

Perth and Kinross Council
Development Control Committee – 17 February 2010
Report of Handling by Development Quality Manager

**Erection of 22 Flats at Atholl Curling Rink, Lower Oakfield, Pitlochry, PH16
5HQ**

Ref. No: 09/01280/FLL
Ward No: N4– Highland

Summary

This report recommends approval of the application for the erection of 22 flats as the development is considered to comply with the Development Plan.

BACKGROUND AND DESCRIPTION

- 1 The application was previously included in the agenda for this committee at the meeting on 9 December 2009 but was withdrawn by officers to address the issue of the impact of the development on an oak tree to the northeast of the site.
- 2 The application site is located to the east of Pitlochry town centre in an area which is mostly residential with some hotels and bed and breakfast premises. The site comprises of the former Atholl curling rink building and car park. The proposal is to demolish the curling rink and erect 22 flats.
- 3 The site has an area of approximately 0.83 acres. It is bounded by Toberargan Road and the property Inveresk to the northwest, the Knockendarroch Hotel to the northeast and Lower Oakfield to the southwest and east. The site levels are higher at the north of the site and the levels fall from north to south towards Lower Oakfield. The site has some existing trees and is bounded by traditional low stone walls.
- 4 Vehicular access to the site will be as existing from Lower Oakfield.
- 5 Following the withdrawal from the earlier agenda the plans have been amended to increase the distance from an existing oak tree. This has involved an alteration to block 3/4. A planning application under consideration may be varied as set out in Planning etc. (Scotland) Act 2006; Section 8 (32A) as there is no substantial change to the description of the development.

NATIONAL POLICY AND GUIDANCE

PAN 38 Housing Land

- 6 The main aim is to provide advice on the availability of sites for development and which supports sustainable options that can be delivered in a suitable time period to meet the present level of demand.

PAN 67 Housing Quality

- 7 A successful place in which to live is one which is distinctive, safe and pleasant, accessible, welcoming, adaptable and resource efficient.
- 8 The Scottish Executive seeks high standards of design as expressed in 'Designing Places'

SPP3 Planning for Housing

- 9 The key aim is to provide well located, high quality new housing, create quality residential environments, to guide new housing to the right places and to deliver housing land.

SPP15 Rural Development

- 10 Provides guidance on the amount and location of housing that can be developed in rural areas. Determining factors include: proximity to services e.g. schools, shops (ideally within walking or cycling distance); ease of access (from an existing road and footpath and to a rail station or bus route); drainage and sewerage capacity (e.g. from combined septic tanks or potential link to public systems). Fit in the landscape and design are also important planning considerations.

DEVELOPMENT PLAN

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

Perth and Kinross Structure Plan 2003:

- 12 The principal relevant policies are in summary:

Sustainable Communities Policy 3

- 13 This seeks to secure affordable and low-cost housing in local areas as identified through housing needs assessments.

Sustainable Communities Policy 4

- 14 The Council will seek to ensure sufficient provision is made for a minimum 5-year effective housing land supply in each Housing Market Area.

Highland Area Local Plan 2000

- 15 The site lies within the defined settlement boundary for Pitlochry and within an area identified for residential and compatible uses.
- 16 The principal relevant policies are in summary:

Policy 2: Development Criteria

Provides criteria by which all developments will be judged. In particular, that the development should have a landscape framework, should have regard to the scale, form, colour and density of development within the locality and should not result in a significant loss of amenity to the local community.

Policy 5: Design

Seeks high standards of design throughout the plan area.

Policy 28: Listed Buildings

Seeks to ensure that the setting of listed buildings will be safeguarded.

Policy 76: Residential and Compatible Uses

States that where sites become available for development housing will be the most obvious alternative use. Development should not have an adverse effect on density, character or amenity of the area.

OTHER POLICIES

Affordable Housing Policy

- 17 The Council's Affordable Housing Policy is applicable to all residential development of 5 units and above. Below 10 units a financial contribution may be accepted whilst for 10 and above the provision of units on site as part of the development is preferred, or if this is not appropriate, houses may be provided off-site as an alternative

Primary Education and New Housing Development: Planning Guidance Note

- 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. Currently a contribution of £6,105 per qualifying house is required where a primary school is at or would reach capacity as a result of the development proposed. A Section 75 agreement to secure the contribution will be required at the time of a detailed application unless the required level of financial contribution is made prior to the consent being issued.

SITE HISTORY

- 19 09/00585/FLL Erection of 29 flats at Atholl Curling Rink, Lower Oakfield, Pitlochry withdrawn 22.07.09

CONSULTATIONS

- 20 Education and Children's Services: This development falls within the Pitlochry Primary School catchment area. Based on current information this school will breach the 80% capacity trigger therefore it is requested that the Finalised Primary Education and New Housing Contributions Policy be applied to this application. The education policy however will not be applied to the units classed as affordable housing.
- 21 Scottish Water: There is no objection from Scottish Water, however approval for connection from Scottish Water is required when the appropriate application and technical details have been received by them.
- 22 Pitlochry Community Council: The Community Council does not object to the proposal however they request that the developer use real slate, the existing gap in the wall onto Toberargan Road is gated and that consideration should be given to footpaths.
- 23 Environment and Regulatory Service: Specifications for storage of waste and recycling facilities are to be conditioned.
- 24 Scottish Natural Heritage: SNH were consulted as concerns were raised regarding bats and red squirrels seen within the site. The survey undertaken by the agent has been cleared by SNH as no evidence of bat roosting was found.
- 25 Access Officer: The Access Officer requests that the pedestrian short cut across site is retained and footway provision around the site be provided.
- 26 Trees and Woodlands Officer: Initially objected to the proposal due to the encroachment of block 3/4 on the root protection area of an existing oak tree. The amended plans were requested to resolve this issue and the necessary distance has been achieved removing the objection.

REPRESENTATIONS

- 27 One hundred and forty-six letters of representation have been received from local residents/ Architectural Heritage Society/ Pitlochry Civic Trust etc and these raise the following relevant issues:
 - Design/Materials
 - Over development
 - Lack of amenity space
 - Detrimental impact on Conservation Area/listed buildings
 - Lack of parking
 - Pedestrian Safety
 - Loss of tourism
 - Pressure on Services
 - Loss of Right of Way

- Loss of daylight/overshadowing/privacy
- Lack of employment in Pitlochry
- Effect on bats and red squirrels
- Contrary to Local Plan policy
- Choice of housing tenure
- Trees

28 These issues are addressed in the Appraisal section of this report with the exception of loss of tourism and lack of employment which are not material planning considerations.

29 All neighbours have been re-notified of the amendments to the plans and the application has been re-advertised in the local press. No letters of representation were removed following this amendment and therefore all representations remain.

30 **Additional Statements**

Environmental Statement:	Not required
Screening Opinion:	Not required
Environmental Impact Assessment	Not required
Appropriate Assessment:	Not required
Design Statement or Design and Access Statement:	Not required
Report on Impact or Potential Impact i.e. Flood	Not required
Risk Assessment:	

APPRAISAL

Policy

31 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the Development Plan unless material considerations indicate otherwise. The determining issues in this case are whether: - the proposal complies with Development Plan policy; or if there are any other material considerations which justify a departure from policy. The most relevant policies of the Highland Area Local Plan (HALP) in this instance are Policies 2, 5, 28 & 76.

32 The proposed use of the site is in accordance with the Development Plan as the site is zoned for residential and compatible uses. Where sites become available for development housing will generally be the most obvious alternative use. Development should not have an adverse effect on density, character or amenity of the area. The density in the area varies from low density at the eastern end of Lower Oakfield with the density changing and rising as you move west towards Toberargan Road. The character of development within the area is a mix of flats, detached dwellings and hotels/B&Bs. The character of the area will not be adversely affected by the proposed development. Furthermore the amenity of the area will be improved by the removal of the curling rink.

Previous Application

- 33 The site has been subject to a previous planning application. This application was withdrawn because of concerns over density, design, mass and access. This application has seen the proposed flat numbers reduced from 29 to 22 and the previous two and three quarter storey elements have been reduced to one and three quarter storey height. Blocks 1 and 2 are now physically separated and the wide archway design shown in the previous application has been removed.

Affordable Housing/Tenure

- 34 The site is to accommodate 14 affordable units to be managed by a registered social landlord. The remaining 8 units will be offered for private sale on a postcode allocation for the first 3 months. The delivery of the affordable housing will be covered by a legal agreement. The Councils Affordable Housing Enabler in conjunction with Housing has confirmed that the proportion of affordable housing is acceptable and required within the area.
- 35 The site is acceptable for a flatted development and the housing tenure is not a planning consideration.

Education

- 36 The Executive Director of Education and Children's Services has advised that the Finalised Primary Education and New Housing Contributions Policy are applicable. The policy will not apply to the 14 affordable units; therefore a contribution of £6,105 will be required for the remaining 8 units for private sale with this payment being made through a Section 75 legal agreement, if the applicant chooses not to make the payment prior to any consent being issued.

Parking/Traffic/Footpaths

- 37 The parking requirement for the 14 affordable units is one space per unit and in addition the 8 private sale units require 1.5 spaces per unit. In total therefore the parking provision required is 26 spaces and this has been proposed on the site. Through discussion with the Roads Engineer the architect has designed a shared surface approach to the parking and footway using natural divisions such as raised planters and trees to divide parking and control traffic. The amendment to the proposals has not resulted in the loss of any parking provision.
- 38 The traffic generation from this development has been highlighted as a concern. The previous recreational use would have generated a high number of vehicles from the afternoon to late at night with people arriving and departing at the same time. Housing generates smaller amounts of traffic throughout the day and considerably less in the evening. Particularly with housing this would peak from 8am to 9am and 5pm to 6pm but it is unlikely that large numbers of people will travel at the same time.

- 39 In this area of Pitlochry historically there are few footpaths therefore pedestrians and road users have shared the same surface and in turn this arrangement has retained the character of the Conservation Area.
- 40 The existing stone wall which forms the site boundary with Toberargan Road has an opening with steps forming a short cut through the site to Lower Oakfield. The access officer has requested that this popular pedestrian route be retained. However the route is not a proposed or existing core path. The opening originally was not intended as a through route as it was to provide access to the curling rink resulting in the access being incidental to the former use. The proposal does not retain this shortcut and to support this the agent states that the opening provides access directly to the highway which is unsafe. Consultation with Tayside Police has shown that it would not meet the Secured by Design accreditation and it may be a hazard to retain through building works. As a consequence therefore the gap has not been incorporated into the proposed scheme.

Drainage

- 41 The proposal is to connect the development to the public waste water treatment plant.
- 42 The applicant must make a separate application to Scottish Water for permission to connect to the public wastewater system and/or water network and all their requirements must be fully adhered to. For clarification Scottish Water have offered no objection to this proposal in terms of drainage.

Residential Amenity

- 43 Loss of privacy, daylight and overshadowing have been raised by immediate neighbours to the site. The design of the dwellings has resulted in only two bathroom windows within proximity of a neighbouring dwelling; however these windows do not overlook the rear garden. The new flats are located at their closest point 10 metres to the nearest neighbouring property and taking into consideration the orientation of the flats there will be no overshadowing or loss of daylight.
- 44 The development is flatted and therefore it would not be normal practice for each unit to have allocated garden ground. It is important however to seek an outside area that will meet the needs of those choosing to live in flatted accommodation. An area has been shown on the plans for sitting out and there is additional green space around each block, the flats also have an allocated area for bins. The provisions should meet the needs of those choosing to live in a flatted development and would be inline with the approach normally taken with flatted development.

Design and Layout

- 45 The proposed flats are one and three quarter storey with the upper accommodation being served by pitched roof dormers. The blocks have varying roof heights and are considerably lower in height than the existing curling rink. The materials proposed are a wet dash render, small amounts of timber boarding and slate greys tiles. Submission of further details in respect of materials will be conditioned on any consent as tiles are not appropriate and the colour of the render and treatment of timber boarding needs to be agreed with samples.
- 46 The layout of the site is acceptable and provides access and parking easily accessible for each flat. The flats have been divided into 4 separate blocks arranged around the central parking area. The separation of the blocks has reduced the mass and reflects the character of the area.

The amendment to block 3/4 has simplified the footprint of the development and altered the elevations slightly. The height and location of the block is unaltered.

- 47 The applicant's agent has also submitted a composite elevation from Lower Oakfield to show the ridge heights of the proposed units in relation to other houses in the area and the Knockendarroch Hotel. Included within this elevation is the curling rink which demonstrates how the proposed development reduces the mass of the existing building to that more appropriate to the surrounding development.

Bat and Red Squirrels

- 48 The demolition works and removal of trees would have a detrimental effect on protected species if they inhabit the site. The agent has undertaken a bat survey, which also included an assessment of the impact on nesting birds. No evidence of bat roosting was found and the building is considered to have a low likelihood of being used by bats, furthermore no red squirrel dreys were found. SNH have considered the survey and are satisfied that the survey is competent and the application can proceed.

Trees

- 49 The proposal involves the removal of 5 trees. The trees are to be removed to accommodate the development and access. The trees are located outwith the Conservation Area and have no TPOs.
- 50 The protection of a large oak tree has been raised; the tree is located outwith the site boundary and no new development is shown within the tree canopy. The Councils Tree and Woodland Officer initially objected as the development was shown as being within 12 metres of the oak tree and block 3 of the proposed development encroached on the Root Protection Area of the oak. However, the alteration to block 3/4 has enabled the necessary 12 metre

distance to be achieved between the development and the tree and as a result the Tree and Woodland Officer has withdrawn the objection.

Conservation Area/Listed Building

- 51 The site is located outwith but on the boundary of the Conservation Area and is in close vicinity to two Listed Buildings. It is accepted that the removal of the curling rink would improve the setting of the Conservation Area as noted in the Pitlochry Conservation Area Appraisal April 2007.
- 52 The proposal is considered not to affect the setting of the Listed Buildings. The Knockendarroch hotel sits in an elevated position above the site and the proposed flats are lower in height than the existing curling rink. The other Listed Building, Inveresk, is located to the west and a distance of at least 10 metres from this property to the new flats and this distance reduces the impact on Inveresk.
- 53 The proposed design is are considered to be acceptable, on the edge of the Conservation Area, whilst the details in respect of materials will be dealt with through a condition on any consent issued. The flats are simple in design and separation of the blocks reduces the overall impact and as a result it is not considered that the proposed development would have an adverse effect on the Conservation Area.

LEGAL AGREEMENTS REQUIRED

- 54 A legal agreement is required to ensure the payment of a contribution towards education and delivery of the affordable housing. The applicant has confirmed that he wishes to enter into a Legal Agreement.

DIRECTION BY SCOTTISH MINISTERS

- 55 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

- 56 The development is considered to be appropriate infill development within the settlement boundary of Pitlochry. The proposal also ensures the delivery of affordable housing and the scale, layout and design of the proposal is considered to reflect the character of the settlement and not adversely affect the character of the Conservation Area. The proposal is considered to comply with the terms of the Development Plan, subject to conditions, and no material considerations exist which would outweigh the contents of the Development Plan.

RECOMMENDATION

A Approve the application for the following reasons:

- 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 occupation or use of the approved development 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 Planning Authority.
- 4 Prior to occupation or use of the approved development a secure waterproof cycle parking facility for a minimum of 22 cycles shall be provided within the access to the development.
- 5 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
- 6 A detailed scheme for storage of waste and recycling facilities shall be submitted for the further approval of this Planning Authority prior to the commencement of the development and development shall not commence prior to the approval of that scheme.
- 7 Full details of any alteration to the existing stone boundary walls 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.
- 8 Details of the proposed boundary treatments including new fences and walls for the site shall be submitted for the approval of the Planning Authority prior to the commencement of the development/use and such scheme as may be approved shall be completed prior to the occupation of the development.
- 9 Details of the specification and colour of the proposed roof 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. For the avoidance of doubt, the use of slate grey tiles are not approved.
- 10 Details of the colour tone of the wet dash render 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.

- 11 Details of the colour of the timber windows and timber panelling 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.
- 12 A detailed landscaping and planting scheme for the site shall be submitted for the further approval of this Planning Authority prior to the commencement of the development and development shall not commence prior to the approval of that scheme. The scheme shall include details of the height and slopes of any mounding or recontouring of the site, species, height, size and density of trees and shrubs to be planted and the scheme as subsequently approved shall be carried out and completed within the first available planting season; of the occupation of the house; unless otherwise agreed in writing with this Planning Authority and thereafter maintained to the satisfaction of the Planning Authority.
- 13 The root spread of the oak tree located outwith but overhanging the application site must be protected within the application site by stout fencing (minimum 1.2 metres high and 2.4 metres 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 and before any demolition or development, 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.

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.
- 3-5 In the interests of pedestrian and traffic safety and in the interests of free traffic flow.
- 6 To enable the provision of waste and recycling services top the development.
- 7-12 In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.
- 13 To protect the oak tree located on the neighbouring site

B Justification

The proposal is considered to comply with the terms of the Development Plan, subject to conditions, and no material considerations exist which would outweigh the contents of the Development Plan.

C Procedural Note

Planning consent shall not be issued until a Section 75 Agreement has been signed in respect of the following issues

- 1 Delivery of the onsite affordable housing.
- 2 An Education Contribution of forty-eight thousand eight hundred and forty pounds (£48,840).

D Informatives

- 1 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.
- 2 The applicant should be advised that in terms of Section 21 of the Roads (Scotland) Act 1984 they must obtain from the Council as Roads Authority consent to construct a new road prior to the commencement of roadworks. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environmental Protection Agency.
- 3 No work shall be commenced until an application for building warrant has been submitted and approved.
- 4 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.
- 5 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.

6 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: 146 letters of representation

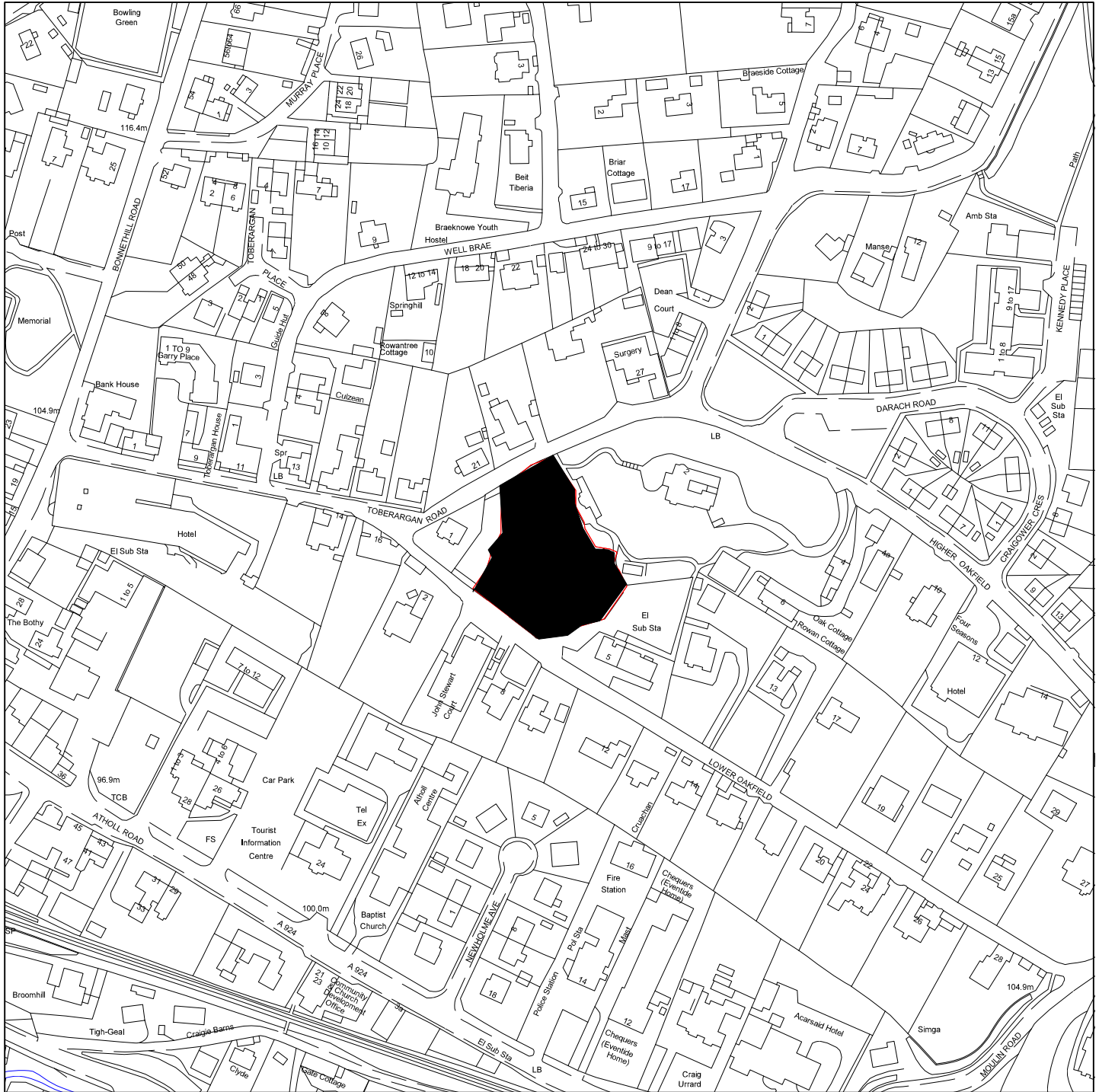
Contact Officer: Joanne Ferguson – Ext 4(75320)

Date: 29 January 2010

Nick Brian
Development Quality Manager

09/01280/FLL

Erection 22 flats, Atholl Curling Rink, Lower Oakfield, Pitlochry



Scale : 1:2500

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Department	Planning
Comments	
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