

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

**Erection of replacement building incorporating a boating centre, water sports facility, yacht club (including restaurant and bar) and formation of associated car parking at Loch Tay Boating Centre, Pier Road, Kenmore PH15 2H9**

Ref. No: 09/00849/FLL  
Ward No: N4– Highland

**Summary**

This report recommends approval of the application for the erection of replacement building incorporating a boating centre, water sports, facility, yacht club (including restaurant and bar) and formation of associated car parking as it is considered to comply with both the Perth and Kinross Structure Plan 2003 and the Highland Area Local Plan 2000 and there are no material considerations apparent which would outweigh the Development Plan in this instance.

**BACKGROUND AND DESCRIPTION**

- 1 Full planning consent is sought for the erection of replacement buildings incorporating a boating centre, water sports facility, yacht club (including restaurant and bar) and formation of associated car parking at Loch Tay Boating Centre, Pier Road, Kenmore. An existing boathouse building on the site is to be demolished to accommodate the new development and is subject to a separate application for Conservation Area consent (09/00845/CON) which is also under consideration at this Committee. The application site sits on the south side of Pier Road in the west of Kenmore Village. The current boathouse sits in the north west corner of the site and to the east is an existing slipway and jetty. The remainder of the site is currently occupied by a number of small boats. Loch Tay forms the southern boundary to the application site. To the north is Pier Road where there are private residential dwellinghouses. The application site is located within the Kenmore Outstanding Conservation Area and is located just out with Taymouth Castle Designed Garden and Landscape. There are also a number of Listed Buildings within close proximity to the site, including the Category B Listed Kenmore Parish Church which sits directly north and at a higher level from of the application site.
- 2 The proposal is to erect a contemporary designed, two storey building finished in Siberian larch cladding and steel to the walls with Siberian larch shingles to the roof. The boat house will accommodate a dry dock, boat repair area and store at ground floor level and a restaurant and bar, kitchen and male and female WC on the upper level, together with an outside terrace to the south, overlooking Loch Tay. The proposed building is to project into the Loch with a north/south orientation and will be 9.3 metres in height. Given the location of the building next to the loch side, the building will be visually prominent from a number of locations within Kenmore.

- 3 A business plan submitted with the application indicates that the applicant has no intention of increasing the current size of the hire fleet which is available at the existing boathouse; however they intend to modernise with new boats and double the level of rentals in the first year. The hours of operation of the boating centre will be 7 days a week from 0900 hours to 1930 hours (last vessel returning by 1900) during the season 31 March to 31 October.
- 4 The proposal also includes the introduction of a sailing club and school with a new fleet of 15 boats being made available. The sailing club will operate on Thursdays and Sundays and the hours of operation would be for 2 hours after the last charter/rental (therefore 2100 hours). It is also intended to hold six regatta races during the season.
- 5 The new clubhouse bar and restaurant will be open daily from 1000 hours to 2300 hours and it is envisaged that an extension to these licensing hours will be required no more than 8 time per year.

## **NATIONAL POLICY AND GUIDANCE**

### **The Scottish Planning Policy 2010**

- 6 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 45 -51 : Economic Development
- Paragraphs 92 - 97: Rural Development.
- Paragraphs 110 -124 : Historic Environment
- Paragraphs 113 -114: Listed Buildings
- Paragraphs 125 -148: Landscape and Natural Heritage
- Paragraphs 149 -158: Open Space and Physical Activity

## **DEVELOPMENT PLAN**

- 7 The Development Plan for the area consist of the approved Perth and Kinross Structure Plan 2003 and the adopted Highland Area Local Plan

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

The principal relevant policies are in summary: -

### **Sustainable Economy Policy 3**

- 8 Support will be given to measures which promote an integrated flexible and innovative approach to rural development which encompass economic, social and environmental considerations and which:
- maintain or enhance local employment opportunities.
  - promote diversification.
  - help sustain viable rural communities and services.
  - introduce new technologies to rural areas (including information and telecommunications technology and renewable energy schemes.)

### **Sustainable Economy Policy 9**

- 9 Local plans will encourage the sustainable development of the tourist industry in Perth and Kinross.

### **Environment and Resources Policy 8**

- 10 New development which would adversely affect Listed Buildings, Conservation Areas, ... or their setting will not be permitted unless there is a proven public interest ...'

### **Environment and Resources Policy 9**

- 11 There is a presumption against development in areas where there is significant probability of flooding.

### **Sustainable Communities Policy 9**

- 12 Local Plans will ensure new development makes positive contribution to character/quality of built environment, contributes to sustainable development and encourages re-use of vacant buildings.

## **Highland Area Local Plan 2000**

- 13 Under the Local Plan the site lies predominantly within the settlement boundary for Kenmore.

The principal relevant policies are in summary: -

### **Policy 2 Highland Development Criteria**

- 14 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, where possible be located in those settlements which are the subject of inset maps.

### **Policy 5 Design**

- 15 The Council will require high standards of design for all development in the Plan Area. In particular encouragement will be given to:
- (a) The use of appropriate and high quality materials.
  - (b) Innovative modern design incorporating energy efficient technology and materials.
  - (c) Avoidance of the use of extensive underbuilding on steeply sloping sites.
  - (d) Ensuring that the proportions of any building are in keeping with its surroundings.
  - (e) Ensuring that the development fits its location.
- 16 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 all development proposals.

### **Policy 7 Flooding**

- 17 Development in areas liable to flood will not normally be permitted.

### **Policy 13 Nature Conservation**

- 18 Development will only be permitted on a site designated or proposed under the Habitats or Birds Directives (Special Areas of Conservation and Special Protection Areas) or a Ramsar Site where the appropriate assessment indicates that the following criteria can be met:
- (a) The development will not adversely affect the integrity of the site.
  - (b) There are no alternative solutions.
  - (c) There are imperative reasons of overriding public interest.

### **Policy 30 Tourism**

- 19 New tourist related development will be supported subject to criteria.

### **Policy 87 Village Uses**

- 20 Scope may exist for infill developments within these villages but only where this will not adversely affect the density, character or amenity of the village.

### **Policy 95 Conservation Areas**

- 21 There will be a presumption against development within conservation areas which would harm the character or appearance or which does not preserve or enhance the area.

## **OTHER POLICIES**

22 None relevant

## **SITE HISTORY**

23 **89/0312/FUL** Replacement of 2 jetties by 1 floating pontoon jetty – Approved 10/4/89

24 **97/01095/FUL** Formation of gabion basket breakwater – Approved 27/8/97

25 **08/00328/FUL** Demolition of existing boating centre and construction of new one including car parking – Withdrawn due to flood risk concerns

26 **08/00329/CON** Demolition of existing boating centre – Withdrawn due to flood risk concerns.

## **CONSULTATIONS**

### **Scottish Natural Heritage**

27 Objects on grounds of impact on River Tay SAC unless specific conditions are imposed.

### **SEPA**

28 No objection subject to conditions controlling FFL (Finished Floor Level)

### **Historic Scotland**

29 No comments to make on the proposal in regard to the impact on the Taymouth Castle Designed Garden and Landscape

### **Perth and Kinross Heritage Trust**

30 No objection

### **Scottish Water**

31 No objection, however a new Waste Water Treatment Works is proposed for Kenmore and it is likely that any new development would connect to this. Having discussed this with Scottish Water this would be available on a first come first served basis. Therefore if any consent was granted an informative note would be attached advising the developer that the granting of planning consent gives no guarantee of connection to Scottish Water's assets.

## **REPRESENTATIONS**

32 A total of 8 letters of representation have been received, all of which object to the proposal.

The representations have raised the following relevant issues: -

- Scale/overdevelopment/design
- Residential amenity
- Flooding
- Traffic safety/parking
- Detrimental impact on Listed Buildings/Conservation Area
- Contrary to Development Plan
- Light Pollution
- Visual impact/landscape impact
- Impact on SAC
- Drainage problems
- Inaccuracy of submission
- Parking/access
- Competition with other businesses

These issues are all raised in the Appraisal section of this report.

### 33 ADDITIONAL STATEMENTS

Environment Statement	Not required
Screening Opinion	Not required
Environmental Impact Assessment	Not required
Appropriate Assessment	Undertaken
Design Statement / Design and Access Statement	Submitted
Business Plan	Submitted.

## APPRAISAL

### Policy

- 34 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 proposal complies 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 Perth and Kinross Structure Plan policies, Sustainable Economy Policy 3, Sustainable Economy Policy 9, Environment and Resources Policy 9 and Sustainable Communities Policy 9. The most relevant policies of the Highland Area Local Plan are 2, 5, 7, 13, 30 and 87.

### Design/Scale/Impact on Conservation Area/Setting of Listed Building

- 35 The proposal is to erect a contemporary designed, two storey building finished in Siberian larch cladding and steel to the walls with Siberian larch shingles on the roof. The boat house will accommodate a dry dock, boat repair area and store at ground floor level and a restaurant and bar, kitchen and male and

female WC on the upper level, together with an outside terrace to the south overlooking Loch Tay. The proposed building is to project into the Loch with a north/south orientation and will be 9.3 metres in height. Given the location of the building next to the lochside the building will be visually prominent from a number of locations within Kenmore.

- 36 The site for the proposed boat house currently projects from the loch shore more so than any other element of the shore eastwards along Pier Road. One of the key views of the boathouse will be from the Kenmore beach and public road adjacent to it. The boat house will sit in its own setting, projecting into the loch and therefore, in my view, will have less of a direct association with the existing housing to the north of the site. As the building projects into the loch, its contemporary design, which is deliberately different to any other development in this part of Kenmore, will give the building a unique quality. The position of the building on the opposite side of Pier Road from the existing buildings and projecting into the loch will also give it a separate context rather than being directly visually comparable or indeed competing with the existing buildings, particularly when viewed from the east.
- 37 The new boathouse will also be highly visible from the south and particularly from the South Loch Tay Road and minor public road to Amulree which winds up the hill southwards. From this location the new boathouse will be seen in context with the rest of Kenmore, including the B Listed Parish Church which sits directly to the north. The boathouse is proposed to be 9.3 metres to ridge and its northern elevation is positioned approximately 40 metres from Pier Road and even further from the housing which is currently being erected on the site to the north. Whilst the building will be seen from the south in context with other development, my view is that the contemporary and unique nature of the building will not detract from the character of any of the traditional buildings nearby as again it has a different visual character to those buildings and will be seen as a separate contemporary development in association with the loch side rather than the buildings behind it.
- 38 The boathouse will also sit at a much lower level than both the housing to the north and considerably lower than the Parish Church, simply due to the topography of Kenmore. The housing to the north sits up on the hill and has a FFL of 111.5 and a floor to ridge height of 8.5 metres. The ground to ridge level of the boathouse is 9.3 metres and the FFL of the ground floor of the boathouse is 108.675. The ridge (highest part) of the boat house will therefore sit approximately 2 metres lower than the highest part of the housing to the north which is currently under construction. I therefore do not consider the proposed building to be out of scale with its surroundings. The Parish Church will still therefore act as the dominant building in Kenmore particularly when viewed from the south.
- 39 I welcome the proposed contemporarily designed structure and believe the design and character of the building will contribute successfully to the character of the Conservation Area by improving and enhancing the visual amenity of this part of Kenmore. The existing single storey building, which is of no architectural merit and in my view detracts from the character of the

Conservation Area, will be removed and replaced with an attractive contemporary, albeit larger, structure. The designation of a Conservation Area is not carried out to ensure that no development occurs or to ensure that development looks identical to existing buildings but is designated to ensure that any development preserves or enhances an area. In my view the proposed contemporary design of the boat house in this location will enhance the character of the Conservation Area and therefore complies with Policy 95 of the Highland Area Local Plan 2000.

### **Residential Amenity/Noise**

- 40 The site as existing is a commercial site, although it is appreciated that this new development will intensify the use of the site and introduce new elements including a restaurant and bar.
- 41 The proposed boathouse sits a considerable distance from the houses on Pier Road, including those currently under construction. Given the distance between the nearest elevation of the boathouse to the housing is approximately 45 metres there is not considered to be any detrimental impact on the amenity of these houses in terms of overlooking or overshadowing from the new boathouse. Any overshadowing of land which does occur will occur within the application site. Furthermore the majority of windows on the boat house face south to take advantage of views into the Loch and the majority of operations will face towards and relate to the Loch. Given the existing commercial use of the site I do not have any significant concerns regarding the general impact on residential amenity of neighbouring properties. The loss of view from these properties or the potential reduction in value of these houses is not a material planning consideration.
- 42 Environmental Health has been consulted on the proposal in regard to the potential for nuisance complaints to arise from the premises as a result of its commercial use in terms of noise or odours.
- 43 A business plan submitted with the application indicates that the applicant has no intention of increasing the current size of the hire fleet which is available at the existing boathouse; however they intend to modernise with new boats and double the level of rentals in the first year. The hours of operation of the boating centre will be 7 days a week from 0900 hours to 1930 hours (last vessel returning by 1900) during the season 31 March to 31 October.
- 44 The proposal also includes the introduction of a sailing club and school with a new fleet of 15 boats being made available. The sailing club will operate on Thursdays and Sundays and the hours of operation would be for 2 hours after the last charter/rental (therefore 2100 hours). It is also intended to hold six regatta races during the season.
- 45 The new clubhouse bar and restaurant will be open daily from 1000 hours to 2300 hours and it is envisaged that an extension to these licensing hours will be required no more than 8 time per year.

- 46 The proposal will see an increase in activities at the boat centre, the amount of times fleet vehicles will be out on the water, patrons using the facilities; the introduction of a yachting fleet and six racing events within the season of March to October have the potential to increase noise at certain times of the year. However it is considered that noise from these activities are appropriate to those already associated with the existing commercial use of the lochside and is therefore unlikely to be significantly detrimental to residential amenity to merit the refusal of the application.
- 47 The applicant has also stated that the business will still maintain its firm position of discouraging high revving power boats and carry on refusing to launch wet bikes and jet skis, which, in my view shows the applicants awareness of the potential noise impact the business may have on existing residents. There will therefore be noise associated with the expansion of this already established business, however after consultation with Environmental Health it is considered that these noise levels can be sufficiently controlled by including conditions on any consent given. These will include; the soundproofing of the boating centre to ensure that no amplified sound is audible in nearby residential properties, the provision of a suitable ventilation system to prevent cooking odours escaping, the provision of plant and equipment which does not exceed specific noise levels during both day time and night time, to ensure no lighting of the development spills beyond the application site boundaries, to ensure no form of public entertainment (including amplified music) shall be permitted on the balcony areas, the balcony area is only permitted for use from 1000hrs to 2100hrs, the boat building and repair facility is restricted to 1000hrs to 2100 hrs Monday to Friday and no operations are permitted on a Saturday and Sunday, the boating centre is restricted to 0900 hrs to 1930 hrs Monday to Sunday and the sailing club is restricted to Sundays and Thursdays 0900hrs to 2100hrs with no more than six regattas per season (31 March to 31 October) unless otherwise agreed. I also intend to attach a condition which ensures that no jet skis, powerboats are launched from the site.
- 48 The conditions described above are considered sufficient to allow the Council to maintain an element of control over the use of the premises and will allow the Council to monitor noise escape from the premises should a complaint be made. I am therefore satisfied that the above conditions, the position of the boat house some 45 metres from the nearest residential property and the fact that the proposal involves the expansion of an existing commercial enterprise will ensure that there is limited impact on the residential amenity of neighbouring residents and therefore the proposal is considered to comply with Policy 2 and 87 of the Highland Area Local Plan 2000.

### **Traffic/Parking**

- 49 The Council's Roads Engineers have been consulted on the proposal and have indicated that they have no concerns regarding the capacity of Pier Road to serve this development. Car parking arrangements have been highlighted as a concern. The submitted plans show the provision of 7 car parking spaces on the site. This is not considered sufficient to serve a restaurant/bar together with a yacht club and the associated uses. Although I note that some objectors feel

this development requires parking for up to 60 vehicles it is the Roads Engineers professional opinion that a total of 15 car parking spaces is sufficient to service this development and the uses associated with it. The Roads Engineer has therefore recommended a condition be placed on any consent given to ensure that a minimum of 15 off street car parking spaces are provided within the site and that details of this are provided prior to any development commencing. There is sufficient room within the application site to accommodate these additional spaces. The proposal is therefore considered to comply with Policy 2(d) and 41 of the Highland Area Local Plan 2000 which seeks to ensure the local road network is capable of absorbing the additional traffic generated by the development and that suitable car parking is provided for all new developments.

### **Natural Heritage/River Tay SAC**

- 50 SNH have advised that the proposal is likely to have a significant impact on the River Tay SAC which is designated for Atlantic Salmon, river lamprey, sea lamprey, brook lamprey, otter and oligomestrophic standing waters with vegetation, known as Clearwater lochs. SNH's consultation response advised that more information was required in order to assess the potential impact. This included the submission of a private drainage strategy for the development to show how the drainage for the development will not lead to decline in the water quality of the loch. Upon receipt of that information and upon further discussion the applicant has now chosen to connect the development to the public drainage network, which is discussed elsewhere in this report. A condition will be attached to any consent given to ensure that the development is solely connected to the public system. There is therefore no requirement to submit a private drainage strategy for the development.
- 51 SNH have also advised that the development is likely to have an impact on the SAC due to the potential for sediment and pollutants to be released into the loch during the construction phase. They have advised that should the development be carried out strictly in accordance with a Construction Method Statement (CMS) that the development will not have an adverse affect on the integrity of the SAC. A fully detailed CMS will therefore be requested by planning condition and agreed with SNH prior to any development commencing. An Appropriate Assessment of the implications of the proposal for the site in view of the site's conservation objectives for its qualifying interests has been carried out.

### **Otters**

- 52 Otters are known to be located in this area, however SNH have advised that given the level of activity which already takes place in this area they do not consider this stretch to be of importance to otters.
- 53 I am therefore satisfied that, subject to conditions, having received a formal consultation response from SNH and the carrying out of an Appropriate Assessment that this development will not have an adverse impact on the River Tay SAC and that the proposal complies with Policy 13 of the Highland Area

Local Plan 2000 which seeks to preserve the integrity of Special Areas of Conservation. It is therefore also considered that the Council has carried out its duty in regard to the Habitats Directives.

## **Drainage**

- 54 After lengthy discussions the applicant has indicated that it is their intention to connect to the development to the public drainage network. The initial proposal was to connect to a private system, however SNH raised concern regarding this due to the potential discharge in to the River Tay Special Area of Conservation which lies directly adjacent to the site. There is a current planning consent to form a new public Waste Water Treatment Works (WWTW) with larger capacity within the grounds of Mains of Taymouth to the east (ref: 08/01496/FUL). Having discussed this directly with Scottish Water, my understanding is that this WWTW will be completed within 3 years and therefore there is potential for a connection to this new WWTW to be available within the time period of any consent given on this application. Scottish Water have stated that the WWTW proposal has been sized with specific growth in mind, namely the Kenmore Hotel development (which is also under consideration at this Committee), Perthshire Housing Association Housing and the new Mains of Taymouth Development. However as with any application which is to be connected to Scottish Water assets, the applicant is required to make a separate application to Scottish Water to connect to their infrastructure and the granting of planning consent can give no guarantee of a connection to Scottish Water's assets. I intend to attach a condition to any consent given to ensure that the development cannot operate until it is connected to the public drainage system. The condition will also state that no private drainage connection is permitted.

## **Economic Development**

- 55 The proposal involves the expansion of an existing well established tourist based development in Kenmore to a level which is considered compatible with the surrounding land uses in terms, amenity, visual impact and access, all of which are assessed elsewhere in this report. The erection of a new building on this site allows the existing boathouse business to expand and diversify and in general terms this is welcomed and supported by the Development Plan and Scottish Government guidance.

## **Flooding**

- 56 SEPA initially objected to the proposal in regard to the potential flood risk associated with the development. It was stated that the 0.5% (1:200) design flood level would be 110.08m AOD on Loch Tay at Kenmore and not 108.7m AOD as suggested in the applicant's Flood Risk Assessment (FRA). SEPA indicated that they could withdraw their objection to the proposal provided the finished flood level of the development was at least 110.58. The increase in the finished floor level of the entire building to this level would significantly increase the overall height of the building as the floor level indicated on the submitted plans was 108.925 AOD. To meet with SEPA's requirements the building would therefore have to be increased in height by almost 2 metres which given

the sensitive location, in a Conservation Area, adjacent to Listed Buildings and close to the Taymouth Castle Designed Garden and Landscape would not be considered acceptable. The visual impact of the building will be discussed elsewhere in this report.

- 57 Further discussion with SEPA then took place to ascertain if there was any alternative solution. The ground floor level of the proposed boat house is to be utilised as the boat repair area/store and the restaurant and public area is to be located in the first floor of the building with a FFL of 112.1m AOD). SEPA were asked whether the fact that the main public area of the building was at first floor level and above the required flood level that this would be considered an acceptable compromise. SEPA replied and stated that if the finished floor level of the upper floor is above 110.58m then this would ensure that the areas designated for public access and the restaurant should be protected from a 1:200 year event and that this would be consistent with other developments in the area. SEPA have therefore withdrawn their objection in regard to flood risk subject to conditions ensuring that the upper floor level is above 110.58m and a condition requesting that all possible sources of pollution, including the storage of oils, fuels and chemicals at the boating centre be raised above flood levels to prevent accidental spillage or displacement into the water environment during a flood event. The plans clearly indicate that the finished floor level of the upper floor of the boathouse is 112.1 AOD which is clearly above the required 110.59. I therefore do not intend to attach a condition which requires the floor level to be above 110.59 as it is already marked on the plans.

- 58 The proposal is now therefore considered to comply with Environment and Resources Policy 8 of the Perth and Kinross Structure Plan 2003 and to Policy 7 of the Highland Area Local Plan 2000.

### **Trees/Landscaping**

- 59 The site is occupied by some trees, however none are within the footprint of the proposed building and the application form indicates that no trees will be affected by the proposed development. A condition will be attached to any consent given which ensures the retention and protection of these trees during construction.

### **Archaeology**

- 60 Perth and Kinross Heritage Trust have been formally consulted on the proposal and have advised that although there are archaeological remains to the south west of the application site, it is deemed unlikely that the development will directly affect these archaeological remains and therefore no archaeological condition is recommended.

## **Accuracy of Submission**

- 61 Letters of representation have questioned whether the information submitted with the application is sufficient to allow the application to be registered and considered. It is my view that the information submitted with the application is sufficient to allow the application to be registered and sufficient to allow me to make a full assessment of the proposal and make a recommendation to this Committee. The information includes detailed scaled plans and there have also been various pieces of correspondence regarding the type of operations which are to take place on site. This is all available to view on the Council's public access web page. A business plan has also been submitted with the proposal, however due to the potentially sensitive nature of this type of information this has not been available to view by the public.
- 62 The original description of the development did not include the words restaurant or bar. The description of the application has since been updated to include this as this is considered to be a more accurate description of what is proposed on the site. The neighbours were re-notified and a further advert was placed in the local press to reflect this change.

## **Competition with Other Business**

- 63 The competition with other similar business in the area is not a material planning consideration.

## **Planning Authority with an Interest in the Land**

- 64 The Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 advises on the procedure for notification of planning applications to the Scottish Ministers for developments in which planning authorities have an interest in. The Direction states that notification to the Ministers is only required where the proposal involves a significant departure from the authority's own Development Plan. The planning authority has no interests in this particular site and therefore a notification to the Ministers is not required.

## **LEGAL AGREEMENTS**

- 65 None required

## **DIRECTION BY SCOTTISH MINISTERS**

- 66 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

67 The proposed erection of a new boating centre on Loch Tay is considered a welcome addition to the area which will improve existing facilities and is generally supported by the Development Plan which encourages tourism related development in the correct location. The design and scale of the building is considered to be appropriate to its context and to other buildings in the vicinity. The proposed building is also considered to be located a sufficient distance from existing residential properties to ensure that there is limited impact on their residential amenity. The impact on the conservation interests of the River Tay SAC and issues regarding flood risk have been fully considered and can be addressed by attaching conditions to the consent. The proposal is considered to comply with the Development Plan, in particular the policies mentioned above and this is supported by the Scottish Government's Scottish Planning Policy (SPP) 2010 which is a relevant material consideration in this instance.

## RECOMMENDATION

### **A Approve the application subject to the following 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 herewith, unless otherwise provided for by conditions imposed on the planning consent.
- 3 Prior to the commencement of construction, a full detailed construction method statement, giving details of measures to prevent harmful materials entering the River Tay SAC shall be submitted and agreed in writing by the Council as Planning Authority. The details shall include
  - **Pollution prevention safeguards**, including drainage arrangements and the possible use of use of siltation traps, settlement tanks and bunds, their locations, operation and management.
  - **Storage and disposal of materials**, including the siting of stock piles, use of buffer strips and disposal methods.
  - **Construction site facilities**, including extent and location of construction site huts, vehicles, equipment and materials compound.
  - **Timing, duration and phasing of construction**, particularly in relation to salmon and lamprey migration/spawning.
- 4 The development shall be connected to the mains drainage network and no occupation or use of the development shall occur until the applicant has demonstrated that a connection to Scottish Water assets has been agreed by Scottish Water. No private drainage system is permitted.
- 5 All possible sources of pollution, including the storage of oils, fuels or chemicals at the boating centre shall be raised above flood levels, i.e. above 110.58m

AOD to prevent accidental spillage or displacement into the water environment during a flood event.

- 6 The soundproofing of the boating centre/yacht clubhouse and the control of all amplified sound shall be such that no amplified or otherwise sound shall be audible in any residential property
- 7 An effective ventilation system commensurate with the nature and scale of cooking to be undertaken shall be installed, operated and maintained, within the boating centre/ yacht clubhouse such that cooking odours are not exhausted into or escape into any neighbouring dwellings.
- 8 All plant equipment including ventilation systems shall be so enclosed, attenuated and/or maintained such that any noise there from shall not exceed International Standards Organisation (ISO) Noise Rating 35 between 0700 and 2300hours, or Noise Rating 20 between 2300 and 0700 hours daily, within nearby residential property with all windows slightly open, when measured and/or calculated and plotted on an ISO rating curve chart.
- 9 All lighting shall be sufficiently screened and aligned so as to ensure that there is no direct illumination of neighbouring land and that light spillage beyond the boundaries of the site is minimised.
- 10 No form of public entertainment (including music amplified or otherwise) shall be permitted outside on the balcony areas and effort must be made to minimise the impact of noise from inside the premises.
- 11 The balcony area shall be restricted to the hours of operation 10.00 to 21.00hrs daily and at no other time.
- 12 The boat building and repair facility shall be restricted to the hours of operations 08.00hrs to 17.00hrs Monday to Friday and no workings on a Saturday and Sunday.
- 13 The hours of operation for the boating centre shall be restricted to Monday to Sunday 09.00- 19.30 hours, last vessel returned by 19.00 hours.
- 14 The hours of operation for the Sailing Club shall be restricted to Sundays and Thursdays 09.00 – 21.00hrs and no more than 6 Regattas per season (March 31<sup>st</sup> to October 31<sup>st</sup>, unless otherwise agreed in writing with the planning authority.
- 15 All the existing trees on the site shall be retained and protected to the satisfaction of the Planning Authority. The removal of any trees from the site shall be agreed in writing with the Council as Planning Authority prior to the commencement of the development. All works shall adhere to British Standard "BS 5837 2005 - Trees in Relation to Construction" to the satisfaction of the Council as Planning Authority.

- 16 A minimum of 15 off-street parking spaces shall be provided within the site prior to the occupation or use of the approved development. Details of the proposed car parking layout shall be submitted for the approval of the Council as Planning Authority prior to the commencement of work on site or as may otherwise be agreed in writing with the Planning Authority.
- 17 Prior to the occupation or use of the approved development all matters regarding the means of access to the site from the public road, 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 Planning Authority.
- 18 No power boating or jet skis are permitted from the development site other than designated rescue boats to the satisfaction of the Council as Planning Authority.

**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 To protect the integrity of the River Tay SAC
  - 4 To ensure the development is adequately drained and to protect the integrity of the River Tay SAC
  - 5 To ensure no substances enter Loch Tay and to protect the water quality of Loch Tay
- 6-14 In the interests of residential amenity.
- 15 In the interests of visual amenity and to ensure a satisfactory standard of environment quality.
- 16-17 In the interests of pedestrian and traffic safety.
- 18 In the interests of residential amenity.

**B JUSTIFICATION**

- 1 The proposal is considered to comply with the Development Plan and the material considerations apparent add further weight to a recommendation of approval.

## **C PROCEDURAL NOTES**

Nil

## **D INFORMATIVES**

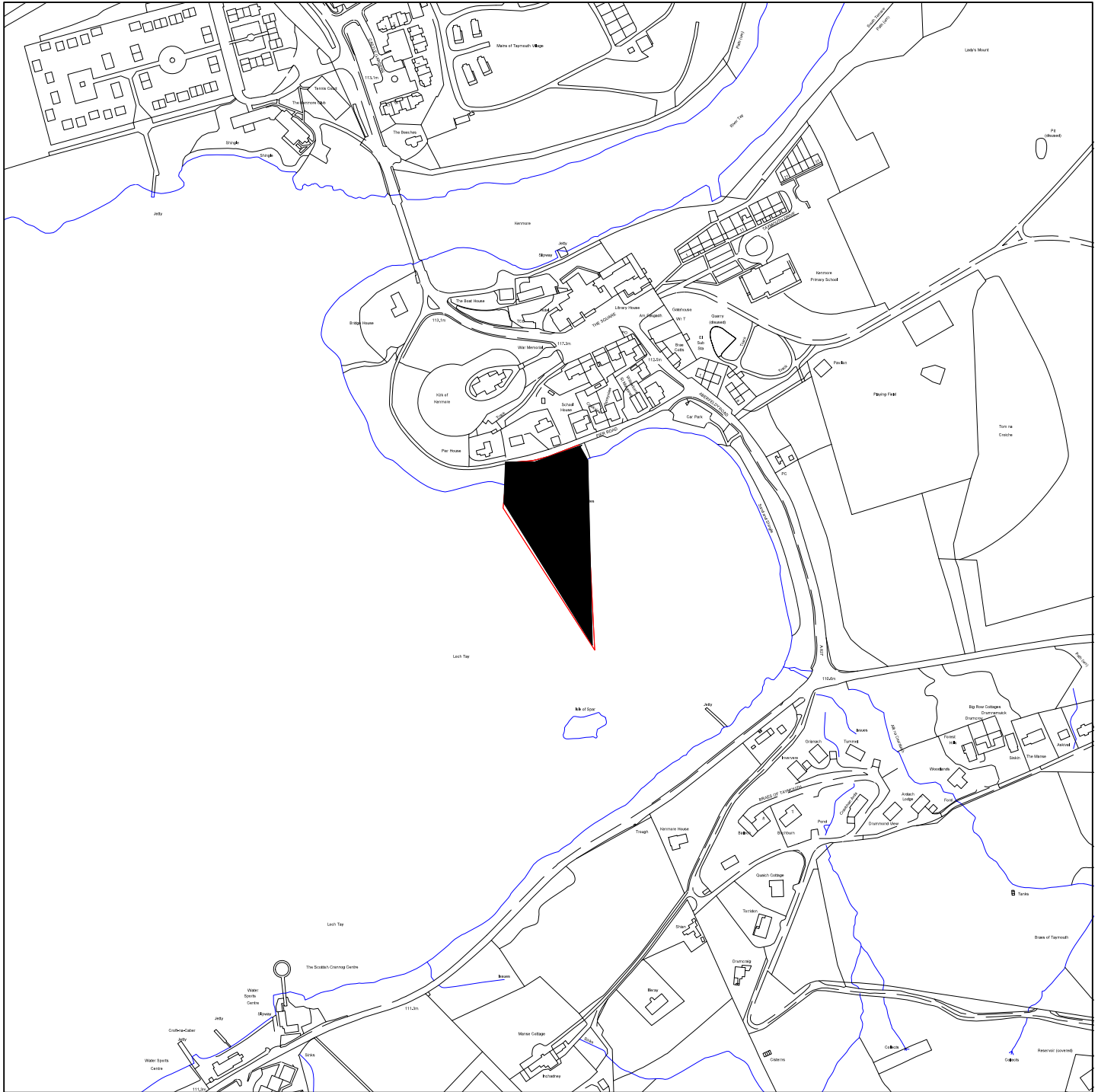
- 1 The applicant should be advised that in terms of section 56 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environmental Protection Agency.
- 2 The applicant is advised that the granting of planning consent does not guarantee a connection to Scottish Water's assets. The applicant must make a separate application to Scottish Water Planning & Development Services team for permission to connect to the public wastewater system and/or water network and all their requirements must be fully adhered to.
- 3 No work shall be commenced until an application for building warrant has been submitted and approved.
- 4 This consent relates solely to the erection of a new boating centre on the site. The demolition of the existing boating centre requires Conservation Area Consent. No demolition should occur until this consent has been received.
- 5 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.
- 6 This development will require the 'Display of notice while development is carried out', under Section 27C(1) of the Town and Country Planning Act 1997, as amended, and Regulation 38 of the Development Management Procedure (Scotland) Regulations 2008. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. According to Regulation 38 the notice must be:
  - Displayed in a prominent place at or in the vicinity of the site of the development
  - Readily visible to the public
  - Printed on durable material.
- 7 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.

Background Papers: Ten letters of representation  
Contact Officer: John Williamson – Ext 75360  
Date: 16 April 2010

**NICK BRIAN**  
**DEVELOPMENT QUALITY MANAGER**

09/00849/FLL

Erection replacement boat centre, Loch Tay Boating Centre, Kenmore



Scale : 1:5000

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<b>Organisation</b>	Perth & Kinross Council
<b>Department</b>	Planning
<b>Comments</b>	
<b>Date</b>	12 April 2010
<b>SLA Number</b>	100013289

