

Perth and Kinross Council  
Development Control Committee – 12 May 2010  
Report of Handling by Development Quality Manager

**Erection of a dwellinghouse and associated works at Wester Balgedie Farm,  
Kinross.**

Ref. No: 09/00696/FLL  
Ward No: 8 – Kinross-Shire

**Summary**

This report recommends approval of the application for erection of a dwellinghouse and associated works at Wester Balgedie Farm as the development is considered to be in accordance with the Development Plan and the Council's Housing in the Countryside Policy 2009 in relation to new housing in the countryside, required for a local or key worker associated with a consented economic activity, where there is a demonstrated need for the house.

**BACKGROUND AND DESCRIPTION**

- 1 The application site is a 0.61ha area of land associated with an agricultural holding of 45 hectares at Wester Balgedie Farm which is located 0.5 km to the north east of the small settlement of Wester Balgedie and to the south of Glenlmond. Two recently approved agricultural sheds are situated just to the east of the site. Consent was refused in July 2008 as there was no demonstrated need for a house at this location in terms of farming livestock. A livestock shed was approved for the site in November 2009 which makes a justification for housing relevant in terms of operational need.
- 2 The proposal is for the erection of a traditional style 1.5 storey four bedroom detached house with access and associated landscaping including tree planting. Materials include reconstituted slate to the roof, wetdash render to the walls and timber windows and doors.
- 3 The applicant has submitted an Operational Justification for the house and a Supporting Planning Statement.

**NATIONAL POLICY AND GUIDANCE**

**The Scottish Planning Policy 2010**

- 4 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 92-97: Rural Development
- Paragraphs 125 -148: Landscape and Natural Heritage

### **Planning Advice Note 38 Housing Land**

- 5 The main aim is to provide advice on the availability of sites for development and which supports sustainable options that can be delivered in a suitable time period to meet the present level of demand.

### **Planning Advice Note 67 Housing Quality**

- 6 A successful place in which to live is one which is distinctive, safe and pleasant, accessible, welcoming, adaptable and resource efficient.

### **PAN 72 Housing in the Countryside**

- 7 PAN 72 seeks to create more opportunities for good quality rural housing which respects Scottish landscapes and building traditions, whilst also providing support for innovative and carefully considered contemporary designs.

## **DEVELOPMENT PLAN**

- 8 The Development Plan for the area consists of the Approved Perth and Kinross Structure Plan 2003 and the Adopted Kinross Area Local Plan 2004.

### **Perth and Kinross Structure Plan 2003**

The principal relevant policies are in summary: -

- 9 Sustainable Communities Policy 6 in lowland areas seeks to ensure that housing in the countryside prevents commuting, is well sited and is of a scale and standard of design appropriate to its location.

### **Kinross Area Local Plan (2004)**

- 10 Under the Local Plan the site lies outwith any defined settlement boundaries and therefore countryside policies prevail.

The principal relevant policies are in summary: -

## **Policy 1 Sustainable Development**

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

## **Policy 2 Development Criteria**

- 12 All developments within the Plan area will be judged against a series of criteria including landscape framework, scale, form and density of development in the locality, road network, drainage capacity and energy efficiency.

## **Policy 6 Design and Landscaping**

- 13 The Council will require high standards of design for all development in the Plan Area. In particular encouragement will be given to the use of appropriate high quality materials; innovative modern design; avoidance of the use of extensive underbuilding on steeply sloping sites; buildings are in keeping with its surroundings and ensuring that the development fits its location.
- 14 The design principles set out in the Council's Guidance on the Design of Houses in Rural Areas will be used as a guide for rural housing applications and where appropriate for other forms of built development.

## **Policy 10 Drainage within Loch Leven Catchment**

- 15 Total phosphorus from built development should not exceed the current level permitted by the discharge consents for the Kinross and Milnathort waste water treatment works together with the current contribution from built development within the rural area of the catchment. Where improvements reduce the phosphorus total from built development, there will be a presumption in favour of retaining such gains to the benefit of the ecological recovery of Loch Leven.
- 16 All applicants will be required to submit details of the proposed method of drainage before their application is determined and adopt the principles of best available technology not entailing excessive costs to the satisfaction of the Planning Authority in conjunction with SEPA.

## **Policy 11 Drainage within the Loch Leven Catchment**

- 17 All developments within the Loch Leven catchment area will require to connect to publicly maintained drainage system incorporating phosphate reduction measures. Exceptions will only be permitted where one of a series of criteria can be met, including where drainage can be diverted outwith the catchment and acceptable mitigation measures.

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

### **Policy 12 Drainage within Loch Leven Catchment**

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

### **Policy 54 Areas of Great Landscape Value**

- 20 Within the Area of Great Landscape Value identified on Proposals Map 1 new developments, which accord with other Plan policies, will only be permitted where they can be shown to enhance the natural and man made landscape assets of the area.
- 21 All applicants for planning consent within the area will require to submit detailed plans of buildings showing the elevations of the new development in its landscape setting together with details of landscape enhancement measures.
- 22 In appropriate cases landscape enhancement measures may require to be implemented in advance of development to ensure that the landscape framework is in place before the development commences.

### **Policy 64 Housing in the Countryside**

- 23 The Council will normally only support proposals for the erection of individual houses in the countryside which fall into at least one of the categories 1-4. Within the Loch Leven Catchment Area Policy 11 also applies.
1. Building Groups
  2. Renovation or Replacement of Houses
  3. Conversion or Replacement of Non-Domestic buildings.
  4. Operational Need

## **OTHER POLICIES**

### **Housing in the Countryside Policy 2005**

- 24 The Council's Housing in the Countryside Policy 2005 stipulates the criteria under which new housing may be considered outwith settlement boundaries.

## **Housing in the Countryside Policy 2009**

- 25 The Council's revised Housing in the Countryside Policy 2009 supersedes the 2005 policy for those application lodged after the adoption of the 2009 Policy.

## **Education Contributions**

### **Planning Guidance Note – Developer Contributions May 2009**

- 26 Across Scotland local authorities are having difficulty maintaining and developing infrastructure in order to keep up with the pressures of new development. Additional funding sources beyond that of the local authority are required to ensure that infrastructure constraints do not inhibit sustainable economic growth.

### **Planning Guidance Note – Primary Education and New Housing Development May 2009**

- 27 This guidance sets out the basis on which Perth and Kinross Council will seek to secure contributions from developers of new homes towards the cost of meeting primary education infrastructure improvements necessary as a consequence of development. All new housing from the date of adoption including those on sites identified in adopted Local Plans will have the policy applied.

## **SITE HISTORY**

- 28 06/01258/PN Prior notification refused for the erection of 2 agricultural buildings, one being for livestock, in July 2006.
- 29 06/01487/PN Prior notification approved for 2 general purpose agricultural sheds in Aug 2006.
- 30 08/00484/FUL Erection of a house refused in July 2008. Main reason being that there was no fully demonstrated operational need for the house although also refused on grounds of visual impact
- 31 09/01487/FUL Erection of an agricultural livestock shed approved on November 2009.

## **CONSULTATIONS**

- 32 **Education & Children's Services** have stated that the application site falls within the Portmoak Primary School catchment area and that there are no capacity concerns in this catchment area at this time.
- 33 **Environmental & Consumer Services** has no objections subject to a contamination condition.

- 34 **Scottish Environment Protection Agency** has no objections subject to SUDS condition.
- 35 **Scottish Natural Heritage** objects to the development in terms of potential environmental impact on phosphorus levels in Loch Leven. This objection can be overcome subject to a legal agreement being put in place to ensure phosphorus mitigation.
- 36 **Portmoak Community Council** objects to the development in terms of its impact on the AGLV, it will lead to further pressure for development in the area and that the applicant has a more acceptable location for the house.
- 37 **Scottish Water** has no objections.

## REPRESENTATIONS

- 38 7 letters of representation were received including one from Portmoak Community Council and one from Kinross-Shire Civic Trust.
- 39 Summary of Issues raised by Representations:
- The proposal is visually intrusive
  - It will have a detrimental impact on the AGLV
  - It will lead to further pressure for development in the area
  - The applicant has an alternative site to locate the house
- 40 The first 2 issues are raised in the Appraisal section of this report. The proposal is for operational need and will not lead to pressure for further development in the area. The applicant requires the house to be in close proximity to the farm buildings.
- 41 **ADDITIONAL STATEMENTS**

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

## **APPRAISAL**

### **Policy**

- 42 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) requires the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The determining issues here are whether the proposals comply with Development Plan policy or if there are other material considerations, which justify a departure from policy. The most relevant policies of the Development Plan are Kinross Area Local Plan policies 2, 10-12, 54 and 64. The Council's Housing in the Countryside Policy 2009 is the most relevant in assessing the principle of the development. The applicant has submitted an Operational Justification for the house. The farm is 45 hectares with 69 head of cattle and 100 breeding ewes and this equates to 1.1 labour units and would increase to 1.5 units at lambing and sowing time. It is considered that there is a demonstrated need for a house at the site and a requirement to stay in relative close proximity to farm stock for security and animal welfare purposes, in accordance with the Council's Housing in the Countryside Policy 2009.
- 43 The application site is within the Area of Great Landscape Value associated with Loch Leven and the Lomond Hills. There is already built development both recent and historic along the slopes of these hills albeit sporadic. The applicant is proposing to provide containment by indigenous tree planting along the west and south boundaries of the site. The proposed house is a traditional style house of 1.5 storeys and would be positioned to the front of the 2 existing agricultural sheds so would not be seen in isolation or against the sky line and as a result it is considered it will not have any adverse impact on the AGLV at this location. It should be noted that the previous application for a house on this site which was refused failed to meet the test for operational need and therefore was also regarded as being unacceptable from a visual point of view. The submission of an adequate justification requires the site to be reconsidered and in that context the proposed design is now regarded as being appropriate in terms of scale and proportion.
- 44 The Loch Leven Catchment Area policies will be satisfied through the conclusion of a Section 75 Agreement for phosphate mitigation.

### **Education**

- 45 The application site falls within the catchment area for Portmoak Primary School where there are no capacity issues at this time and as a result there is no requirement for any financial contribution for education.

### **Traffic**

- 46 The proposed house will be accessed along an existing private farm track onto the public road. The Council's Road Engineers have no objections to this arrangement and there are no conditions recommended on any consent. The

house would be associated with the operation of the existing buildings and therefore the traffic associated with the house would not all be additional traffic.

### **Drainage and Flooding**

47 The proposed house will be served by a private sewage treatment plant and soakaway. The site is within the Loch Leven Catchment Area and the treatment plant will require to mitigate phosphate discharge to the catchment area. A Section 75 Agreement will need to be completed prior to issue of any consent to ensure satisfactory phosphate mitigation, ownership and maintenance of the plant in accordance with Local Plan policy. Disposal of surface water from the site will be in accordance with SUDs best management practice as a condition. There are no flooding issues at the site or within the immediate surrounding area.

### **Residential Amenity**

48 The proposed house is situated in an isolated location with respect to other residences and there are no issues relating to privacy. There is adequate garden ground around the house to provide a satisfactory level of amenity. The house will function as a farmhouse for the farm holding and will be relatively close to the farm buildings. This situation is acceptable in terms of amenity, there being a requirement for the house to be in relative close proximity to stock for bio-security reasons. The occupancy of the house will be tied to the farm business by condition.

### **Design and Layout**

49 The proposed house is a traditional cottage style design at 1.5 storeys with a large garden area to the front. The house will be situated to the front of the existing farm buildings and tree screening to the south and west will contain the overall development as a farm grouping. External finishing materials would be controlled by condition but would be expected to be traditional in type.

### **Natural Heritage**

50 As stated previously above, the proposal will not have any adverse impact on the appearance or status of the AGLV. The proposed house will be sited on an area of improved grassland and will not have any detrimental impact on biodiversity of any existing wildlife habitats.

### **Contaminated Land**

51 Potentially there are a range of contaminants which could be present in agricultural land. This is particularly true of areas used as farmyards and there is the potential for leaked or spilled chemicals. In order to mitigate this Environmental Health require a contaminated ground investigation to be undertaken as a condition and remediation measures proposed if any contamination is found.

## **Sustainability**

- 52 The proposed house is required in order to allow the applicant to run his farm business in a more efficient manner in terms of time and travel allowing better access to his land and to be in closer proximity to his farm stock. The house will not have any adverse impact on the natural heritage interests at the site or in the immediate vicinity. Phosphate mitigation through a Section 75 Agreement will ensure there are no adverse impacts on the nature conservation interests of Loch Leven. This is considered to be in keeping with the overall goal of sustainable development.

## **LEGAL AGREEMENTS**

- 53 Prior to issue of consent a Section 75 Agreement will be required for the phosphate mitigation measures to be implemented with regard to the specification and ownership of the private sewage treatment plant.

## **DIRECTION BY SCOTTISH MINISTERS**

- 54 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, regulations 30 – 32 there have been no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in or notification relating to this application.

## **CONCLUSION AND REASONS FOR RECOMMENDATION**

- 55 The requirement for a house at this location associated with the farm business has been demonstrated satisfactorily in terms of operational need and the proposal is acceptable in principle and in accordance with the Council's Housing in the Countryside Policy 2009. The proposal is also considered acceptable in detail and is generally in accordance with the Development Plan and there are no other material considerations which would justify a different view.

## **RECOMMENDATION**

### **A Approve the application subject to the following conditions:**

#### **Conditions:**

- 1 The development shall be begun within a period of three years from the date of this consent.
- 2 The proposed development must be carried out in accordance with the approved plans, unless otherwise provided for by conditions imposed on the planning consent.
- 3 Details of the specification and colour of the proposed external finishing materials to be used shall be submitted for the approval of the Planning Authority prior to the commencement of the development. The scheme as

approved shall be implemented prior to the occupation and or use of the development. For the avoidance of doubt, the use of natural materials is required in the development.

- 4 Development should not begin until the applicant or their agent has submitted to and have had approved in writing by the planning authority, a ground investigation and reclamation statement that has identified any areas of contamination. This should be restricted to those areas that will form the garden grounds unless the investigation identifies the requirement to assess the ground conditions in relation to the protection of the occupants, building fabric or wider environment from sources identified out with the application area that may cause constraint to the proposed end use. The investigation should be compliant with relevant good practice, government guidance in force and applicable European and British Standards.
- 5 A fully detailed landscaping plan, including details of all hard and soft surface and boundary treatments and all planting shall be submitted and approved in writing by the Planning Authority before work is commenced on site. The scheme as approved shall be fully implemented during the first planting season following commencement of works on site, unless otherwise agreed in writing.
- 6 The occupation of the dwellinghouse shall be restricted to a person solely or last employed locally in agriculture at Wester Balgedie Farm as defined in Section 277(1) of the Town and Country Planning (Scotland) Act 1997 or a dependant of such a person residing with him or her (but including a widow or widower of such a person).

**Reasons:-**

- 1 In accordance with the terms of Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended by Section 20 of the Planning etc (Scotland) Act 2006.
- 2 To ensure that the development is carried out in accordance with the plans approved.
- 3 In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.
- 4 In order to deal with any potential contamination of the site as a result of its former use.
- 5 In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.
- 6 The dwellinghouse has been approved as an essential house within the terms of the Planning Authority's Policy on Houses in the Open Countryside.

## **B JUSTIFICATION**

The proposal is considered to comply with the Development Plan and the Council's Housing in the Countryside Policy 2009 and there are no other material considerations that would justify a departure there from.

## **C PROCEDURAL NOTES**

- 1 Consent shall not be issued until a Section 75 Agreement has been completed and signed by the applicant in order to secure the ownership and maintenance of a sewage treatment plant which is suitable to mitigate phosphate discharge to the Loch Leven Catchment Area.

## **D INFORMATIVES**

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

Background Papers: 7 letters of representation

Contact Officer: Mark Williamson – Ext : 475355

Date: 16 April 2010

**NICK BRIAN  
DEVELOPMENT QUALITY MANAGER**





