

Perth and Kinross Council
Development Control Committee –7 July 2010
Report of Handling by Development Quality Manager

Widening and retention of side slopes, lowering and widening of A822 at Ladywell and landscaping measures at sites along the A822 at Inver, Birnam

Ref No: 10/00607/FLL
Ward No: 5 Strathtay

Summary

This report recommends approval of an application for the widening and retention of side slopes, lowering and widening of A822 at Ladywell and landscaping measures at sites along the A822 at Inver, Birnam on the grounds that the proposal complies with the Development Plan and that the road improvements will be a significant benefit to the local road network.

BACKGROUND AND DESCRIPTION

- 1 Consent for the Griffin wind farm was granted by the Scottish Ministers, under Section 36 of the Electricity Act 1989, in January 2008 after a public inquiry held between the 12 September 2006 to 19 October 2006. At the same time, deemed planning permission for the wind farm was issued by the ministers under section 57(2) of the Town & Country Planning (Scotland) Act 1997.
- 2 The existing local road network is capable of safely accommodating the majority of the construction and operation vehicular traffic associated with the wind farm development. However, during the inquiry, it was made clear by the Council as Roads Authority that the 550 (approx) abnormal load¹ movements required to construct the wind farm would require the local road network to be improved, involving works outwith the realms of the road boundary.
- 3 Although various potential routes were discussed at the inquiry (some in more detail than others), neither the s36 consent or the deemed planning permission covered the detail of works required in respect of upgrading the local road network to facilitate the safe movement of the abnormal loads as the required works were not proposed as a part of the s36 application. However, deemed planning permission was granted in favour of the developer by the Ministers for minor works within the road boundary i.e. for the creation of localised passing places within the road boundary.
- 4 At the Griffin Inquiry (and during other subsequent inquiries for wind farms in the area²), the Ladywell Route was suggested as one of the preferred routes. With the timetable for the construction phase of Griffin due to commence during the first quarter of 2011, the Griffin developers have now formally submitted a planning application for the road improvements which are required to facilitate

¹ 'Abnormal loads' consist of vehicles which exceed the statutory weight, width or length of normal commercial vehicles and as a consequence legally require a police escort

² Calliacher Windfarm Inquiry (P/PPA/ 340/685, PKC- 07/01938/FUL)
Logiealmond Windfarm Inquiry (PPA-340-733, PKC - 07/01938/FUL)

the use of their preferred option, the Ladywell route. Accordingly, this planning application refers to the road improvements associated with facilitating the use of this route for the movement of the abnormal loads.

- 5 Road improvements are required as, at the present time, Ladywell Bridge has a height restriction which could not accommodate the highest vehicles (tower sections & nacelles), and the A822 current road alignment is not sufficient to accommodate the longest vehicles (blades). It is therefore proposed to undertake road improvements over an area of approx 1.975 ha that extends from Ladywell north-east towards Ladywell Bridge and thereafter west towards the junction of the A822 and the C504 (Inver Road). The schedule of works includes,
 - Lowering of the A822 road level under the Ladywell Bridge
 - Localised widening adjacent to Ladywell Bridge
 - Re-grading and realignment works to the A822 adjacent to the Ladywell Bridge
 - Retention and reprofiling works to side slopes
 - Landscaping measures to improve visibility
- 6 If the Ladywell route is to be used for the movement of the abnormal loads, vehicles would leave the A9 at Dunkeld and proceed to travel along the A822, under the altered Ladywell Bridge corner. Vehicles would then leave the A822, at the junction with the A826, and travel north to the A826 to Scotston, where they would then leave the public road and continue onwards via a private track up to the Griffin wind farm construction site. Once the abnormal loads have been delivered to the site, the vehicles would return back via the same route to the A9.
- 7 To allow for the works to be carried out, it will be necessary to close the A822 for the duration of the works. As a consequence of the road closure, a traffic diversion scheme would be required to ensure that while the A822 is closed at Ladywell Bridge, the Inver Road would still permit the passage of local domestic traffic. The Inver Road is unsuitable for general commercial vehicles. To prevent the use of the Inver route by heavy traffic a temporary weight restriction of 3.5 tonnes would be applied for the duration of the works at Ladywell.

PROCEDURAL MATTERS

The Inver Route

- 8 Members will be aware of a planning application (10/00423/FLL) being lodged by the same applicant as for this application, for road improvements along the C504 Inver Road, which would have facilitated the movements of abnormal loads through an alternative route, coined the 'Inver Route'. Members should note that this application was formally withdrawn by the applicant on 21 June 2010.

- 9 The applicant has indicated that the decision to withdraw this application was based on an acknowledgement of the substantial level of objection generated through the planning process, and consideration of the views offered from various bodies including the local community liaison group. In withdrawing the Inver Route application, the applicants hope to demonstrate their continued willingness to work with the local community to mitigate and / or limit any significant adverse impacts resulting from the development of Griffin wind farm where possible

Implications of other alternative routes

- 10 Members will be aware of other potential routes for the movement of abnormal loads that have either been suggested by third parties within their representations to this application, or that have been considered during discussions at the various public inquiries for wind farms within the area, including the Griffin inquiry. It is crucial that the determination of this planning application is made on its own planning merits, and not for the reason that another potential route may be more suitable (or desirable) to avoid the potential for a subsequent legal challenge of the Council's decision.

Validity of determining the Planning Application

- 11 Within the representations it has been suggested that Perth and Kinross Council has erred by accepting this planning application, as the proposals should have been considered as a variation to the approved s36 consent and/or the deemed planning permission.
- 12 Contrary to what has been stated within the representations, the s36 consent is not technically the same as the deemed planning permission. The Electricity Act 1989, s36 refers to a 'generating station not being constructed, extended or operated except in accordance with a consent granted by the Scottish Ministers'. Although 'consent' is not defined, it is clearly set down that, on granting a consent under s36 or 37 of the 1989 Act, the Scottish Ministers may direct that planning permission for that development and any ancillary development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction. On this basis, s36 consent and deemed planning permission are therefore distinct entities.
- 13 Perth and Kinross Council, as a Planning Authority in receipt of this planning application for road improvements, must therefore carefully consider the terms of the deemed planning permission only, and not the terms of the s36 consent (which was for the operation of an electricity generating station).
- 14 The condition which is most relevant in terms of potential road improvements is referred to in Para 6.35 of the deemed planning permission, and reads:-

"Prior to the Commencement of Development and over the period of construction, where deemed necessary, the A822 and A826 shall be improved by means of passing places/strip widening at locations to be agreed with the Planning Authority in consultation with the relevant Roads Authority. All works

shall be carried out to the standard and specification of the Planning Authority and/or relevant Roads Authority.”

- 15 On a simple wide reading, this condition would give prior consent for any road improvements to the A822 and A826. On this basis, no further consent would be needed, this planning application would not be required, and no third party representation possible. However, the key issue in relation to this condition, and what has been approved as part of the deemed planning permission, is the definition of what constitutes a ‘road’.
- 16 The Roads (Scotland) Act 1984, s151 defines a road as *“any way (other than a waterway) over which there is a public right of passage (by whatever means) and includes the road verge, and any bridge (whether permanent or temporary) over which or tunnel through which, the road passes”*. Having consulted Legal Services, it is the clear view that the deemed planning permission condition relating to road improvements is limited, at best, to the definition of a road made under the Roads (Scotland) Act 1984, which is essentially the road up to and including the verge. As the proposed roads improvements, subject of this planning application, clearly involve works outwith the scope of the road boundary, the proposal falls beyond the terms of the deemed planning consent. It is therefore entirely appropriate that the Council, as Planning Authority, proceeds to determine this planning application for road improvement works. This position has been applied in practice previously to road improvements relating to other wind farm developments.

Screening for an Environmental Impact Assessment

- 17 The Council has carried out a screening opinion for the proposal. The proposed works falls within Schedule 2 of the Environmental Impact Assessment (Scotland) Regulations, 1999. However, it is considered that the proposed works are unlikely to have a significant effect on the environment. The Council has adopted a screening opinion to the effect, and accordingly, concluded that the proposal is not an EIA development.

NATIONAL PLANNING POLICY AND GUIDANCE

- 18 The Scottish Government expresses its planning policies through The National Planning Framework 1 & 2, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Designing Places, Designing Streets, and a series of Circulars.

The Scottish Planning Policy 2010

- 19 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 92-96: Rural Development.
 - Paragraph 137: National Scenic Areas
 - Paragraphs 165 -181: Transport
 - Paragraphs 182 -196: Renewable Energy

DEVELOPMENT PLAN

- 20 The Development Plan for the area comprises the Approved Perth and Kinross Structure Plan 2003 and the Adopted Highland Area Local Plan 2000.

Perth & Kinross Structure Plan 2003

- 21 The application site lies in the upland area of the plan, where the overall strategy seeks to support diversification and to sustain fragile communities. Although there are general policies relating to renewable energy proposals, as this application is to help facilitate a renewable energy proposal as opposed to the project itself, the only relevant structure plan policies relate to general environment policies.
- 22 **Environment and Resources Policy 1** states that the Council will seek to safeguard the long term diversity and sustainability of species and natural and semi-natural habitats in Perth and Kinross. The Tayside LBAP will be a material consideration in the identification of land allocations in Local Plans and in the assessment of development proposals. Where there is a potential adverse effect upon local biodiversity, an ecological appraisal will be sought and considered before the proposal is determined. Criteria for the assessment of proposals will be developed.
- 23 **Environment and Resources Policy 2** states that the protection and conservation of wildlife, habitats and other natural features will be supported. Development affecting areas designated as being of international or national importance will only be permitted where it can be demonstrated that:
- the objectives of designation and the overall integrity of the area will not be damaged.
 - there are no alternative solutions.
 - there are imperative reasons of overriding public interest including social or economic considerations.

Local Plans will identify those areas of local importance and prepare policies to ensure their management, protection and enhancement

- 24 **Environment and Resources Policy 3** states that developments should not compromise the conservation objectives and overall integrity of National Scenic Areas unless there is a proven public interest where social or economic considerations outweigh the scenic quality and integrity of the area and development cannot be met in other less damaging locations. Local Plans will identify those areas of local importance and prepare policies to ensure their management, protection and enhancement. Where development is proposed it should be of the highest standard of design.

Highland Area Local Plan 2000

- 25 The application site lies within the landward area of the Highland Area Local Plan 2000, therefore the following policies are relevant to this proposal.
- 26 **Policy 1 (Sustainable Development)** seeks to ensure, where possible, that development within the Plan area is carried out in a manner in keeping with the goal of sustainable development. Where development is considered to be incompatible with the pursuit of sustainable development, but has other benefits to the area which outweigh this issue, the developer will be required to take whatever mitigation measures are deemed both practical and necessary to minimise any adverse impact. The following principles (amongst will be used as guidelines in assessing whether projects pursue a commitment to sustainable development: -
- The quality of the natural environment should be maintained or improved.
 - Where there is great complexity or there are unclear effects of development on the environment, the precautionary principle should be applied.
 - The costs and benefits (material and non-material) of any development should be equitably distributed.
 - Biodiversity is conserved.
- 27 **Policy 2 (Development Criteria)** states that developments within the Plan area will be judged against a series of criteria including, landscape framework the scale, form, colour, and density of development compatible with its surroundings. The local road network should be capable of absorbing the additional traffic generated by the development and the site should be large enough to accommodate the impact of the development.
- 28 **Policy 3 (Landscape)** states that Development proposals should seek to conserve landscape features and sense of local identity, and strengthen and enhance landscape character. The Council will assess development that is viewed as having a significant landscape impact against the principles of the Tayside Landscape Character Assessment produced by Scottish Natural Heritage.
- 29 **Policy 18 (Designated Landscapes)** states that The Council will oppose developments which would have an adverse impact on the landscape character and visual amenity of the National Scenic Areas identified on Proposals Map 1.

OTHER COUNCIL POLICIES

30 None directly applicable to this proposal.

SITE HISTORY

31 There has been no previous planning history relating to this site. However, the granting by the Scottish Ministers of the Griffin wind farm development in 2008 has resulted in this application being brought forward by the applicants. This application relates to road improvements which would facilitate the safe movement of abnormal loads required to construct the wind farm.

CONSULTATIONS

32 **Scottish Natural Heritage** have commented on the application and raised no objections.

33 **Scottish Water** have commented on the application and raised no objections.

34 **Network Rail** have raised no objection over the proposal in principle.

35 **Kenmore & District Community Council** have commented on the proposal even though the proposal is technically out with their administrative boundary area. Although they have raised no concerns in terms of the visual aspect, they have raised some concerns regarding the potential road closures / diversions which would be required as part of the proposals and the subsequent impact that the closures diversion would have on local business.

REPRESENTATIONS

36 At the time of writing, twenty two letters of representations had been received objecting to the proposal.

37 The representations have raised the following relevant issues: -

- The proposal is contrary to the Development Plan
- Road safety issues
- Adverse Visual Impact
- Unacceptable length of the time for closure of A822 and length of diversions
 - Concerns over the lack of an Environmental Impact Assessment and Transport Assessment.
 - Technical issues regarding the terms of the s36 consent and deemed planning permission relating to the Griffin windfarm

38 These issues are addressed in the appraisal section of this report.

ADDITIONAL STATEMENTS

39	Environment Statement	Not required
	Screening Opinion	Carried out by Perth and Kinross Council
	Environmental Impact Assessment	Not required
	Appropriate Assessment	Carried out by Perth and Kinross Council
	Design Statement / Design and Access Statement	None
	Report on Impact or Potential Impact	None

APPRAISAL

Policy

- 40 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.
- 41 In terms of the Development Plan, despite the level of representations that this application has received, the proposal in terms of infrastructure projects is relevantly minor and localised in nature therefore the most relevant policies are those contained in the adopted Local Plan, which is the Highland Area Local Plan 2000 (HALP). In terms of the HALP, the three principal tests of the acceptability of this proposal are (a) whether or not the proposal will have an unacceptable impact on the landscape character of the area (Policies 2 & 3), (b) whether or not the character of the area will be adversely affected by the proposal (Policy 3) and (c) whether or not the integrity of the National Scenic Area will be adversely affected by the proposal (Policy 18). For reasons stated elsewhere in the report, I consider the proposal acceptable in terms of these issues
- 42 In terms of other material considerations, it is important to consider the position of the approved Griffin wind farm proposal, which benefits from s36 consent and deemed planning permission. For reasons stated elsewhere in the report, the Council considers it appropriate to treat this application on its own planning merits and not those directly associated with the Griffin wind farm. It is a fact that the application is to enable the Griffin wind farm to be implemented, however I would consider it inappropriate in planning terms to be supportive of this proposal simply because the wind farm development has been supported by the Scottish Government. Members should therefore be aware of the background behind this application, but consider the proposal on its own merits in terms of the Development Plan.

Impact on Landscape Heritage

- 43 The application site lies within the River Tay (Dunkeld) National Scenic Area (NSA) which is the only landscape designation affected by this proposal. Scottish Natural Heritage (SNH) have commented on the application specifically in terms of the impact on the NSA and opined that it is unlikely that the proposed works will adverse impact on the landscape character of the local area due to the enclosed location of the site and the existing topography, which includes the railway embankment. SNH have noted that the existing trees which are to be removed are all young to semi-mature in age, and therefore their removal would have very limited visual impact. I fully concur with the views of SNH on this matter, and do not consider this proposal to have any significant impact on the overall integrity of the NSA. Subject to detailed landscaping proposals being submitted, I therefore consider the proposal to be in accordance with the requirements of Policies 3 and 18 of the HALP.

Impact on the Character of the area

- 44 As the level of engineering works proposed as part of the road improvements is relevantly minor in nature in terms of infrastructure projects (essentially comprises proposed re-profiling of both sides of the A822 and tree removal) it is unlikely that the proposed works will have a significant impact on the local character of the Ladywell Bridge area. However, the one notable feature of the area is the small dry stone wall roadside revetments which flanks both sides of the existing road. As part of the final design/landscaping proposals, the Council will seek the replication of this attractive feature (where possible), as well as an appropriate landscaping scheme for replanting. Subject to appropriate details being submitted in respect of final landscaping and the replacement revetments, the proposal meets with the aims of Policy 2 of the HALP, as the existing landscape framework of the area is capable of absorbing the proposed works without resulting in a significant change to its local character.

Impact on UK & European Protected Species

- 45 The proposal has the potential to have an impact on local red squirrels and bats populations, both of which are protected species. Red squirrels and their dreys are protected under the Wildlife & Countryside Act (1981). To help conserve the local red squirrel population and to avoid any potential unlawful impacts and disturbance, trees which are to be removed will be checked for dreys by a suitably qualified consultant in the week prior to felling work starting. In terms of bats, a bat survey has already been carried out by the applicant, and a further survey will be carried out prior to works commencing as recommended by the applicants consultant. I therefore have no objection in terms of the impact on protected species.

Road Safety Issues

- 46 Road improvements at the Ladywell Bridge area have been the subject of rigorous discussion between the applicant and the Council, as Roads Authority, to ensure that any improvements to this route accords with all the standard and

specifications required by the Council, and to ensure that works in the long term will benefit the wider local road network. Despite the level of representations received in respect of this application, the fact is that from a roads related perspective, the improvements will resolve a number of existing problems with the Ladywell Bridge area (steep gradient, poor visibility, unstable side slopes / retaining walls) that collectively result in the area being an ongoing area of concern for the Council due to the potential risks of accidents and collisions involving both vehicles and pedestrian. The proposed road improvements will unequivocally address all the existing road safety concerns, at no financial cost to the Council and, in the opinion of the Council, without detrimentally impacting on the visual amenity of the area.

Road Closures / Diversions

- 47 One of the main issues for this proposal is the need to close the A822 over the period of proposed works, which has been estimated at approx 6months. Consent to close the A822 must be obtained from the Council as Roads authority, and an application to do so will need to be accompanied by a traffic diversion scheme to cater for the closure. Although the closure, and subsequent diversions will inevitably disrupt the local road network, the closure and subsequent diversions will not jeopardize either vehicular or pedestrian safety and will be temporary.

Impact on Residential Amenity

- 48 In terms of direct impact on existing residential amenity, such as overlooking, loss of privacy etc, there will be little impact as a result of this development.

Impact on Economy

- 49 Concerns have been raised in the representations regarding the potential impact that this proposal may have on a number of tourist related activities in the local area, namely the,
- The Inver Mill caravan park
 - Various holiday cottages
 - River Braan, which offers fishing, swimming and other leisure pursuits
 - income from visitors to the 'The Hermitage'
- 50 It is accepted that there will be some localised disruption and inconvenience for locals and visitors whilst the A822 is closed and localised diversions are implemented, however there is no evidence which clearly demonstrates that the proposed road improvements would have a lasting negative impact on the local economy of the area.

Drainage

- 51 There are no issues regarding surface water drainage arising from this proposal.

Impact on Special Area of Conservation (SAC)

- 52 The site lies within the vicinity of the River Braan, which is part of the River Tay (Dunkeld) SAC. SNH have confirmed that there is unlikely to be any impact on the integrity of the SAC as a result of this proposal. There are therefore no issues arising from the SAC, however, in the interest of good practice, the Council will be seeking a Construction Method Statement from the applicant prior to the commencement of any works on site.

Impact on Cultural Heritage

- 53 There will be no impact on any Listed Buildings, Conservation Areas, Scheduled Ancient Monuments, historic gardens and designed landscapes or archaeological sites.

Lack of Environmental Statement and Transport Statement

- 54 The level of the works proposed do not require the submission of either an Environmental or Transport Statement. This however does not restrict the Council in what information it can request if it so requires. During the course of the application, further information was requested from the applicant; however no further information in relation to Environmental or Transport Statements is required to determine this application.

S36 consent and deemed planning permission

- 55 As outlined in paragraphs 11-16 and contrary to the views offered in the representations, the proposed road improvements must be treated as a detailed planning permission in its own right and not as a variation of the extant consents from the Scottish Government. It is the view of the Council that any other approach to dealing with the proposed works (i.e. through a variation of the extant deemed planning permission) would not be appropriate.

Local Path Network

- 56 There is unlikely to be any impact on the quality of the local path network as a result of this proposal.

LEGAL AGREEMENTS

- 57 None required.

DIRECTION BY SCOTTISH MINISTERS

- 58 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 REASON FOR RECOMMENDATION

- 59 The implementation of the proposed road improvements will without a doubt assist in the construction of the consented Griffin wind farm; however, this is not the planning reason for supporting this proposal. The principle reason for recommending approval of this application is that collectively that proposed works constitute significant road improvements to an historic problematic area within the Councils local road network at no financial cost to the Council as Roads Authority. The proposed road improvements will not result in a significant impact on the visual impact on the amenity of the area, and although there will inevitably be some localised disruption due to the temporary road closures, the residential amenity of both locals residents and visitors will not be adversely affected in the long term. I therefore do not consider there to any material reason(s) not to support this application, and ultimately recommend approval, subject to appropriate conditions.

RECOMMENDATION

A Approve the application subject to the following conditions

- 1 The proposed development must be carried out in accordance with the approved plans, unless otherwise provided for by conditions imposed on the planning consent.
- 2 The development shall be begun within a period of three years from the date of this consent.
- 3 Prior to the commencement of any works on site, precise details of the new roadside revetments shall be submitted for the approval in writing by the Council as Planning Authority.
- 4 Prior to the public use of the road, all matters regarding the road layout, design and specification, including the disposal of surface water, shall be in accordance with the standards required by the Council as Roads Authority and to the satisfaction of the Council as Planning Authority.
- 5 Prior to the commencement of any works on site, a Construction Method Statement (CMS) shall be submitted for the approval in writing by the Council as Planning Authority which identifies measures to prevent harmful materials potentially entering the River Tay (Dunkeld) Special Area of Conservation, which could reduce water quality and have a detrimental impact upon the salmon and lamprey interests. The CMS should include the following:
 - a) pollution prevention safeguards, including drainage arrangements and the possible use of siltation traps, settlement tanks and bunds;
 - b) storage and disposal of materials, including the siting of stock piles, use of buffer strips and disposal methods;
 - c) construction site facilities, including extent and location of construction site huts, vehicles, equipment, and materials compound;
 - d) timing, duration and phasing of construction, particularly in relation to salmon and lamprey migration/spawning

- 6 Prior to the commencement of any works on site a detailed landscaping scheme (including timescales for implementation) shall be submitted for the approval in writing by the Council as Planning Authority. The approved scheme shall be implemented in full within the agreed timescale, to the satisfaction of the Council as Planning Authority.
- 7 Prior to the commencement of any works on site a detailed tree survey shall be submitted to the Council as Planning Authority, which clearly indentifies all proposed tree removals to the satisfaction of the Council as Planning Authority.
- 8 All trees which are to be removed must be checked for red squirrel dreys (by a suitably qualified consultant) in the week prior to the felling and the Council as Planning Authority notified in writing that this has been undertaken.
- 9 Prior to the commencement of any works on site, a further bat survey shall take place and a copy of which forwarded to the Council as Planning Authority and to Scottish Natural Heritage.

Reasons-

- 1 To ensure that the development is carried out in accordance with the plans approved.
- 2 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.
- 3 In the interest of visual amenity.
- 4 In the interest of road and pedestrian safety
- 5 In the interest of nature conservation
- 6 In the interest of visual amenity
- 7-9 In the interest of proper site management

B JUSTIFICATION

The proposal is in accordance with the Development Plan and there are no material reasons not to support the application.

C PROCEDURAL NOTES

None

D INFORMATIVES

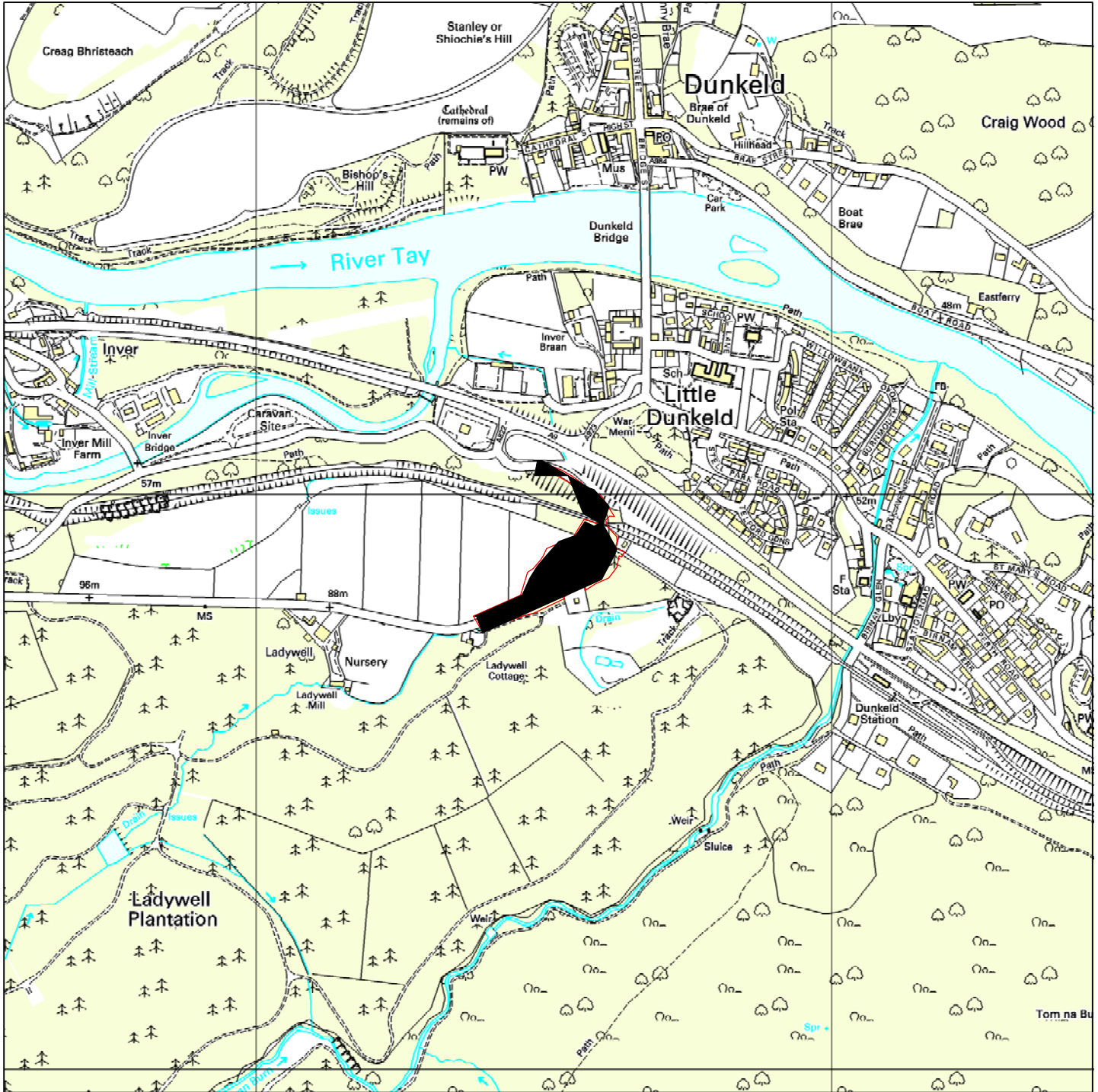
- 1 Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give

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 The applicant should be advised that in terms of section 21 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to construct a new road prior to the commencement of roadworks. 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.

Background Papers: Twenty two letters of representations.
Contact Officer: Andy Baxter, Ext 75339
Date: 24 June 2010

Nick Brian
Development Quality Manager



Scale : 1:10000

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Organisation	Perth & Kinross Council
Department	Planning
Comments	
Date	07 June 2010
SLA Number	100016971

