

Issue 34	Kinross-shire Area - Kinross/Milnathort Opportunity Sites	
Development plan reference:	Table 7.1.6, page 197 OP10 - Market Park, Kinross, page 206 OP11 - Turfhill Motorway Service Area, Kinross, page 206 OP13 - Scottish Motor Auctions, Kinross, page 207 OP14 - Health Centre, Kinross, page 207 OP17 - Kay Trailers, Milnathort, page 208 OP18 - Kay Trailers, Milnathort, page 208 OP24 - Kinross Town Hall, page 208	Reporter: Timothy Brian
Body or person(s) submitting a representation raising the issue (including reference number):		
Gerald Eve LLP (00284) I Stewart (00551) Ann Fyfe (00640) Jane Smallwood (00702) Kinross Community Council (00841) Iain Walker (00852) Councillor Michael Barnacle (02633) Scottish Environment Protection Agency (03194)		Scottish Natural Heritage (05211) Kinross-shire Civic Trust (06950) Graham & Sibbald (09462) Motor Auction (Properties) Ltd (09029) Dr Robert Walker (09986) Eileen Thomas (10223) Ken Miles (10236)
Provision of the development plan to which the issue relates:	Opportunity sites within Kinross and Milnathort.	
Planning authority's summary of the representation(s):		
<p><u>Op10</u></p> <p>I Stewart (00551/1/001): Object on grounds that the site is in the Conservation Area and it fits in with the street scale and its distinctiveness. Development would remove the history of the site, increase pollution, increase traffic, impact on road safety and neighbouring properties privacy.</p> <p>Ken Miles (10236/1/011): This site enhances and compliments the streetscape and character of the Conservation Area.</p> <p>Councillor Michael Barnacle (02633/1/039): Site should remain as green space.</p> <p>Kinross Community Council (00841/1/014): The National Curling Academy is no longer an option. The site should be zoned as green space only. Market Park is an integral part of the streetscape.</p> <p>Dr Robert Walker (09986/1/003): Market Park contributes to the setting of the townscape of Kinross Conservation Area. Support for a prestigious tourism development should be withdrawn due to this reason. An alternative site exists at Op13.</p> <p>Eileen Thomas (10223/1/006): The National Curling Academy project is no longer going ahead. The site is within the Conservation Area and is important to the setting of Kinross with a historic past. Should be retained as open space.</p>		

Iain Walker (00852/1/001): The green space makes the Muirs attractive and helps define the town, building a prestigious tourism development would ruin this asset.

Kinross-shire Civic Trust (06950/1/026): The site is an important green space in Kinross and within the Conservation Area. Now that the Curling Academy project is no longer going ahead the site should be open space and not a prestigious project.

Jane Smallwood (00702/1/006): Agree important to remain a green space or amenity use such as curling academy.

Op11

Gerald Eve LLP (00284/1/003): It is noted that the Council will encourage improvement to existing facilities and creation of tourism related retailing targeted at the travelling public using the strategic road network. Given the current economic climate and the need to secure new investment in the area, consideration should be given to ensuring a financially viable development takes place on this site in order to meet the Council's regeneration objectives. The specific reference to tourism related retail is considered to be overly restrictive to facilitate the regeneration of this site to come forward and it is suggested that flexibility is included within the current policy to enable an *'appropriate level of tourism related retail and other retailing, provided it can be demonstrated that no significant impact will occur to the vitality and viability of town and other retail centres (particularly Kinross)'*, which could enable a financially viable proposal to come forward.

Kinross Community Council (00841/1/009): Support.

Op13

Scottish Environment Protection Agency (03194/47/001): The Indicative River and Coastal Flood Map (Scotland) (S4_Doc_577) shows that the entire site boundary lies within the estimated 1 in 200 year functional floodplain of the South Queich. Additional 2D modelling commissioned by Perth & Kinross Council shows the majority of the site to be at risk from the 1:200 year flood event. In addition, the 1:200 plus climate change event shows the entire site to be within this flood extent.

It is noted that a considerable proportion of this site is currently an undeveloped area of tarmac and therefore any further development of the site would reduce potential flood plain storage and may increase the risk of flooding elsewhere.

The Flood Risk Management (Scotland) Act 2009 (Core_Doc_059) sets in place a statutory framework for delivering a sustainable and risk-based approach to managing flooding. Flood risk is based on the probability of flooding and the impacts of flooding. Taking a risk-based approach for this site, the probability of flooding remains the same yet the impacts would be greater if the commercial building is replaced with permanent residential dwelling, hence the overall flood risk would increase.

The allocation is contrary to Scottish Planning Policy which states in paragraph 197 (S4_Doc_312) that *'development which would have a significant probability of being affected by flooding or would increase the probability of flooding elsewhere should not be permitted'* and the risk framework (S4_Doc_109) which highlights that development in high to medium risk areas may be suitable only if there are flood defences to an appropriate standard. However there are no appropriate flood defences on the South Queich.

Scottish Natural Heritage (05211/25/015): The Site Specific Developer Requirements should reflect the outcome of the Habitats Regulations Appraisal (S4_Doc_156).

Kinross-shire Civic Trust (06950/1/016): Site identified for employment and residential use. There is no identification of the number of residences on the site, nor its contribution to the total number of sites that would be available in Kinross-shire. Does the definition of 50% refer to the total use of the site, or does it mean 50% for residences and 50% for employment?

Ann Fyfe (00640/1/001): Does not consider that there is a need for housing on Op13 or in Kinross. Would be suitable for a Foodstore. Upgrades to Drainage and footpaths required.

Councillor Michael Barnacle (02633/1/034): Should be allocated for employment use only and not residential as well.

Dr Robert Walker (09986/1/004): An alternative to Class 4 employment for OP13 could be a tourism development along with using the adjacent land at the Pier exploiting the attractiveness of Loch Leven.

Motor Auction (Properties) Limited (09029/1/001): Encouraged that the Plan recognises that the buildings within Op13 are no longer fit for purpose. This site offers a better and more deliverable opportunity for a mixed-use development, including retail than Op12. There is a need to improve the retail offer in Kinross through the provision of a larger supermarket close to the town centre. The most suitable retail site is Op13 which can deliver a large format supermarket close to the town centre. There is interest in the retail re-use of part of the site for a medium sized supermarket as part of a larger mixed-use development.

Ken Miles (10236/1/003): Identification of Opportunity Sites is missing from table at 7.1.6 (S4_Doc_499). Employment opportunities exist at Op13. Plan should clearly state Kinross Auction Mart Op13.

Kinross Community Council (00841/1/015): Support.

Op14

Ken Miles (10236/1/005): Site Op14 - Health Centre does not appear on Employment Land table at 7.1.6 (S4_Doc_499).

Graham & Sibbald (09462/1/001): Supports the proposed allocation because it is more likely to lead to reuse of this site than the current Adopted Local Plan (S4_Doc_578) allocation, in which the preferred use is housing for special needs or the elderly.

Kinross Community Council (00841/1/011): Support.

Op17

Scottish Environment Protection Agency (03194/49/001): Review of the Indicative River and Coastal Flood Map (Scotland) (S4_Doc_579) shows that the entire site boundary lies within the estimated 1 in 200 year functional floodplain of the Fochy/Backburn. In addition, there is potentially a mill lade which flows beneath the site which could pose an additional flood risk to the site.

Jane Smallwood (00702/1/008): Support.

Op18

Scottish Environment Protection Agency (03194/50/001): Review of the Indicative River and Coastal Flood Map (Scotland) (S4_Doc_579) shows that the entire site boundary lies within the estimated 1 in 200 year functional floodplain of the Fochy/ Back burn.

Jane Smallwood (00702/1/009): Support.

Op24

Kinross Community Council (00841/1/016): Object to the inclusion of residential use. Building is at heart of town centre and should retain some community use.

Councillor Michael Barnacle (02633/1/038): Supports housing as a development option.

Modifications sought by those submitting representations:Op10

I Stewart (00551/1/001); Ken Miles (10236/1/011); Councillor Michael Barnacle (02633/1/039); Kinross Community Council (00841/1/014); Dr Robert Walker (09986/1/003); Eileen Thomas (10223/1/006); Iain Walker (00852/1/001), Kinross-shire Civic Trust (06950/1/026): Remove from the Local Development Plan and designate the site as green space.

Op11

Gerald Eve LLP (00284/1/003): Site information amended to state: *'The motorway services at Turfhill are the focus of motorway services and tourism related retail. The Council will encourage improvements to existing facilities and creation of tourism related retail targeted at the travelling public using the strategic road network. The level of tourism related retail must be carefully balanced between the regeneration benefits of the motorway service area coming forward, with any potential impact on nearby district and local centres. The Council will support an appropriate level of tourism related retail, and other retailing, provided it can be demonstrated that no significant impact will occur to the vitality and viability of town and other retail centres (particularly Kinross).'*

Op13

Scottish Environment Protection Agency (03194/47/001): Delete from the Plan.

Scottish Natural Heritage (05211/25/015): Modify the Site Specific Developer Requirements to include:

- *'Construction Method Statement to be provided where the development site will affect a watercourse. Methodology should provide measures to protect the watercourse from the impact of pollution and sediment so as to ensure no adverse effects on Loch Leven SPA.*
- *The SUDS for development proposals should include sufficient attenuation to protect those watercourses which flow into Loch Leven from erosion during periods of heavy rainfall.'*

Kinross-shire Civic Trust (06950/1/016): Plan to clarify whether the definition of 50% refers to the total use of the site or 50% for residences and 50% for employment.

Ann Fyfe (00640/1/001), Councillor Michael Barnacle (02633/1/034): Modify site uses to delete *'high density residential'* use.

Dr Robert Walker (09986/1/004): Modify site uses to include *'Tourism'*.

Motor Auction (Properties) Limited (09029/1/001): Modify site uses to include *'food; non-food retail; residential; employment.'*

Ken Miles (10236/1/003): Table 7.1.6 (S4_Doc_499) in the Plan to state *'Op13 – Kinross Auction Mart'*.

Op14

Ken Miles (10236/1/005): Table 7.1.6 (S4_Doc_499) in the Plan to state *'Op14 – Health Centre'*.

Op17

Scottish Environment Protection Agency (03194/49/001): Delete from the Plan.

Op18

Scottish Environment Protection Agency (03194/50/001): Delete from the Plan.

Op24

Kinross Community Council (00841/1/016): Modify site uses to delete *'residential'* use.

Summary of responses (including reasons) by planning authority:

Op10

I Stewart (00551/1/001); Ken Miles (10236/1/011); Councillor Michael Barnacle (02633/1/039); Kinross Community Council (00841/1/014); Dr Robert Walker (09986/1/003); Eileen Thomas (10223/1/006); Iain Walker (00852/1/001), Kinross-shire Civic Trust (06950/1/026): The allocation has been presented in the Plan to reflect planning permission which was granted under 09/01082/IPL (S4_Doc_580) for a National Curling Academy. This planning permission has now lapsed. The site accommodates a prime position within Kinross and if a future prestigious development was proposed on this site which would enhance Kinross as a tourism destination, is of special merit to outweigh the landscape significance of the site and is compatible with existing neighbouring uses this site may be acceptable. While the permission for the National Curling Academy has lapsed the principle of development has been established on this site and the Council does not agree that it should not provide an opportunity to support the future tourism growth of Kinross.

If the Reporter was so minded the Council would raise no issues with the site uses being modified to reflect the current situation.

<i>Ref</i>	<i>Location</i>	<i>Size</i>	<i>Uses</i>
<i>Op10</i>	<i>Market Park</i>	<i>1 ha</i>	<i>Green Space or Prestigious Tourism Development</i>
<i>The site is of value to the setting of Kinross and will remain as green space unless a prestigious development is proposed which is deemed by the Council to enhance Kinross as a tourism destination and is compatible with existing neighbouring uses.</i>			
<i>Site Specific Developer Requirements</i>			
⇒ <i>Transport Assessment.</i>			
⇒ <i>Road and access improvements to the satisfaction of the Council as Roads Authority.</i>			

Op11

Gerald Eve LLP (00284/1/003): Planning permission has been granted for the upgrading of the motor service area under 11/00197/FLM (S4_Doc_556). This permission allows for an additional 2304m² of retail floorspace which the applicant justified in order to support the renovation of the existing service area. This demonstrates that the principle of additional appropriate retail in this location to help off set the regeneration costs has been established. Turfhill Motor Service Area lies on the strategic road network adjacent to Kinross. The Plan identifies that tourism development should be the focus of any improvements in order to limit the impact on Kinross town centre and not create a 'destination' encouraging local car journeys. The modified wording proposed does not provide any additional clarity over that which is currently stated in the Plan. It is up to the applicant to prove the additional requirement in terms of Policy RC4: Retail and Commercial Leisure Proposals (S4_Doc_497).

No modification is proposed to the Plan.

Op13

Scottish Environment Protection Agency (03194/47/001): It is acknowledged that the site lies within the identified flood plain and the Site Specific Developer Requirements indicate the requirement for the provision of a Flood Risk Assessment in order to identify the developable area. The site is currently in employment use and small scale development may be suitable within the footprint of existing buildings without increasing flood risk. Notwithstanding this position the site identification is not a major component of the Plan strategy and the removal of the Opportunity Designation would not pose any issues.

The Councils preferred position is for no modification to the Plan but if the Reporter was so minded the Council would have no objection to this opportunity being removed from the Plan and the site identified as white land within the settlement boundary.

Scottish Natural Heritage (05211/25/015): It is considered that amending the Site Specific Developer Requirements to incorporate mitigation measures as set out in the Habitats Regulations Appraisal (Including Appropriate Assessment) (S4_Doc_156) would provide greater clarity and transparency for applicants in terms of how the provisions of the Plan's Policy NE1: International Nature Conservation Sites (S4_Doc_389) apply to this site.

If the Reporter is so minded the suggested additional text by the respondent, as detailed in the 'Modifications Sought' section, should be added to the Site Specific Developer Requirements.

Kinross-shire Civic Trust (06950/1/016); Ann Fyfe (00640/1/001); Councillor Michael Barnacle (02633/1/034); Dr Robert Walker (09986/1/004): The Plan identifies that a maximum of 50% of the site to be high density residential which will help cross fund the provision of employment land. The strategy of the Plan is *'to ensure there is readily available economic development land'* and that *'maintaining and improving Perth and Kinross's economic development land provision is a key driver to achieving sustainable economic growth'*. It is recognised that the employment pattern of Kinross-shire is caricaturised by a high level of outward commuting. If Kinross-shire is to become more sustainable in employment terms it must attract a greater number of jobs particularly in the professional and managerial sectors. A basic prerequisite of attracting jobs is having quality sites and premises available and as a result the Plan seeks to identify such sites. It is acknowledged that the site is within the identified flood plain and this may restrict the effectiveness of this site for redevelopment. The proposed mix of residential and employment would also not restrict the development of suitable tourism uses in line with

Policy ED1B: Employment and Mixed Use Areas (S4_Doc_483) and Policy RC4: Retail and Commercial Leisure Proposals (S4_Doc_497). Supplementary Guidance will expand on the type of employment uses most suited to the relevant areas.

If the site remains identified no modification is proposed to the Plan.

Motor Auction (Properties) Limited (09029/1/001): Since the publication of the Proposed Plan the Sainsbury's supermarket has been improved taking up some of this spare capacity and it is not considered that the Plan requires identifying further retail opportunities. Through the first review of the Local Development Plan this position can be reassessed. The Representation provides no evidence that there is an identified need and no operator has supported this modification. If a proposal comes forward through a planning application it will be considered in line with Policy RC4: Retail and Commercial Leisure Proposals (S4_Doc_497).

If the site remains identified no modification is proposed to the Plan.

Ken Miles (10236/1/003): Table 7.1.16 (S4_Doc_499) in the Local Development Plan sets out where new employment sites are identified. Op13 is currently in employment use and the Opportunity designation provides the option to diversify this including residential use. As this may result in a net loss of employment land it would not be appropriate to include this site in Table 7.1.16.

No modification is proposed to the Plan.

Op14

Ken Miles (10236/1/005): Table 7.1.16 (S4_Doc_499) in the Local Development Plan sets out where new employment sites are identified. Op14 is currently in employment use and the opportunity designation provides the option to diversify this including residential use. As this may result in a net loss of employment land it would not be appropriate to include this site in Table 7.1.16.

No modification is proposed to the Plan.

Op17 and Op18

Scottish Environment Protection Agency (03194/49/001), Scottish Environment Protection Agency (03194/50/001): These allocations are a continuation from the Adopted Kinross Area Local Plan 2004 which, under Op6 (S4_Doc_581), identifies it for Class 4 Business or high density residential. The site is brownfield and is surrounded by built development. The Plan allocation is set to guide what type of development would be considered suitable on the development site and is seeking to promote the reuse of brownfield sites. SEPA have raised concerns with regards to flood risk within the site which has been recognised through the Plan by the requirement in the Site Specific Developer Requirements for the provision of a Flood Risk Assessment. A flood protection scheme has been put in place since 2004 to help protect the existing properties from flooding, development of Op17 may provide an opportunity to increase this scheme. Notwithstanding this position the site identification is not a major component of the Plan strategy and the removal of the Opportunity Designation would not pose any issues.

If the Reporter was so minded the Council would have no objection to this opportunity being removed from the Plan and the site identified as white land within the settlement boundary.

Op24

Kinross Community Council (00841/1/016): The Plan identifies that the former Kinross Town Hall can accommodate one or more of a range of uses. This allows for the residential to be developed in tandem with community uses if required. Providing a range of different uses may allow for an element of cross funding allowing the building to be brought back into effective use.

No modification is proposed to the Plan.

Reporter's conclusions:**Op10: Market Place**

1. This is an attractive and well maintained open space in a prominent location within Kinross, and makes a positive contribution to the conservation area of which it forms a part. The planning permission which was granted in 2009 for the development of a national curling academy on the land was not implemented, and there is now no suggestion that the proposal is likely to proceed. In those circumstances there is little purpose in identifying the land as an opportunity site in the Proposed Plan.
2. The council's suggested modification would prolong the uncertainty as to the future of the land which is highly valued in its present condition by local residents. Op10 should therefore be deleted from the Proposed Plan, and the site should be identified as open space.

Op11: Turfhill's Motorway Service Area

3. This site at Turfhill's is also discussed under Issue 31: Kinross/Milnathort Settlement. Op11 lies on the opposite side of the M90 motorway from Kinross. A scheme for the overdue redevelopment of the motorway service area (MSA) was granted planning permission in 2011. The consent makes clear that the retail element of the new service area is to be limited to tourism related comparison goods, with ancillary food and convenience goods. This limitation reflects the legitimate role of the MSA to serve the needs of motorway travellers, rather than to cater for the retail requirements of the local population.
4. To widen the retail offer on the site would create an out of centre shopping destination, which would fail the sequential test which gives preference to town centres. The Proposed Plan should not be changed, and any proposal to relax the restriction should be assessed against the relevant policy (Policy RC4).

Op13: Scottish Motor Auctions

5. The Scottish Motor Auctions site covers an area of 3.7 hectares on the south side of Kinross. The site contains a substantial modern commercial building and extensive areas of car parking. To the south on the opposite side of the River South Queich is the existing cashmere factory, and there is housing to the north and west.
6. Op13 designates the land as an opportunity site for employment and high density residential on no more than 50% of the site. The council accepts that the existing buildings on the site may not be fit for purpose, and does not oppose the redevelopment of the site. However its suitability for residential and retail development is in contention.

7. The unresolved representation from the Scottish Environment Protection Agency (SEPA) cannot be disregarded. The entire site is at risk of flooding from the 1 in 200 year (0.05%) plus climate change event, and its redevelopment could increase the risk of flooding elsewhere. In the absence of appropriate flood defences, the identification of the site for housing is not compatible with the risk based approach to flooding required by statute and explained in Scottish Planning Policy (SPP). The Op13 designation should therefore be deleted from the Proposed Plan. Any proposals for the redevelopment of the site would need to be assessed against the relevant policies of the Proposed Plan, and having regard to an up-to-date flood risk assessment (amongst other relevant assessments).

8. The requirement for additional retail space in Kinross is discussed in Issue 31. There is currently inadequate evidence of unfulfilled demand to justify allocating a specific site for that purpose. However, if or when such a requirement is demonstrated this site on the south side of Kinross will need to be assessed against the criteria of Policy RC4.

Op14: Health Centre

9. This site of 0.6 hectares has been redundant since the development of the new health centre opposite the Loch Leven Community Campus. Op14 proposes that it be developed for employment use compatible with residential amenity or high density low cost housing. Because the site might be developed for housing under this designation, it would not be appropriate to include it in the table of employment land at 7.1.6.

Op17 and Op18: Kay Trailers

10. These related sites on either side of Stirling Road are shown as suitable for employment use or residential (high density or flatted). However both sites lie within the 1:200 year functional floodplain of Fochy/ Back Burn, and recent flood defence works have only protected the area to cater for a 1:100 year event. There is also a mill lade under Op17 which could increase the flood risk to the site.

11. In these circumstances the proposed residential use would be contrary to the risk based framework to managing flooding set out in SPP and in the Flood Risk Management (Scotland) Act 2009. The sites should therefore be deleted from the Proposed Plan, and any proposals for the sites should be considered against the relevant policies of the Plan.

Op24: Kinross Town Hall

12. The Proposed Plan envisages a range of possible uses in the former town hall, i.e. community, retail, office, hotel, restaurant and residential. This is an important listed building in a prominent position in the conservation area. The priority should be to identify a new use to secure the future of a building requiring urgent refurbishment. It would not be advisable to narrow the options at this stage. All of the alternatives proposed in Op24 are acceptable in principle in this town centre location, so there is no reason to modify the Proposed Plan as suggested.

Reporter's recommendations:

Op10: Market Park

1. Delete site Op10, and identify the site as open space (Open Space Policy CF1).

Op13: Scottish Motor Auctions

2. Delete site Op13.

Op17 and Op18: Kay Trailers

3. Delete sites Op17 and Op18.