

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

**Residential flatted development ( in outline), 210 Glasgow Road Perth  
PH2 0NA**

Ref. No: 09/00513/IPL  
Ward No: N-10

**Summary**

This report recommends refusal of the application for residential flatted development (in outline), as the development is considered contrary to the provisions of the Development Plan, would lead to the loss of defined public open space , and would compromise future road improvements.

**BACKGROUND AND DESCRIPTION**

- 1 This is an application for planning permission in principle for residential development (flats) with all matters of detail reserved for subsequent approval.
- 2 The site comprises part of a private car park and landscape strip off Glasgow Road and adjacent to Necessity Brae and Low Road, to the rear of the Cherrybank Inn. The site is approximately 0.05ha (0.11ac) in area, part is tarmac surfaced with the remainder a grass bank on which are a number of established trees.

**NATIONAL POLICY AND GUIDANCE**

**The Scottish Planning Policy (2010)**

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

Of relevance to this application are:-

- Paragraphs 66 - 91 : Housing
- Paragraphs 86 - 88 : Affordable Housing
- Paragraphs 149 -158: Open Space and Physical Activity

- Paragraphs 165 -181: Transport
- Paragraphs 196 -211: Flooding and Drainage.

4 Further policy and advice on design is provided in *Designing Places, Designing Streets* and PAN 67 *Housing Quality*.

## **DEVELOPMENT PLAN**

5 The Development Plan for the area consist of the Approved Perth and Kinross Structure Plan 2003 and the Adopted Perth Area Local Plan 1995

The principal relevant policies are in summary: -

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

#### **Sustainable Communities Policy 4**

6 Identifies that the Council will ensure sufficient provision is made for a minimum 5 year effective housing supply in each Housing Market Area.

#### **Sustainable Communities Policy 10**

7 Identifies the role of Local Plans in identifying important areas of 'greenspace' and devise policies to ensure their protection and management

### **Perth Area Local Plan 1995**

8 Under the Local Plan the site lies within the settlement boundary for Perth and within an area allocated for recreation and open space.

#### **Policy 41**

9 Identifies that small areas of private and public open space will be retained where they are of recreational or amenity value to their surroundings.

#### **Policy 52**

10 Identifies that the Proposals Map designates major areas of public and private open space and recreation which are to be retained and where proposals for development which erode these areas will be resisted.

### **Draft Perth Area Local Plan 2004**

11 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, it is considered that the weighting which is given to its policies and proposals should be limited at this point in time. However, Members may note that the application site was also identified as part of an area of open space in that draft review.

## OTHER POLICIES

### Affordable Housing Policy

- 12 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. The policy seeks a 25% allocation of affordable housing; preferably on site, however for developments of less than 10 units commuted payments maybe acceptable.

### Education Contributions

- 13 Across Scotland local authorities are having difficulty maintaining and developing infrastructure in order to keep up with the pressures of new development. Additional funding sources beyond that of the local authority are required to ensure that infrastructure constraints do not inhibit sustainable economic growth.

### Planning Guidance Note – Primary Education and New Housing Development May 2009

- 14 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

- 15 None

## CONSULTATIONS

- |    |                                 |   |  |
|----|---------------------------------|---|--|
| 16 | Scottish Water                  | - | No objections.   |
| 17 | Transportation                  | - | Objection. Insufficient provision with regard to access and parking. |
| 18 | Education                       | - | Unable to support. Primary school capacity constrained.              |
| 19 | Parks and Open Space Management | - | No objection to tree loss. Landscape condition advised.              |
| 20 | Environmental Health            | - | No objections. No records of contamination.                          |

## REPRESENTATIONS

- 21 2 letters of comment received.
- 22 Summary of Issues raised by Representations
- Highway safety/Conflict with vehicle and pedestrian movements;
  - Road widening necessary with consequent loss of much used green area
  - Requirement for cycle storage should development be permitted

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

## ADDITIONAL STATEMENTS

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

## APPRAISAL

- 24 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) require the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The adopted development plan that is applicable to this area comprises the Perth and Kinross Structure Plan 2003 and the Perth Area Local Plan 1995. The determining issues here are whether the proposals comply with Development Plan policy or if there are other material considerations, which justify a departure from policy. Other material considerations in this instance include the loss of open space, drainage and flooding, relationship with adjacent dwellings, affordable housing, education, highway safety, design and layout, and ownership.

### Policy

- 25 From the review of the Development Plan it may be noted that the policies identify a strong presumption towards the retention of defined areas for recreation and open space.
- 26 Sustainable Communities Policy 4 does identify the Council's commitment to the maintenance of a 5 year land supply within each Housing Market Area. The lack of a 5 year supply of land may provide a justification for setting aside other Development Plan Objectives.
- 27 In spite of the age of the adopted Local Plan, the Housing supply figure for the Perth Housing Market Area remains at more than 5 years.

## **Loss of Open space**

- 28 Although the site is used as a surfaced car park rather than an active area of recreational or open space, the land has amenity value through the presence of established trees and the visual link it offers to the open, undeveloped land to the south and east. Views through and over the site are afforded from the Glasgow Road (a principal route to and through the town), and the undeveloped nature of the site provides visual relief from built development in this urban location.
- 29 Although the Local Plan was adopted in 1995, the draft review (now abandoned) maintained the sites designation as open space.
- 30 Any new building in this area would necessitate the removal of a number of trees on the site, would introduce the visual presence of a building on a prominent site and would disrupt public views from the Glasgow Road. Such changes would be harmful to the amenity of this part of Perth.

## **Drainage & Flooding**

- 31 The application site lies within an area identified as susceptible to flooding on SEPA's Flood Map. The Scouring Burn is culverted beneath the car park.
- 32 The Council's Flood Prevention Officer has identified that the culvert surcharges regularly causing flood water to overtop the embankment spilling onto the road and down into the area of the application site. It is advised that a site specific flood risk assessment is undertaken.
- 33 The applicant has been advised of the need for the submission of Flood Risk Assessment to assist an appraisal of the suitability of the site for housing but FRA has been submitted.

## **Relationship with adjacent properties**

- 34 The application site is away from other residential properties and would not materially harm the amenities of residential occupiers of those properties through overlooking or overshadowing. Immediately to the south of the site are allotments, to the west is open land beyond Necessity Brae and to the north is the commercial property - Cherrybank Inn.

## **Affordable Housing**

- 35 This is an application for planning permission in principle. The requirements for affordable housing would be assessed at the reserved matters stage based on the number of units proposed at the detailed planning stage. Delivery of affordable housing in accordance with the Council's approved Guidance could be safeguarded at this 'principle' stage through the inclusion of an appropriately worded condition on any planning permission.

## **Education**

- 36 The application site lies within the catchment area of Craigie Primary School. At the time of submission (March 2009) Education and Children's Services identified that they were unable to support the proposals because of capacity constraints.
- 37 New Planning Guidance Note (Primary Education and New Housing Development) would enable a financial contribution to be collected towards the improvement of educational infrastructure to enable the concerns of the Education Service to be effectively addressed. The amount liable would depend on the scale and number of residential units proposed. Delivery, in accordance with the Council's approved Guidance, could be safeguarded at this 'principle' stage through the inclusion of an appropriately worded condition on any planning permission.

## **Traffic**

- 38 The site is narrow and presently does not benefit from a footpath along the street edge to Low Road.
- 39 Transportation raises concerns with the proposals. Development of the site would compromise the potential for future road improvements necessitated by proposals which may come forward as a consequence of development on land to the south west of the application site which is an allocated business site. Such improvements could entail an increase in carriageway width together with provision of footway.
- 40 In addition, because of the Council ownership of a significant proportion of the site (see below), its small size, narrow width and proximity to an existing road junction would result in a form of development which would realise insufficient provision with regard to access and car parking.

## **Design and Layout**

- 41 Design and layout are matters which would be reserved for subsequent approval should the principle of flatted development be acceptable in this location. The concerns raised through representation about the provision of cycle storage facilities for users of the flats would be addressed at the detailed stage if consent was to be granted.

## **Ownership**

- 42 The Estates Service has confirmed that part of the site is owned by the Council and two approaches to purchase the ground have been made in the last 12 months. The land comprises the grass bank above the surfaced car park. Requests for purchase have been resisted as the loss of the ground could prejudice future proposals for road widening on Necessity Brae / Low Road in the event that land allocated for business use to the south and west of the application site is developed.

- 43 The submitted application form confirms ownership of all of the site by the applicant. The issue of Council ownership has been raised with the applicant, who is confident of his own claim to title.
- 44 A private dispute of ownership would not prejudice a grant of planning permission. Were a planning approval to be granted it would be incumbent on the developer to secure separately any necessary landowner consents before carrying out any works of construction.

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

- 45 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. The report above identifies that part of the site is within the Council's ownership. 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. As the recommendation is one of refusal a notification to the Ministers would not be required. In any event the proposal is not considered to involve a significant departure to the Development Plan.

### **LEGAL AGREEMENTS**

- 46 None required

### **DIRECTION BY SCOTTISH MINISTERS**

- 47 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**

- 48 The proposal for residential development of a site allocated as recreational open space would conflict with the objectives of the approved Development Plan. The removal of trees and the presence of a building on the site would have the potential to disrupt public views from the Glasgow Road diminishing the amenity value of the land as open space.
- 49 The site has a history of flooding from a nearby watercourse. In the absence of a Flood Risk Assessment it has not been demonstrated that residential development would be an acceptable use of the site or that such development could be realised in an appropriate form.
- 50 Due to the constraints of the site and vehicular access any new building would result in a form of development which would realise insufficient provision with regard to access and car parking. In addition development of the site may compromise the delivery of future road improvements necessitated by the development of business land allocated in the adopted Perth Area Local Plan.

51 The existence of a 5 year Housing Land supply within the Perth Housing Market Area means that there are no other materials planning considerations which would justify departing from the provisions of the Development Plan in this instance.

## **RECOMMENDATION**

### **A Refuse the application for the following reasons:**

1. The proposals for residential development would conflict with the objectives of the Development Plan resulting in a loss of open space and diminishing the quality of that open space, whilst adversely affecting the amenity of the area.
2. In the absence of a site specific Flood Risk Assessment the Local Planning Authority cannot be satisfied that residential development would be an acceptable use of the site or that such development could be realised in an appropriate form.
3. The development, by virtue of its limited size, narrow width and proximity to an existing road junction would have insufficient provision with regard to access and parking and conflict with pedestrian and traffic safety.
4. Development of the site would compromise the potential for future road improvements necessitated by proposals which may come forward as a consequence of the development of allocated business land to the south west of the application site.

### **B JUSTIFICATION**

The proposal is contrary to the Development Plan and there are no material considerations to justify a departure there from.

### **C PROCEDURAL NOTES**

None

### **D INFORMATIVES**

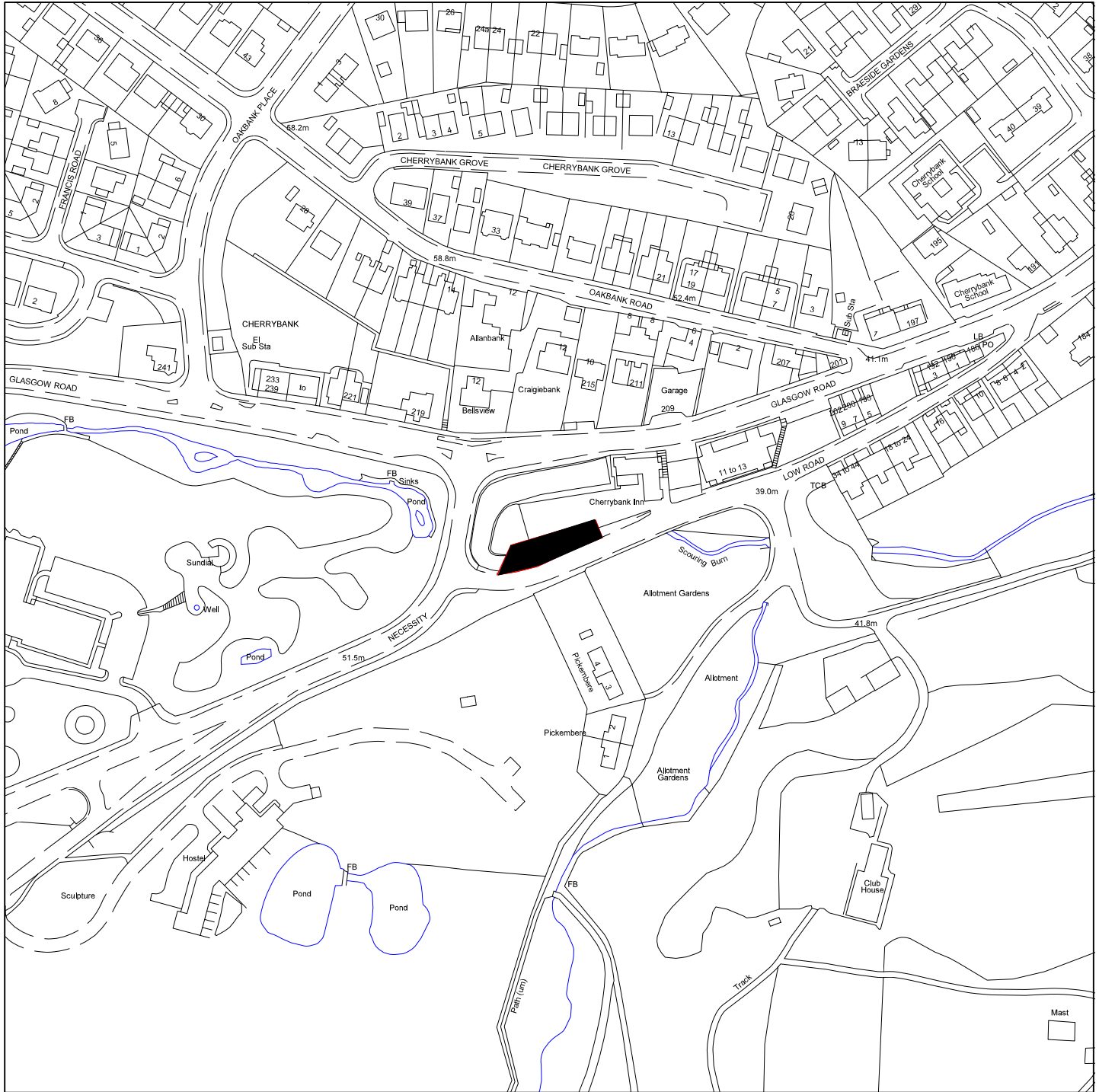
None

Background Papers: 2 letters of representation  
Contact Officer: Garry Dimeck – Ext 5337  
Date: 16 March 2010

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

09/00513/IPL

Residential development, 210 Glasgow Road, Perth



Scale : 1:2500

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

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