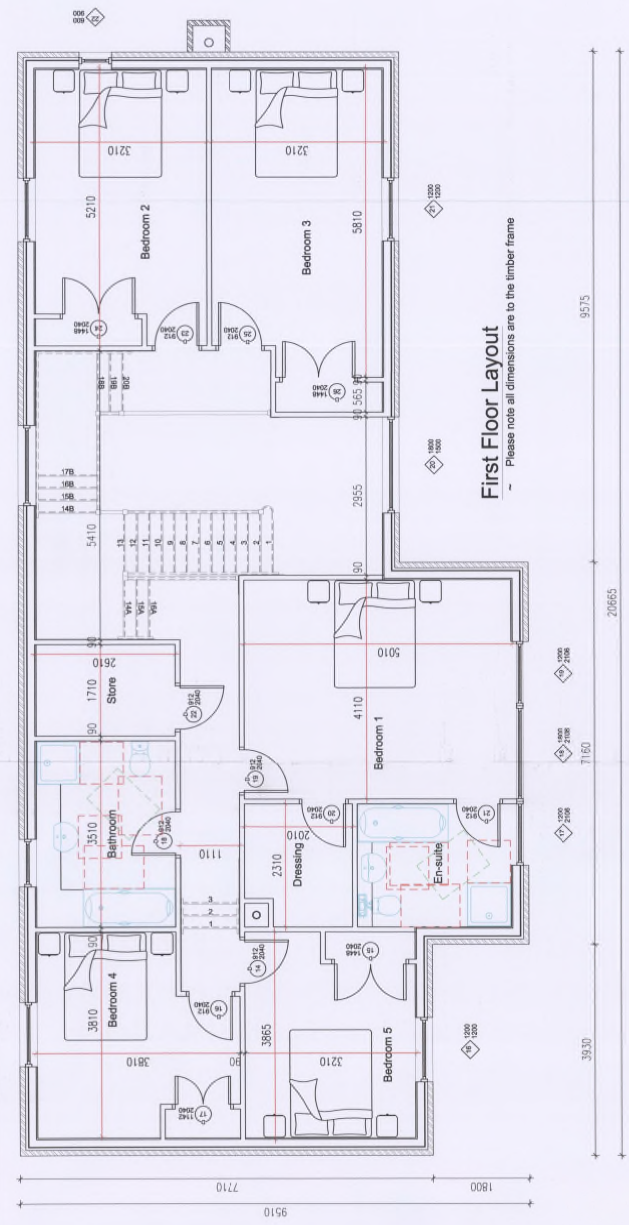
DRAWING Ref.
1409-AD

CONTRACT No.
1409

Ground Floor Plans



First Floor Plans



TCP/11/16(296)

Planning Application 13/02044/FLL – Erection of a dwellinghouse and detached garage, Easter Balcraig, Murrayshall, Perth, PH2 7PG

REPRESENTATIONS

- Representation from Education and Children's Services, dated 2 December 2013
- Representation from Forward Planning, dated 17 December 2013
- Representation from Transport Planning, dated 18 December 2013

Memorandum

To	Nick Brian Development Quality Manager	From	Gillian Reeves Assistant Asset Management Officer
Your ref	13/02044/FLL	Our ref	
Date	02 December 2013	Tel No	(4) 76395

Education & Children's Services

Pullar House, 35 Kinnoull Street, Perth PH1 5GD

Planning Application Ref No 13/02044/FLL

This development falls within the Robert Douglas Memorial Primary School catchment area.

Based on current information this school will reach the 80% capacity threshold.

Approved capacity	408
Highest projected 7 year roll	442
Potential additional children from previously approved applications	27
Possible roll	469
Potential % capacity	114.95%

Therefore I request that the Finalised Primary Education and New Housing Contributions Policy be applied to this application.

Please do not hesitate to contact me should you require any further information.

CONSULTATION ON PLANNING APPLICATION



To: Persephone Beer
From: Ron Moody
Date: 17/12/13
Planning Reference: 13/02044/FLL

Description of Proposal: erection of a dwellinghouse and detached garage Easter Balcraig Perth

Local Plan: Perth Area

1. Adopted local Plan

The site lies in the landward part of the plan area and Policies 1&2 are relevant.

2. TAYPlan

The approved SDP requires a Green Belt to be designated around Perth in the general area of the site. Policy 3 applies.

3. Proposed Local development Plan

The site lies within the area identified as green belt in the proposed LDP within this area Policy NE5 applies. The proposal is contrary to this policy as it does not lie in one of the categories of acceptable development. The housing in the countryside policy does not apply in the Green Belt

4. Comments

We have now received the reporters report from the LDP examination and no modifications are proposed that affect this site or the associated policy framework which the application should be assessed against. Though the LDP has not yet been formally adopted the reporters report and the sites Green Belt designation carries significant weight as a material consideration and in my view would be the determining issue. The Council is due to consider the formal adoption of the LDP on the 18 December 2013. I note that a previous consent in principle for the site has lapsed and the zoning for the site has changed to Green Belt since the previous application was considered. The application is contrary to the terms of policy NE5 and consequently should be refused.



MEMORANDUM

To	Persephone Beer Planning Officer	From	Niall Moran Transport Planning Technician Transport Planning
Our ref:	NM	Tel No.	Ext 76512
Your ref:	13/02044/FLL	Date	18 December 2013

Pullar House, 35 Kinnoull Street, Perth, PH1 5GD

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997, - ROADS (SCOTLAND) ACT 1984

With reference to the application 13/02044/FLL for planning consent for:- **Erection of a dwellinghouse and detached garage Easter Balcraig Murrayshall Perth PH2 7PG for Mr David Harris**

Insofar as the Roads matters are concerned I do not object to the proposed development provided the conditions indicated below are applied, in the interests of pedestrian and traffic safety.

- Prior to the occupation or use of the approved development the vehicular access shall be formed in accordance with specification Type , Fig access detail to the satisfaction of the Planning Authority.
- Prior to the occupation or use of the approved development turning facilities shall be provided within the site to enable all vehicles to enter and leave in a forward gear.
- Prior to the occupation or use of the approved development a minimum of 2 No. car parking spaces shall be provided within the site.

The applicant should be advised that in terms of Section 56 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environmental Protection Agency.

I trust these comments are of assistance.

