

Perth and Kinross Council
Development Control Committee – 11 August 2010
Report of Handling by Development Quality Manager

**Residential development (in principle) at
Land to the North East of Caitlan, Donavourd**

Ref No: 10/00698/IPL
Ward No: 4- Highland

Summary

This report recommends approval of the application for residential development in principle as the development is considered to comply with the relevant policies of the Development Plan, in particular Policy 87 of the Highland Area Local Plan 2000.

Background and Description

- 1 Planning permission in principle is sought for a residential development on land to the North East of Caitland, Donavourd. The eastern boundary of the application site sits adjacent to the U165 public road. The application site extends to the west down a gentle slope and opens up into a larger site which is occupied by a number of mature trees. The site is bound to the north by an existing access track serving Woodlands Cottage and Sheildaig to the west. A mixture of stone wall and post and wire fencing occupies part of the northern boundary of the site. The stone wall continues around the west of the site. The garden ground of Woodlands Cottage and Sheildaig sit to the west of the application site. The south west boundary is bound by a number of large mature trees with the property Caitlin beyond these trees. Directly to the south are two further adjoining properties known as Chauffer's Cottage and Donavourd Stables. The eastern side of the site adjacent to the public road is currently occupied by a small group of dilapidated, derelict out of use buildings and a mature hedge.
- 2 The application includes an indicative layout for three houses on this site. However, this application is for permission in principle and therefore it is only the principle of residential development which is under consideration here. Any detailed design, layout or numbers would be assessed as part of the submission of "matters specified in conditions" should this application be approved.

National Policy and Guidance

Scottish Planning Policy 2010

- 3 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:

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- Paragraphs 66-91 Housing
- Paragraphs 92-97 Rural Development
- Paragraphs 125-148 Landscape and Natural Heritage
- Paragraphs 165-181 Transport

Development Plan

5 The Development Plan for the area consists of the Approved Perth and Kinross Structure Plan 2003 and the Adopted Highland Area Local Plan 2000.

Perth and Kinross Structure Plan 2003

Strategy 3 Upland Area

6 The strategy seeks to support diversification and to sustain fragile communities.

7 The principal relevant policies are in summary: -

Sustainable Communities Policy 7

8 Housing in the countryside will be acceptable providing it complies with criteria. This policy relates only to small settlements identified in the Local Plan and not housing in the countryside area.

Environment and Resources Policy 2

9 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.

Highland Area Local Plan 2000

- 10 Under the Local Plan the site lies within the settlement boundary for Croft and Loan, Donavourd, East Haugh and Ballyoukan. The principal relevant policies are in summary:

Policy 1 Sustainable Development

- 11 This sets out the criteria to ensure the goals for sustainable development are achieved including use of non renewable resources, maintain or improve the quality of the environment, the precautionary principle is applied, biodiversity is conserved, minimisation of waste and pollution and to meet local needs and enhance access to employment facilities, goods and services.

Policy 2 Development Criteria

- 12 All developments within the Plan area will be judged against a series of criteria including landscape framework capable of absorbing, and if necessary, screening the development, the scale, form, colour, and density of development, compatibility with its surroundings in land use terms, local road network, sufficient spare capacity in drainage, water and education services, the site should be large enough, buildings and layouts to be energy efficient and where possible be located in those settlements which are the subject of inset maps.

Policy 3 Landscape

- 13 Where developments shall seek to conserve landscape features.

Policy 14 Natural Heritage

- 14 The Council will not normally grant consent for development which will have a detrimental impact on nature conservation interests.

Policy 87 Village Uses

- 15 Scope may exist for infill development but only where this will not adversely affect the density, character or amenity of the village and where a suitable access can be obtained.

Other Policies

Education Contributions

Planning Guidance Note – Developer Contributions May 2009

- 16 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

- 17 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

- 18 06/00794/OUT – Erection of a dwellinghouse – Refused 26 July 2006
- 19 06/00952/OUT – Demolition of existing kennels and erection of 3 dwellinghouses on site and adjacent field with vehicular access (in outline) – Approved 21 July 2006
- 20 07/02604/FUL – Erection of 2 dwellinghouses with double garages – Withdrawn 10 April 2008 after request for Tree Survey

Consultations

- 21 **Education and Children’s Services** – Developer Contribution Policy should be applied due to capacity problems at local primary school.
- 22 **Scottish Water** – No objections.
- 23 **Pitlochry and Moulin Community Council** – Concerns regarding capacity of road network to serve development, density proposed, contrary to Government guidance and Development Plan.

Representations

- 24 A total of 7 letters of representation have been received, all of which are objecting to the proposal, including one from the Pitlochry and Moulin Community Council.

Summary of Issues raised by Representations

- 25 The representations have raised the following relevant issues: -
- Road/traffic/pedestrian Safety
 - Contrary to Development Plan
 - Contrary to Government Guidance
 - Effect on existing electricity cable (not a material planning consideration)

- Drainage
 - Residential Amenity
 - Legal Issues between this site and neighbouring plots (not a material planning consideration)
 - Impact upon trees
 - Natural Heritage/Protected Species
 - Density of development
 - Impact on private water supplies (not a material planning consideration)
- These issues are all raised in the Appraisal section of this report.

ADDITIONAL STATEMENTS

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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

Policy

- 27 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 listed in the policy section above.
- 28 The principle of residential development on this site was established through the granting of outline planning consent on 21 July 2006. This planning consent expired in July 2009. This application is for planning permission in principle and is therefore submitted solely to establish whether the principle of residential development on this site is considered acceptable. An indicative layout showing three houses has been submitted. Policy 87 of the HALP applies in this instance, which states that some scope may exist for infill development but only where this will not adversely affect the density, character and amenity of the village and where a suitable access can be obtained. Proposals which erode areas of public or private open space will be resisted. The application site is entirely designated as "white land" in the HALP which allows for the above. The density levels in this part of Donavoured are relatively low and the area is characterised mainly but not exclusively by detached properties in large plots. The application site is extensive and comparable in size to neighbouring plots. In my view residential development can be accommodated on this site with a similar density level as surrounding development which would not affect the character of the area, although I am

not convinced that a total of three dwellinghouses is considered acceptable in terms of density. The principle of development therefore complies with the Development Plan. I intend to recommend a condition that the layout plan submitted is indicative only and that no layout or numbers are approved. Any layout and numbers can be assessed in more detail upon the submission of a further separate application for “approval of matters specified in conditions”. This layout would require to take account of the findings of the tree survey and protected species survey which are referred to in more detail in the paragraphs below.

Trees

- 29 The application site is occupied by a number of mature trees and well established hedging on its boundaries. Having discussed the proposal with the Council’s Bio Diversity Officer I intend to recommend a condition that a tree survey is submitted as part of the “approval of matters specified in conditions”. Detailed consideration of the tree survey and the layout, which will require to take account of the tree survey findings can be carried out at the “approval of matters specified in conditions” stage.

Residential Amenity

- 30 The application site can potentially accommodate built development without any detrimental impact on the amenity of neighbouring properties in terms of overlooking and overshadowing. As this application relates to permission in principle there is no requirement to assess that information at this stage since this would be determined on the basis of the detailed layout and designs as lodged in due course.

Education

- 31 The General Register Office for Scotland’s 2006 based population projections indicates that Perth and Kinross has the highest growth rate across all of Scotland. In addition, the more detailed analysis of age breakdown indicates a fundamental shift from a declining primary school population to an increasing number of school age children in the period to 2031. This is the second highest projected increase in primary school population age groups within Scotland.
- 32 With much of the existing primary school estate currently working at or near capacity, these projected increases will result in the need to replace or expand over 65 primary schools within Perth and Kinross in addition to the construction of a number of additional primary schools. With the population increase of Perth and Kinross driven by in-migration, largely from other parts of the UK, a partnership approach is required between the Council and developers to ensure infrastructure capacity is not to become a major constraint on new development.
- 33 The Council’s recently adopted Planning Guidance Note: Primary Education and New Housing Development takes account of these growth projections and allows planning consents to be issued despite constraints in capacities at local

primary schools. This is done by seeking a contribution from developers towards the upgrade and expansion of the local primary school. At the time of writing there is considered to be capacity problems at the local primary school and therefore the above policy would apply to this site. I therefore intend to attach a condition to ensure this matter is addressed at the “approval of matters specified in conditions” stage. Whilst this policy does not apply to sites which have existing planning consents, the outline planning consent which was granted for this site has since expired and therefore the policy requires to be applied in this instance.

Traffic

- 34 The Council’s Roads Engineers have raised no objection to the proposal subject to conditions controlling the access bell mouth type, the widening of the public road adjacent to the site, the formation of visibility splays, the provision of turning and parking all details of which are to be submitted at “approval of matters specified in conditions”. The above conditions are considered sufficient to ensure the safety of both pedestrians and traffic around the Development site. In addition the land required for these works lies within the control of the applicant.

Drainage and Flooding

- 35 Concern has been raised through letters of representation from neighbouring residents regarding the legal private water supply rights which five properties have and the potential for contamination and pollution from various sources during the construction of any development approved. Construction noise, practice and impact on neighbouring properties during construction is controlled by separate legislation and not through planning legislation and therefore is not a material consideration in the assessment of this application.
- 36 The application site is proposed to be connected to a private drainage system and discharge is to land via a soakaway. The specific details of the foul drainage system will be requested by planning condition to be submitted at the “approval of matters specified in conditions” stage and fully assessed then.
- 37 The control of odour from septic tanks is covered by the Environmental Protection Act 1990 under section 79 (Statutory Nuisances). The Council’s Environmental Health Department have powers to deal with statutory nuisances such as this under this legislation. Furthermore the requirements of Building Standards will ensure that the proposed sewage disposal system meets regulations in regard to odour emissions.
- 38 It is proposed to connect the site to the public water supply network.

Natural Heritage/Protected Species

- 39 Letters of representation have raised concern regarding the presence of protected species including red squirrels and birds. I intend to recommend a condition to ensure that a survey of protected species, including bats, birds and

red squirrels is submitted with any application for “approval of matters specified in conditions”. This matter can then be adequately assessed at that stage. This is considered to meet the terms of Policy 14 of the Highland Area Local Plan 2000.

Private Water Supply

- 40 Any issue between the applicant and neighbours in regard to water supply is considered to be a separate legal matter and not an issue which the Planning Authority can become directly involved in.

Legal Agreements

- 41 None required.

Direction by Scottish Ministers

- 42 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

- 43 The principle of residential development on this site is considered to comply with the Development Plan. Outline planning consent was granted in 2006 and no Development Plan policies have changed since that approval. The detailed design, layout and number of units can be considered during the assessment of a further application and controlled by planning conditions. The protection of existing trees and protected species can also be suitably controlled by planning condition. Traffic safety can be suitably addressed by imposing conditions recommended by the Council’s Roads Engineers. The proposal is considered to comply with the contents of the Development Plan and there are no material considerations apparent which would outweigh the Development Plan in this instance.

Recommendation

A Approve the application subject to the following conditions:

- 1 Application for the approval required by a condition imposed on this Planning Permission in Principle shall conform with the requirements of Regulation 12 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 and of Section 59 (2) and (3) of the Town and Country Planning (Scotland) Act 1997 as amended by Section 21 of the Planning etc. (Scotland) Act 2006 and, in particular, must be made before whichever is the latest of the following:
- (i) the expiration of three years from the date of the grant of the planning permission in principle,

- (ii) the expiration of six months from the date on which an earlier application for the requisite approval was refused, or
 - (iii) the expiration of six months from the date on which an appeal against such refusal was dismissed.
- 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
 - a comprehensive full tree survey
 - all means of enclosure
 - the car parking and means of access to the site
 - a protected species survey for bats, squirrels and birds including details of habitat and mitigation measures
 - full details of the foul and surface water drainage
- 3 The submission of detailed landscaping proposals referred to in condition 2 shall include a detailed landscaping plan and planting scheme for the further approval of the Planning Authority prior to the commencement of development. The scheme shall include details of height and slopes of any mounding or re-contouring of the site and of species, height, size and density of trees and shrubs to be retained and/or planted and phased implementation where appropriate. The scheme as subsequently approved shall be implemented during the first planting season as part of the development of the site and thereafter maintained to the satisfaction of the Planning Authority. Any planting failing to become established within five years shall be replaced in the following planting season with others of similar size and species to the satisfaction of the Planning Authority.
- 4 The submission of a comprehensive tree survey referred to in condition 2 shall include details of all trees to be retained and removed and reasons for any tree removal. The survey shall also identify root protection areas of all trees to be retained on site all to the satisfaction of the Planning Authority.
- 5 The indicative site layout and number of units on drawing ref 10/00698/2 is not approved and the density should reflect the character of the surrounding area.
- 6 The development shall be in accordance with the requirements of the Council's Primary Education and New Housing Development Policy approved in May 2009 all to the satisfaction of the Council as Planning Authority.
- 7 The submission of car parking and means of access referred to in Condition 2 shall include details of the vehicular access to be formed in accordance with specification Type B, Fig 5.6 access detail to the satisfaction of the Planning Authority.

- 8 The submission of car parking and means of access referred to in Condition 2 shall include details of the U165 public road over a length of 10.00m immediately adjacent to the access being widened to a minimum of 5.00m.
- 9 The submission of car parking and means of access referred to in Condition 2 shall include details of visibility splays of 2.50m x 60.00m measured from the centre line of the new access to be provided in both directions along the nearside channel of the U165 public road and thereafter maintained free from any obstruction of a height exceeding 1.05 metres above the adjacent road channel level. This should also include details of the removal and/or re-siting of the existing mature hedge and any replacement along the U165 public road boundary of the site.
- 10 The submission of car parking and means of access referred to in Condition 2 shall include details of turning facilities to be provided within the site to enable all vehicles to enter and leave in a forward gear.
- 11 The submission of car parking and means of access referred to in Condition 2 shall include details of a minimum of 2 No. car parking spaces per dwelling to be provided within the site.
- 12 The submission of car parking and means of access referred to in Condition 2 shall include details of 'Pick up and drop off' areas for school children / bus passengers to be provided on both sides of the U165 public road adjacent to the access to the development. The areas shall be a minimum of 6m long by nominally 1.8m wide kerbed and surfaced to the requirements of the Council as Roads Authority to the satisfaction of the Planning Authority.
- 13 The submission of car parking and means of access referred to in Condition 2 shall include details of storm water drainage from all paved surfaces, including the access, and details of disposal by a suitable sustainable urban drainage system to meet the requirements of best management practices.

Reasons

- 1 In accordance with the terms of Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended by Section 21 of the Planning etc (Scotland) Act 2006.
- 2 This is a Planning Permission in Principle under Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended by Section 21 of the Planning etc. (Scotland) Act 2006.
- 3-4 In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality and to reserve the rights of the Planning Authority.
- 5 In the interests of visual and residential amenity; to ensure a satisfactory standard of local environmental quality, retain existing trees and to avoid over-intensive development of the site and because the application is for permission in principle only.

6 To comply with the Council's approved Education Contributions policy.

7-12 In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

13 To ensure the site is adequately drained.

B JUSTIFICATION

1 The proposal is considered to comply with the Development Plan and there are no other material considerations that would justify a departure there from.

C PROCEDURAL NOTES

None.

D INFORMATIVES

1 The applicant is 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.

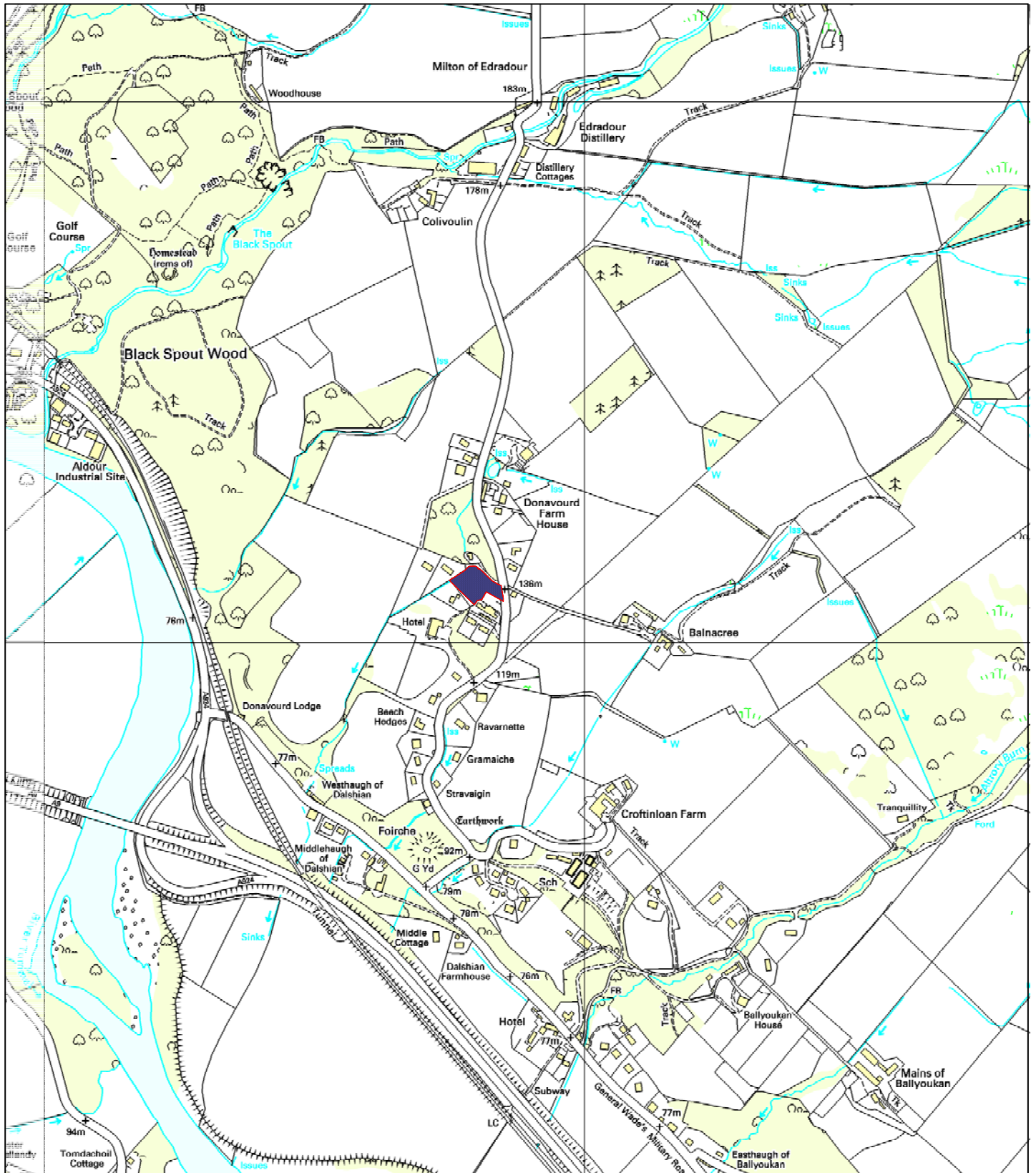
2 No work shall be commenced until an application for building warrant has been submitted and approved.

3 The applicant is advised that there may be bats or bat roosts on the site. If this is the case a licence must be obtained from the Scottish Executive Environment and Rural Affairs Department (SEERAD). The Wildlife and Countryside Act 1981 provides special protection for all species of bat. Bats are further protected under Regulation 39(1) of the Conservation (Natural Habitats & c.) Regulations 1994. This means it is illegal to deliberately kill bats or to deliberately damage or destroy bat roosts or disturb bats in their roosts. As a result if there is any knowledge of bats at the site it is advised that a bat survey be undertaken by a suitably qualified consultant to ascertain if a license is required.

4 There may be red squirrels within the vicinity of the application site. Under The Wildlife & Countryside Act 1981, Schedule 5 (as amended by the Nature Conservation (Scotland) Act 2004), it is now an offence to intentionally or recklessly kill, injure or take (capture) a Red Squirrel, to damage, destroy or obstruct access to any structure or place which a Red Squirrel uses for shelter or protection or to disturb a Red Squirrel while it is occupying a structure or place which it uses for that purpose.

Background Papers: 7 letters of representation
Contact Officer: John Williamson – Ext 75360
Date: 23 July 2010

Nick Brian
Development Quality Manager



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↑ Scale
1:10000

