

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

**Erection of 3 dwellinghouses, garages and formation of a new access road,  
Craigewan Farm, Cultoquhey, Gilmerton, Crieff, PH7 3NE**

Ref. No: 09/02004/FLL  
Ward No: 6 - Strathearn

**Summary**

This application was withdrawn from consideration by Development Control Committee on 17 February 2010 to allow further consideration of the proximity of the application site to the Beauldy-Denny Overhead Power Transmission Replacement Line and the implementation thereof.

This report recommends approval of the application for the erection of three detached dwellinghouses with detached garages, and the formation of a new access track, is considered to comply with the Development Plan and would not detract from the character and amenity of the surrounding area.

**BACKGROUND AND DESCRIPTION**

- 1 The application site is located in a rural area, outwith any identified settlement. The site sits to the west of Cultoquhey House Hotel and stable block and to the south-west of the village of Gilmerton. The application site was formerly the walled garden associated with Cultoquhey House.
- 2 The application site occupies a south-facing slope, overlooking agricultural land which is in the applicant's ownership. The garden is enclosed by brick walls on two sides only, the north and the west. The eastern boundary appears always to have been a planted boundary leading to the former orchard. The southern boundary has always been open thus not restricting sun into the garden. The site currently can be accessed via a link to the A85 trunk road to the north at Cultoquhey North Lodge, or via an internal link past the stables onto the main hotel access. There is a track which runs from the site to the east which links with the unclassified public road through Milton of Cultoquhey. The track is currently impassable.
- 3 The three proposed dwellinghouses are shown to be located towards the outer edges of the garden area, with the northern-most house (plot 2) being built off the existing brick wall. There is an intention that some of the original wall may be exposed internally to fully incorporate the feature into the new building. The designs for plots one and three are handed versions of each other. The houses are to sit close to but not on the boundaries due to difficulties with levels at the west. There will be minimal recontouring of the site to allow the split level houses to be set into the existing landform as far as possible. The houses are all to have a very low profile, with almost flat sedum roofs. This will ensure that very little building will be visible from the A85 above the existing wall. The linear quality of the walled garden will not be interrupted when viewed from the

south as the forms of the structures will be contained within the current form of the garden. The three detached garage blocks are to be set into the slopes to varying degrees with a view to minimising their impact. The finishes of the buildings are to be a mix of untreated horizontal timber boarding, natural stone and self-coloured render panels.

- 4 A new vehicular access is proposed from the site south to the group of houses known as Milton of Cultoquhey. The proposed access follows an existing field boundary and joins with an existing vehicular access onto the public road and would extend to an overall length of approximately 500m.

## **NATIONAL POLICY AND GUIDANCE**

### **Scottish Planning Policy 2010**

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

Of relevance to this application are:

- Paragraphs 66 - 91 : Housing
- Paragraphs 92 - 97: Rural Development
- Paragraphs 110 -124 : Historic Environment
- Paragraphs 113 -114: Listed Buildings
- Paragraphs 125 -148: Landscape and Natural Heritage
- Paragraphs 165 -181: Transport
- Paragraphs 196 -211: Flooding and Drainage

## **DEVELOPMENT PLAN**

- 6 The Development Plan for the area comprises the Approved Perth and Kinross Structure Plan 2003 and the Adopted Strathearn Area Local Plan 2001.

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

#### **Sustainable Communities Policy 6**

- 7 This policy states that in the Lowland Area housing allocations will be made in the former Burghs and in smaller settlements subject to their scale, landscape

fit and impacts on the environment being acceptable. The policy continues that Local Plans will develop housing in the countryside policies for well sited rural housing development of a scale and standard of design appropriate to its location and that reflect and support the rural economy whilst preventing commuting.

### **Strathearn Area Local Plan 2001**

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

#### **Policy 1: Sustainable Development**

- 9 Seeks to ensure that development within the Plan area is carried out in a manner in keeping with the goal of sustainable development. Criteria (c), (f) and (g) are particularly applicable.

#### **Policy 2: Development Criteria**

- 10 Identifies the criteria against which all development proposal will be judged against and includes landscape setting, built form, land use, local transport network, services and energy efficiency.

#### **Policy 3: Landscape**

- 11 Requires that development proposals should seek to conserve landscape features and sense of local identity, and strengthen and enhance landscape character.

#### **Policy 4: Landscape**

- 12 Requires that details of landscape treatments should be submitted as part of the development proposals.

#### **Policy 5: Design**

- 13 Requires high standards of design throughout the plan area, ensuring that the proportions of any building are in keeping with the surroundings and that the development fits its location.

#### **Policy 54: Housing in the Countryside**

- 14 States that the Council will normally only support proposals for the development of individual houses in the countryside which fall into at least one of the policy's specified categories. This policy has now been updated by the Council's December 2005 and August 2009 Housing in the Countryside Policies.

## OTHER POLICIES

### Housing in the Countryside Policy 2009

- 15 This policy updates Policy 54 of the Strathearn Area Local Plan and the Council's previous Housing in the Countryside Policy 2005. It seeks to strike a balance between the need to protect the outstanding landscapes of Perth and Kinross and to encourage appropriate housing development in rural areas (including the open countryside). The policy aims to:
- Safeguard the character of the countryside;
  - Support the viability of communities;
  - Meet development needs in appropriate locations; and
  - Ensure that high standards of siting and design are achieved.
- 16 It remains the aim of the Development Plan to seek to locate the majority of new development in or adjacent to existing settlements but the Council will support proposals for the erection, or creation through conversion of single houses and groups of houses in the countryside which fall into at least one of the six prescribed categories within this policy. A series of criteria is also applicable to all proposals.

### Affordable Housing Policy

- 17 The Council's Affordable Housing Policy is applicable to all residential developments of 5 units and above. It is therefore not applicable to this application.

### Education Contributions

- 18 The developer contributions policy applies to the whole of Perth and Kinross and seeks to secure contributions from developers of new homes towards the cost of meeting primary education infrastructure improvements necessary as a consequence of development where there are capacity issues at the catchment primary school. In order to meet the terms of the policy in this particular instance a financial contribution of (3 x £6,105) £18,315 would be required prior to the issuing of any permission, should Committee be minded to approve the application.

## SITE HISTORY

- 19 There have been no previous planning applications on this site.

## CONSULTATIONS

- 20 **Scottish Water:** There are no public sewers in the vicinity of the development. Turret Water Treatment Works currently has capacity to service the proposed development.
- 21 **Perth and Kinross Area Archaeologist:** In respect to archaeology and the planning process, as outlined by SPP23, no archaeological condition is

recommended as this development preserves the early 19th century walled garden and does not affect any known archaeological sites.

- 22 **East Strathearn Community Council:** Local residents have grave concerns regarding the capacity of the Milton road to accommodate any further traffic especially as there are no passing places and several blind corners. The road is also prone to flooding. There is a further development which has permission which would increase the numbers of vehicles especially in the construction phase. The proposed road would also be highly visible from various viewpoints and totally out of keeping with surrounding agricultural landscape. If passing places are required as a condition on the new access road then surely they are also required on the public road and the developer should provide them. There is another possible access to the site from north of Pittenclerich Mill, which would curtail the impact on the Milton Road.
- 23 **Education and Children's Services:** Based on current information this school will reach the 80% capacity threshold therefore it is requested that the Finalised Primary Education and New Housing Contributions Policy be applied to this application.

## REPRESENTATIONS

- 24 Seven letters of representation have been received from local residents. The following relevant issues are raised:
- The existing public road is not of an appropriate standard to accommodate the additional traffic which will be generated by this development.
  - The existing public road floods and a bituminously surfaced access would exacerbate this.
  - Any additional traffic will add to the risk to pedestrians and horses using the public road.
  - If it is necessary to provide passing places on the proposed access track then surely it must be necessary to provide them on the public road.
  - The proposed access road will be very visible.
  - Occupants may choose to use the access to the north, directly onto the A85, compromising safety.
  - Erosion to the burn could be caused if a new bridge is installed, affecting wildlife.
  - The proposal is contrary to policy.
  - The claim that the development would safeguard the wall is a ploy.
  - This proposal will open the floodgates for larger and inappropriate development of the area.

These issues are addressed in the Appraisal section of this report.

- 25 Other issues which are not material to the current planning application include:
- The timing of the application over the festive period seems to be a ploy.
  - Adjoining landowners have not been notified of the application.

## 26 Additional Statements Received

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

## APPRAISAL

### Policy

- 27 Pre-application discussions were undertaken with the applicant's agent both before and after the introduction of the 2009 version of the Housing in the Countryside Policy. As the applicant's agent was fully aware of the introduction of 2009 version of the policy and the application was submitted after the adoption of the 2009 policy, it is this version of the policy which is considered to be a material consideration in the determination of this application.
- 28 The relevant category in that policy is section 3.1b which relates specifically to walled gardens. Favourable consideration is to be given to applications within walled gardens where development would not affect the integrity of the structure or the garden and may assist in the preservation of the wall. It is considered that the number of houses proposed, their siting and low-impact design will all serve to ensure any impact on the walled garden is minimised. In addition a condition is proposed to ensure that the walls of the walled garden are maintained. The criteria in the policy which are relevant to all applications are considered to be met in this application in that satisfactory access and services can be provided and the quality of design and materials are appropriate, as is the proposed vehicular access. It is considered appropriate and necessary to remove permitted development rights for the dwellinghouses proposed. This will ensure that any extensions to the houses or any new buildings within the grounds would be to an appropriate design, location and finish for the site which has a special character.
- 29 The part of the Housing in the Countryside Policy under which this application is considered relates specifically to walled gardens and therefore this application could not set a precedent for larger, inappropriate development in the vicinity as there are no other walled gardens nearby.

### Design and Layout

- 30 The layout of the proposed houses within the plots is considered acceptable to the character of the walled garden within which the houses are to be set. The single access into the site, which then splits into individual accesses, ensures minimal ground is lost to roadway. During pre-application discussions it was recommended that the finish for the accesses within the walled garden area

should be gravel. This has not been shown on the submitted drawings. It would therefore be appropriate to attach a condition to ensure this finish, if minded to approve the application.

- 31 The design of the dwellinghouses is considered to be both interesting and appropriate to the site. The low level of the proposed buildings will serve to ensure their impact is minimal, thus protecting the character of the wider area and indeed that of the walled garden.
- 32 The palette of finishes is varied and the use of natural materials such as unfinished timber, stone and sedum will ensure the buildings blend with the landscape. The element of render will add a contemporary aspect, along with the glazing, which will afford vitality to the development.

### **Residential Amenity**

- 33 The proposed layout and the orientation of the individual dwellinghouses will ensure there are no overlooking or privacy issues for the new dwellinghouses. No existing dwellinghouses will have their residential amenity affected by the proposed dwellinghouses due to the distances involved.
- 34 Concerns have been raised relating to the potential impact on the amenity of existing residents in respect of the traffic levels on the minor public road which serves the site and this is addressed in the following section.

### **Vehicular Access**

- 35 The proposed new access to the site utilises an existing vehicular access which currently serves an agricultural building and fields. The access will then follow a field boundary northwards to the site and then to the east of an existing group of trees. No additional works are proposed to the existing access to the south of the site, including in the vicinity of the burn.
- 36 The access will be visible from views to the south as the site is exposed though as it is to follow an established field boundary, its impact will be minimal. No details are provided for the finish of the track though a commitment is given in the submitted Planning Statement to landscaping it. A condition would be attached to control the access details to ensure the best environmental fit.
- 37 A number of standard conditions are recommended by my Roads colleagues. These relate to the standard and surfacing of the existing junction with the public road, prohibition of water being discharged onto the public road from the access, the surface of the access to be bound hardcore. This would ensure that the development, if approved, would meet the Council's standards as Roads Authority.
- 38 The access which is submitted as part of the application requires to be considered by the planning authority. The planning authority cannot require that a different access be used where the proposed access meets the required standards and where other accesses are outwith the control of the applicant.

- 39 The access to the north, linking to the A85 is not in the control of the applicants. Any occupants of the application site would have no legal right to use the access.

### **Built Heritage**

- 40 The walled garden was originally associated with Cultoquhey House which now operates as a hotel. The main building is Listed Category B as being of special architectural or historic interest. It is considered that the setting of the Listed Building will be preserved. My colleagues in Conservation and Regeneration consider the design of the houses to be sensitive in scale and related to the topography, with the external building materials being of good quality.

### **Beauly-Denny Overhead Power Transmission Replacement Line**

- 41 The aim of the replacement transmission line from Beauly to Denny is to upgrade the capacity of the electricity transmission network between the Highlands and central Scotland, permitting the harvesting of energy generated by windfarms and other renewable technology, and in turn contributing to the target for renewable energy in Scotland. The route of the line was approved by Scottish Ministers on 6 January this year, subject to conditions.
- 42 Condition 42 of the permission requires that no towers within the Perth & Kinross Council area which are shown as being more than 100m from existing dwellinghouses shall be moved within 100m of any dwellinghouse without the written approval of the Council. It should be noted that the condition relates only to the location of the towers and not to the line itself. The condition was attached solely with the aim of minimising any impact on the visual amenity of existing dwellinghouses.
- 43 The existing walled garden is located some 160m from the nearest approved tower position for the replacement transmission line. The proposed dwellinghouses would not be affected by the approved transmission line tower due to its distance from the application site. It is considered appropriate to advise the applicant of the proximity of the approved route to ensure they are aware of the nearby development. This can be done by attaching an informative to the decision notice, should permission be granted.

### **Timing of Application**

#### **Neighbour Notification**

- 44 On 3 August 2009 the legislation relating to neighbour notification of planning application submissions changed. It is now the responsibility of the planning authority to notify all neighbouring *properties* within a 20m area around the application site. If there is a building with no registered address (e.g. a farm building) or vacant land adjoining the site, an individual notice cannot be served. The legal requirement in that case is to advertise the application in the local press, at the applicant's expense. That procedure was followed in this instance. The statutory period for the submission of representations where

advertised is 14 days. That period was extended by one week in this case due to the advert period falling over the Christmas break.

## **LEGAL AGREEMENTS**

- 45 Prior to the issuing of permission, should the Committee be minded to approve the application, the applicant will be given the option of paying the financial contribution towards primary education either in full or delaying payment through a Section 75 agreement.

## **DIRECTION BY SCOTTISH MINISTERS**

- 46 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.
- 47 The statutory period for the submission of comments by third parties was extended by one week to afford all interested parties additional time and opportunity to comment over the Christmas period.

## **CONCLUSION AND REASONS FOR RECOMMENDATION**

- 48 The proposed development of three detached dwellinghouses within the walled garden, and associated works, is considered to be in accordance with the Development Plan. The density, layout, design and materials are all considered to be appropriate to this location. The local road network is capable of accommodating the additional traffic which will be generated by this development. There are no material considerations which warrant departing from the approved Development Plan.

## **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, unless otherwise provided for by conditions imposed on the planning consent.
- 3 No development or extensions, whether or not permitted by virtue of Schedule 1, Part 1, Class 1 and 3 of the Town and Country Planning (General Permitted Development)(Scotland) Order, 1992 or any Order revoking and re-enacting that Order shall be erected in the curtilages of the dwellinghouses hereby approved.
- 4 Details of the specification and colour of the proposed external finishing materials to be used shall be submitted for the approval of the Planning

Authority prior to the commencement of the development. The scheme as approved shall be implemented prior to the occupation and or use of the development.

- 5 A detailed schedule of all boundary treatments within the site, and including the proposed access track boundaries, shall be submitted for the further approval of the Council as planning authority, prior to the commencement of works on site. The scheme as subsequently approved shall be implemented as part of the permission. For clarification, all boundaries internal to the site shall be post and wire fences or hedges of appropriate native species.
- 6 Prior to the completion or bringing into use of any of the dwellinghouses hereby approved, the private access track located within the walled garden area shall be finished in gravel to the satisfaction of the Council as planning authority and thereafter maintained as such.
- 7 The root spread of the trees located outwith but overhanging the application site to the eastern boundary must be protected within the application site by stout fencing (minimum 1.2 metres high and 2.4 metres high in an intensive area of construction) enclosing an area to protect the ground and roots beneath the full canopy spread as described in BS 5837: 2005. Trees In Relation To Construction. Such fencing must be erected before any materials or machinery is brought on the site, including erection of site huts, has commenced. Erected fences shall not be removed or altered without prior consultation with the Council as Planning Authority. If temporary vehicle access is required through the protected area, a reinforced concrete slab or similar protection shall be laid over the existing soil surface to the satisfaction of the Council as Planning Authority.
- 8 The brick walls of the walled garden shall be fully retained and maintained until the use of the associated dwellinghouses hereby approved ceases, to the satisfaction of the Council as planning authority.
- 9 Prior to the occupation or bringing into use of any of the dwellinghouses hereby approved, the vehicular access shall be formed in accordance with the Council's Roads Development Guide Type C figure 5.7 access detail to the satisfaction of the Council as Planning Authority. The access shall be constructed so that no surface water is discharged to the public road.
- 10 Prior to the occupation or bringing into use of any of the dwellinghouses hereby approved, the site shall be served by a private access which shall be provided with intervisible passing places at approximately 100m centres. The access shall be provided with a bound surface to the satisfaction of the 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 In order to ensure any further development is appropriate in terms of layout, design and finishes; in the interests of visual amenity.
- 4-6 In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.
- 7 To ensure appropriate protection for trees within and adjacent to the application site.
- 8 To ensure the retention and maintenance of the walled garden.
- 9-10 In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

## **B JUSTIFICATION:**

The proposal is in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

## **C PROCEDURAL NOTE**

**Planning consent shall not be issued until a Section 75 Agreement has been signed or a payment paid upfront in respect of the following issue:**

- 1 An Education Contribution of £6105 per unit (£18,315) in line with Planning Guidance Note – Primary Education and New Housing Development May 2009

## **D INFORMATIVES**

- 1 The applicant is advised that the application site lies close to the approved route for the Beauldy-Denny Overhead Power Transmission Line Replacement.
- 2 The site lies outwith the publicly sewered areas and consequently drainage investigations have not been fully undertaken.
- 3 No work shall be commenced until an application for building warrant has been submitted and approved.
- 4 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.
- 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.

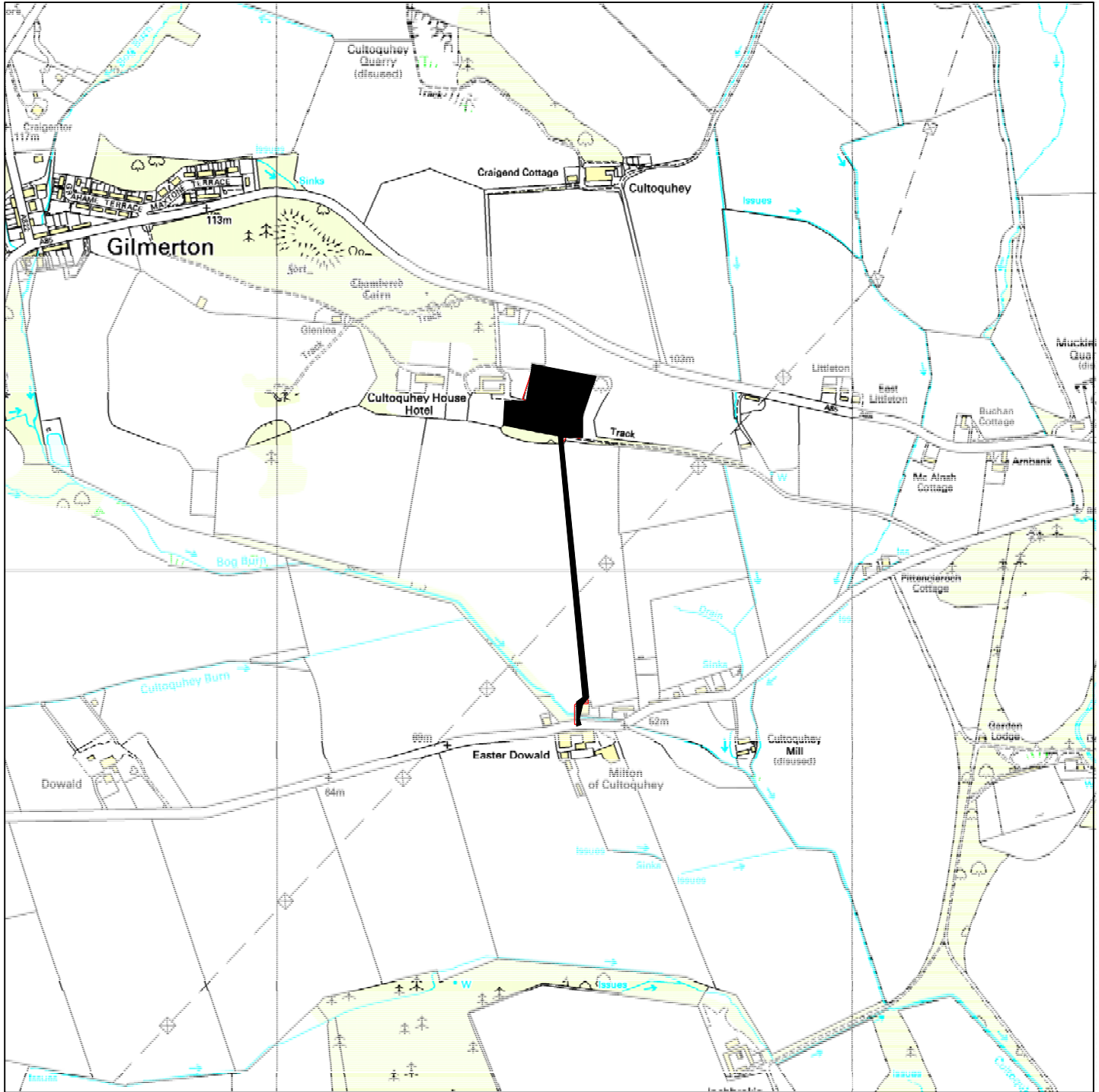
- 6 This development will require the 'Display of notice while development is carried out', under Section 27C(1) of the Town and Country Planning Act 1997, as amended, and Regulation 38 of the Development Management Procedure (Scotland) Regulations 2008. The form of the notice is set out in Schedule 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: Seven letters of representation  
Contact Officer: Christine Brien – Ext 75359  
Date: 21 April 2010

**Nick Brian**  
**Development Quality Manager**

09/02004/FLL

Erection 3 houses, Craigevan Farm, Gilmerton



Scale : 1:10000

Reproduced from the Ordnance Survey map with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright 2000.

Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

<b>Organisation</b>	Perth & Kinross Council
<b>Department</b>	Planning
<b>Comments</b>	
<b>Date</b>	18 January 2010
<b>SLA Number</b>	100013289

Produced using ESRI (UK)'s MapExplorer 2.0 - <http://www.esriuk.com>

