

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

Erection of 37 dwellinghouses (Approval of Matters Specified in Conditions) at Highland Distilleries, The Holdings, West Kinfauns, Perth, PH2 7XZ

Ref No: 09/01845/AML
Ward No: 1 - Carse of Gowrie

Summary

This report recommends approval of the application for the erection of 37 dwellinghouses at Highland Distilleries, West Kinfauns on the grounds that the proposal accords with the terms of the outline planning permission and is in accordance with the relevant policies of the Development Plan.

BACKGROUND AND DESCRIPTION

- 1 The application site is a vacant, level and almost rectangular 1.8ha area of ground located on the northern bank of the River Tay. The site is bounded by the modern Highland Distilleries Building to the west and the crescent of traditional estate cottages to the east, locally known as Kinfauns Holdings. To the north, the site is bounded by the public road which serves Kinfauns Holdings and to the south, by the Dundee-Perth railway line. The northern section of the site (approx 2/3rds of the overall site) is clear of any buildings or structures and was, in part, formerly used as an overspill car park for Highland Distillers. The southern part of the site is presently unkempt pasture land, which gently slopes towards the Dundee-Perth railway line, beyond which are the steep banks of the River Tay.
- 2 Outline planning permission was granted on appeal in March 2005, and it is the approval of the reserved matters associated with that consent that this application seeks to obtain. The proposed reserved matters comprise the erection of 37 dwellinghouses on the northern section of the site, with a sustainable urban drainage scheme (SUDS) and public open space area proposed on the southern section. Of the 37 dwellings, four are detached units sited along the frontage with the public road. The remaining 33 units are terraces, contained in six terraced blocks, arranged within a courtyard layout. All the units are relevantly traditional in appearance with the use of distinct timber features which compliment the proposed traditional roof and wall finishes. All the units have 2 levels of accommodation with the upper floor being partly provided within the roofspace, which is provided either by traditional dormer windows or by introducing clipped gables features, to keep the wall heads lower than for a full 2 storey house.

NATIONAL PLANNING POLICY AND GUIDANCE

- 3 The Scottish Government expresses its planning policies through The National Planning Framework 1 & 2, the Scottish Planning Policy (SPP), Planning

Advice Notes (PAN), Designing Places, Designing Streets, and a series of Circulars.

Designing Places – A policy statement for Scotland

- 4 *NPPG1 (Revised 2000) The Planning System* emphasises the importance of design considerations in reaching planning decisions. Whilst Planning Advice Notes on subjects such as the Siting and Design of Housing in the Countryside, Small Towns and Town Centre Improvement had been published this was the first general statement setting out the Government's aspirations for design and the role of the planning system in delivering these.
- 5 This document fills that gap. This statement sits alongside the policy on architecture, which was launched in October 2001, and it is a material consideration in decisions in planning applications and appeals. It will also provide the basis for a series of Planning Advice Notes dealing with more detailed aspects of design.

Designing Streets: A policy statement for Scotland

- 6 *Designing Streets* is the first (long overdue) policy statement in Scotland for street design and marks a change in the emphasis of guidance on street design towards place-making and away from a system focused upon the dominance of motor vehicles. It has been created to support the Scottish Government's place-making agenda and is intended to sit alongside the 2001 planning policy document *Designing Places*, which sets out government aspirations for design and the role of the planning system in delivering these.

The key policy elements are:

- Street design must consider place before movement.
- Street design guidance, as set out in this document, can be a material consideration in determining planning applications and appeals.
- Street design should meet the six qualities of successful places, as set out in *Designing Places*.
- Street design should be based on balanced decision-making and must adopt a multidisciplinary collaborative approach.
- Street design should run planning permission and Road Construction Consent (RCC) processes in parallel.

The Scottish Planning Policy 2010

- 7 This SPP is a statement of Scottish Government policy on land use planning and contains:
 - the Scottish Government's view of the purpose of planning,

- the core principles for the operation of the system and the objectives for key parts of the system,
- statutory guidance on sustainable development and planning under Section 3E of the Planning etc. (Scotland) Act 2006,
- concise subject planning policies, including the implications for development planning and development management, and
- the Scottish Government's expectations of the intended outcomes of the planning system.

Of relevance to this application are

- Paragraphs 92-96, which relate to Rural Development.
- Paragraphs 86 -88, which relate to Affordable Housing
- Paragraph 196, 211, which relate to flooding and drainage.

Planning Advice Note 67: Housing Quality

- 8 Designing Places, published November 2001, sets out the Scottish Government's aspirations for design and the role of the planning system in delivering them. This Planning Advice Note explains how Designing Places should be applied to new housing.

Planning Advice Note 72 : Housing in the Countryside

- 9 This PAN supersedes and reinforces many of the key themes set out in *PAN 36 Siting and Design of New Housing in the Countryside* (published in 1991) and brings the advice up-to-date with the new emphasis on design and quality. The advice in this PAN sets out key design principles which need to be taken into account by applicants when planning a new development and by planning authorities, when preparing development plans and supporting guidance, and determining applications. The purpose is to create more opportunities for good quality rural housing which respects Scottish landscapes and building traditions. The advice should not, however, be seen as a constraint on architects and designers wishing to pursue innovative and carefully considered contemporary designs.

Planning Advice Note 76: Designing new residential streets

- 10 The PAN has been produced in line with the Scottish Government's drive to promote the design agenda. It follows on from *Designing Places* and forms part of the design- based series of PANs. In particular, it complements, and should be read in conjunction with, *PAN 67 Housing Quality*. The advice applies to everyone engaged in the planning, design and approval of streets in new residential developments including planners, road engineers, architects and developers. In particular, it means that planners and engineers should work more closely together.

Planning Advice Notice 74: Affordable Housing

- 11 This PAN sets out how the planning system can support the Government's commitment to increase the supply of affordable housing. It provides advice and information, including existing examples of better practice. It seeks to speed up the development of both market and affordable housing by ensuring that any affordable housing requirement included in the Development Plan is realistic and that the planning contribution is set within the wider housing policy context.

DEVELOPMENT PLAN

- 12 The Development Plan for the area comprises the Approved Perth and Kinross Structure Plan 2003 and the Adopted Perth Area Local Plan 1995 (Incorporating Alteration No 1, Housing Land 2000).

Perth & Kinross Structure Plan 2003

- 13 As the application site lies in the lowland area of Perth and Kinross, **Sustainable Communities Policy 6** is applicable to this proposal. The policy states that, in the lowland area, housing allocations will be made:
- in the former Burghs.
 - in smaller settlements, subject to their scale, landscape fit and impact on the environment being acceptable, Local Plans will develop housing in the countryside policies for rural housing development which reflect the need to support the rural economy while preventing commuting, is well sited and is of a scale and standard of design appropriate to its location.
- 14 **Environment and Resources Policy 9** states that there is a presumption against development in areas where there is a significant probability of flooding.

Perth Area Local Plan 1995 (Incorporating Alteration No 1, Housing Land 2000) (PALP)

- 15 The application site lies outwith the settlement boundary of Kinfauns Holding. **Policy 1 (General Landward)** is relevant to the proposal as it refers to developments within the landward area. This policy states that developments will also be judged against a number of development criteria, including a good landscape framework; the scale, form, colour and design of development should accord with the existing pattern of building; the development should be compatible with its surroundings in land use terms and the local road network should be capable of absorbing the development.
- 16 As the site lies within the landward area, **Policy 32 (Housing in the Countryside)** should be noted. However, regardless of the merits of the proposal in relation to this policy, as outline planning consent exists, I do not consider it necessary to reconsider the proposal against this policy, although its contents should be noted.

- 17 In addition, the application site is immediately adjacent to the settlement boundary of Kinfauns Holdings, where **Policy 71 (Village Uses)** states that residential amenity and village character will be retained and, if possible, improved. The policy also states that some scope may exist for infill development but only where this will not adversely affect the density, character or amenity of the village.

Perth Area/Central Area Draft Local Plan 2004

- 18 Members will be aware that on the 30 January 2008 the Council's Enterprise and Infrastructure Committee took the decision not to progress this plan to a finalised stage. Therefore, although the contents of the Draft Plan should be noted, I consider the weighting which is given to its policies and proposals should be limited at this point in time.

OTHER COUNCIL POLICIES

Housing in the Countryside Policies 2005 & 2009

- 19 Although technically the proposal falls to be considered against these specific land use policies, as the site is located within the landward area of the PALP, as outline planning permission exists for a residential development on the site, I do not consider it necessary to reconsider the proposal against these specific policies, although the existence of both should be noted by the Committee.

Affordable Housing Policy 2005

- 20 This policy is applicable to all new housing sites (even ones identified in the Local Plans) with the exception of those with existing consents or an approved development brief.

Planning Guidance Note – Developer Contributions 2009

- 21 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 2009

- 22 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

- 23 An application for outline planning permission for a residential development on the site (04/01739/OUT) was refused planning permission by Perth and Kinross Council in November 2004. That application was subsequently appealed to the Scottish Government, and the appeal was allowed, subject to the conditions.
- 24 In 2008, 08/00252/REM, a planning application for the approval of the reserved matters referred to in the above outline consent for the erection of 19 dwellings was refused by Perth and Kinross Council on the grounds that the proposed layout and house types were of an inadequate standard and that a requested design statement had not been forthcoming.

CONSULTATIONS

- 25 **Scottish Water** have raised no concerns.
- 26 **The Environmental Health Manager** has commented on the application and raised no concerns.
- 27 **The Executive Director (Education & Children Services)** has indicated that the local primary school (Kinnoull) is operating at 80% capacity and therefore the requirements of the approved Planning Guidance Note on Primary Education and New Housing Development should be applied.
- 28 **Scottish Environment Protection Agency** have commented on the application and raised no concerns.
- 29 **Scottish Natural Heritage** have commented on the application and raised no concerns.

REPRESENTATIONS

- 30 At the time of writing, thirty seven (37) letters of representation had been received, largely from local residents all objecting to the proposal.
- 31 The representations have raised the following relevant issues: -
- The proposal is contrary to the Development Plan
 - Road safety issues
 - Visual Impact
 - Setting an undesirable precedent
 - Flooding
 - Drainage issues
- 32 These issues are addressed in the appraisal section of this report.

ADDITIONAL STATEMENTS

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

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.
- 35 In terms of the Development Plan, the key policies are contained in the adopted Local Plan, which is the Perth Area Local Plan 1995 (Incorporating Alteration No 1, Housing Land 2000) (PALP). As the site benefits from outline planning permission, I do not consider it reasonable to reassess whether or not the principle of a residential development is acceptable on this site. However, although the site is outwith the settlement of Kinfauns Holdings, as defined by the PALP, it is immediately adjacent to it, and with the granting of the outline consent, I consider a logical approach to assessing the acceptability of this application to be to assess the proposal as if it were part of the settlement of Kinfauns Holdings. Accordingly, the key test of the acceptability of the proposal, in terms of the Development Plan, is whether or not the proposal meets with the aims of Policy 71 of the PALP, which seeks to ensure that all new developments respect and protect the existing character, density and amenity of the areas concerned. For reasons elsewhere in the report, I consider the proposal to meet with the aims of Policy 71, and therefore consider the proposal to be in accordance with the Development Plan.

Terms of the Outline consent

- 36 With the exception of the standard outline conditions, condition No. 4 of the outline consent¹ was the only condition which sought to influence the reserved matters application in a specific way. Condition 4 was explicit in restricting development to the northern section of the site only (2/3rd of the site), which excluded development within the 85m area from the southern boundary of the site, which is effectively defined by the Dundee-Perth railway line. The intended purpose of this condition was to retain the Greenfield nature of the southern part of the site, whilst allowing for development to occur on the Brownfield northern section of the site. This detailed application proposes all the

¹ Condition 4 stated 'This permission is restricted to the northern 60% (approx) of the site – i.e. excluding land within 85m of the boundary of property forming part of the Perth – Dundee railway line'

dwellinghouses to be located more than 85m from the southern boundary and the area within the 85m zone has been identified purely for the purposes of providing SUDS and open space provision. I therefore consider the proposal to be in accordance with the terms of the outline consent (notably Condition 4), as ultimately the area to the south will remain undeveloped from dwellings, and will retain its Greenfield character.

Layout / Density

- 37 The principal reason for the refusal of the previous reserved matters application related to an overall poor design and uninspiring layout, which was entirely unacceptable in terms of overall quality of the scheme which failed to meet the rising aspirations of Perth and Kinross Council in respect of seeking a higher standard of development across the region. Since that refusal, the applicant has been working closely with the Planning Service to create a development which reflects the character of Kinfauns Holdings, and meets with the Council's high design expectations. The result is a healthy balance between high quality detached homes aligning the public road front and small groups of terraces based around a central courtyard space. The layout both works technically in terms of road and pedestrian safety, but will also deliver a pleasant residential environment for future occupiers of the development. In addition, the southern SUDS area will be developed in such a way that it will double up as a usable area of public open space, which will be developed in further consultation with the Council. I therefore consider the overall layout entirely acceptable, and one which will provide a welcome mix of detached and terraces homes to the area, which is in line with the aims and objectives provided within Designing Streets and Designing Places.
- 38 In terms of the overall density, concerns have been raised within the letters of representation that the numbers proposed (37) is excessive considering the current size of the Kinfauns Holdings settlement. Although I accept that the numbers have increased from the previous refusal (from 19 to 37), I consider it to be a significant material consideration that no restriction was placed on the outline consent, in respect of either density figures or an upper limit for acceptable numbers. As there was no such restriction, I consider a reasonable approach to assessing the acceptability of the numbers proposed to be whether or not the layout and quality of the development is acceptable in its own right, and whether or not the overall character of the area will be adversely affected by the proposal.
- 39 In terms of the layout and overall quality of the development, as stated previously I consider both to be acceptable and of a suitably high standard for this area.
- 40 In terms of the impact on the character of the existing settlement, I consider the layout proposal (courtyard off-set from the public road) has gone some way to negating a potential negative effect on the area which could have occurred by the introduction of 37 new homes. From the public road into and out of Kinfauns Holdings, the terraces will be seen to some extent. However, the focus will largely be on the new detached units along the road frontage that are set within

spacious grounds similar to existing properties within Kinfauns Holdings, and will have suitable landscaping/planting arrangements. I therefore ultimately consider that the overall impact on the character (and density) of Kinfauns Holdings will not be significantly adversely affected by the proposal.

House Types

- 41 Concerns have been raised within the letters of representation that the house types proposed are inappropriate for the area. Whilst I accept that the majority of the existing buildings in Kinfauns Holdings are single storey (although not exclusively), there are no specific restrictions on new build developments within the area in terms of heights within the framework of the Development Plan, only that the character, amenity and density of the local area should be protected, and if possible enhanced. The applicant has sought to identify features from dwellings in the area and also to create a focus on the site. The design of the units around the courtyard layout would provide this focus and, although the units are of 2 levels of accommodation, they lie behind the frontage units and would have the impact of a steading style focus to the immediate area. The design of the frontage units would also have 2 levels of accommodation utilising the roof space.

Visual Impact

- 42 The principal visual impact of the proposal will be from the four detached units which are positioned along the frontage next to the public road. Although these dwellings will introduce a new entrance into Kinfauns Holdings and, although they may be larger than the majority of the single storey dwellings in Kinfauns, they are not fully out of character with the area. I therefore do not consider there to be detrimental visual impact arising from this development.

Impact on Residential Amenity

- 43 Although the application has generated a substantial number of objections, there are no residential properties which are directly affected by this proposal in terms of overlooking or loss of privacy. The closest properties to the north of the site are separated from the development by the public road, and I consider the separation between the existing residential properties and those proposed to be satisfactory.

Drainage

- 44 The site lies within a public sewered area, therefore foul drainage will be disposed of through the public system. With regard to surface water, a sustainable urban drainage system (SUDS) will be incorporated into the area to the south of the proposed housing. Prior to any works commencing on site, the Council will seek full details of the SUDS area.

Flooding Matters

- 45 Although the site is in close proximity to the River Tay, the topography of the site towards the northern section is such that flood risk to the proposed dwellings is not an issue.

Road related issues

- 46 As a result of the previous refusal on the site, the applicant has worked closely with the Council to try to produce a layout that is not focused on the access arrangements, but at the same time does not compromise vehicular or pedestrian safety. The layout which has been submitted has attempted to find a balance between these two criteria, and overall it succeeds.

Affordable Housing

- 47 As there was no requirement on the outline consent requiring affordable housing provision, the applicant is not obliged to provide any affordable housing on site or to make a contribution to the Council in lieu of providing on site provision. However, the applicant has indicated that they would be prepared to enter into discussions with the Council for up to four low cost home ownership units.

Primary Education

- 48 Although the local primary school (Kinnoull) is operating at over its 80% capacity, there is no requirement for a contribution to be made to the Council in respect of Primary Education as the outline application was approved prior to the implementation of the approved Planning Guidance Note on Primary Education and New Housing Developments.

Recycling Provision

- 49 The applicant has indicated a willingness to make a financial contribution to the Council for off site recycling provision. In principle, I have no objection to this.

Play Provision

- 50 As well as incorporating the SUDS, it is intended that the area to the south of the dwellings will be available for public recreational purposes. Although there was no requirement as part of the outline consent for on site recreational provision, the applicant has indicated their willingness to enter into positive discussions with the Council regarding bringing this area further as an area of public space, which may include play provision. The Council has no objection to this in principle. However, precise details of the play area (including long term maintenance arrangements) must be agreed in writing prior to the commencement of any works.

Demand for Housing in the Area

- 51 Some concerns have been raised within the representations that there is no demand for more housing within the local area at the present time. The planning system should not become involved in market forces but should limit itself to dealing with proposals on face value in the context of the Development Plan and other material considerations. I therefore do not consider the demand (or perceived lack of demand) to be a valid planning consideration in the determination of this application.

LEGAL AGREEMENTS

- 52 None required.

DIRECTION BY SCOTTISH MINISTERS

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

CONCLUSION AND REASON FOR RECOMMENDATION

- 54 Despite the level of objection, I consider the proposal to be in line with the requirements of the outline consent, and will not adversely affect the amenity, character or density of the surrounding area. The applicant has made great strides since the previous refusal which has resulted in a proposal of high quality with an imaginative layout that should be supported.

RECOMMENDATION

A Approve the application subject to the following conditions:

- 1 The Planning Permission in Principle for this development lapses on the expiration of 2 years from this approval (or, in the case of the approval of different matters on different dates, from the requisite approval for the last such matter being obtained) unless the development to which the permission relates is begun before that expiration.
- 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 Prior to the commencement of any works on site a detailed landscaping plan shall be submitted for the approval in writing by the Council as Planning Authority. The approved scheme shall be implemented in full prior to the occupation of the first dwellinghouse, and thereafter retained in perpetuity to the satisfaction of the Council as Planning Authority.

- 4 Prior to the commencement of any works on site precise details of the Sustainable Urban Drainage System shall be submitted for the approval in writing by the Council as Planning Authority, in consultation with Scottish Water and Scottish Environment Protection Agency.
- 5 Prior to the commencement of any works on site, precise details of the open space provision (including details of any equipment) shall be agreed in writing by the Council as Planning Authority and be in accordance with Council standards. In addition, all long term maintenance requirements must be agreed with the Council as Planning Authority, prior to any works commencing.
- 6 Prior to the commencement of any works on site, precise details of all on site bin storage areas shall be submitted for the approval in writing by the Council as Planning Authority.
- 7 Prior to the occupation of any dwelling, all matters regarding access, car parking, road layout, design and specification, including the disposal of surface water, shall be in accordance with the standards required by the Council as Roads Authority and to the satisfaction of the Council as Planning Authority.
- 8 Prior to the occupation of any dwelling, the vehicular access shall be formed in accordance with specification Type D, Fig 5.7 access detail to the satisfaction of the Council as Planning Authority.
- 9 Storm water drainage from all paved surfaces, including the access, shall be disposed of by means of suitable sustainable urban drainage systems to meet the requirements of best management practices, to the satisfaction of the Council as Planning Authority.
- 10 No structures shall be erected within the visibility splays. Any planting within the visibility splays must be at low level, to the satisfaction of the Council as Planning Authority.
- 11 Prior to the commencement of any works on site precise details of all roof and external wall finishes (including timber features) shall be submitted for the approval in writing by the Council as Planning Authority.
- 12 Prior to the commencement of any works on site precise details of all boundary treatments shall be submitted for the approval in writing by the Council as Planning Authority.

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 To ensure that the development is carried out in accordance with the plans approved.
- 3 In the interest of visual and residential amenity.
- 4-6 In the interest of proper site management.
- 7-8 In the interests of pedestrian and traffic safety and in the interests of free traffic flow.
- 9 In the interest of proper site management.
- 10 In the interests of pedestrian and traffic safety and in the interests of free traffic flow.
- 11 In the interest of visual amenity.
- 12 In the interest of proper site management.

B JUSTIFICATION

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

C PROCEDURAL NOTES

Consent should not be issued until such time as a financial payment has been secured and agreed for off site recycling facilities.

D INFORMATIVES

- 1 Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the Planning Authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 2 As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.
- 3 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 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 Environment Protection Agency.

- 5 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.
- 6 The applicant is advised that the Executive Director of Education & Children's Services can give no guarantee that any school age children arising from this development application can be accommodated at Kinnoull Primary School. This will result in such children being placed in the nearest school with capacity to accommodate them.

Background Papers: 37 letters of representations.
Contact Officer: Andy Baxter, Ext 75339
Date: 10 June 2010

Nick Brian
Development Quality Manager

Perth & Kinross Council

Development Control Committee: 7th July 2010

09/01845/FLL The Holdings West Kinfauns



