

Perth and Kinross Council  
Development Management Committee – 24 April 2013  
Report of Handling by Development Quality Manager

**Erection of four dwellinghouses and associated drainage and amenity on a site west of Carnbo Farm House, Carnbo**

Ref. No: 12/02025/FLL  
Ward No: 8 – Kinross-shire

**Summary**

This report recommends approval of the application for the erection of four dwelling houses as the environmental impacts in this location would be acceptable and would accord with the Development Plan.

**BACKGROUND AND DESCRIPTION**

- 1 The site is located on the western edge of Carnbo, north of the A91, approximately 4.5 miles south west of Milnathort. The settlement extends in a linear pattern along the road frontage and comprises a mixture of modern and traditional properties. The current site area, which extends to over 4800 m<sup>2</sup> is characterised as rough pasture land, associated with Carnbo farmhouse, falling from the north of the site. Current access to the site is gained from a farm track to the north east (access to plot 4), Carnbo Farmhouse lies to the east, the A91 to the south, farmland to the west and north.
- 2 In recent years, Carnbo has expanded with a number of infill sites being developed. The settlement boundary has been drawn to accommodate limited further growth. The Proposed Development Plan has stated that preference should be given to roadside development, according with the existing settlement pattern of building and open space within the settlement.
- 3 The proposed development consists of three detached double storey dwellinghouses, accessed and facing the main, public road of the A91 passing through Carnbo, with the building line roughly respecting that of the existing Carnbo farmhouse. The fourth plot is proposed to be accessed from the existing field access to the north east of the site, above Carnbo Farmhouse. The house types are similar with subtle variation. The overall style is generally traditional in style and finish with steep pitched roof, vertical proportions and external finishes including a light coloured wet dash render, slate roof and timber windows. An undeveloped paddock area has been identified to the north of plot three, which has not been specifically identified for specific ownership of any one plot at this stage. This allows flexibility for the paddock to be sold separately to any of the four plots or subdivided as best fits.

**NATIONAL POLICY AND GUIDANCE**

- 4 The Scottish Government expresses its planning policies through the National Planning Framework 1& 2, the Scottish Planning Policy (SPP) and Planning Advice Notes (PAN).

5 Of specific relevance to this application are:

**The Scottish Planning Policy 2010**

6 The 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.

7 Of specific relevance to this application are:

- Paragraph 25: Determining planning applications
- Paragraphs 34 – 44: Sustainable Development and Climate Change
- Paragraphs 125 -148: Landscape and Natural Heritage
- Paragraphs 142 – 145: Protected Species

**DEVELOPMENT PLAN**

8 The Development Plan for the area consists of the Approved TAYPlan Strategic Development Plan and the Adopted Kinross Area Local Plan 2004. The Council's Proposed Local Development Plan 2012 is a relevant material consideration. There are no specific policies of relevance contained in the TAYPlan.

**Kinross Area Local Plan 2004**

9 The majority of the site lies within the settlement boundary for Carnbo as identified in the Kinross Area Local Plan 2004.

The principal relevant policies are in summary: -

**Policy 1 Sustainable Development**

10 Sets out a development strategy based on sustainable principles. The policy identifies that key considerations include the maintenance and improvement of the quality of the natural environment and the conservation of biodiversity.

**Policy 2 Development Criteria**

11 Identifies detailed criteria against which development proposals will be assessed. This includes landscape framework; satisfactory vehicular access and road capacity.

### **Policy 5 Landscape**

- 12 Indicates that the Council will assess development proposals that may have a significant landscape impact against the principles of the Kinross-shire Landscape Character Assessment.

### **Policy 6 Design and Landscaping**

- 13 Identifies that the Council will require high standards of design for all developments and encouragement will be given to ensuring that new development fits its location.

### **Policies 10-13 Drainage within Loch Leven Catchment Area**

- 14 Set out the criteria for drainage within the Loch Leven Catchment Area. New development is required to secure a sustainable net reduction of phosphorus within the Loch Leven catchment area.

### **Policy 14 Surface Water Drainage**

- 15 Identifies that surface water drainage should accord with the management practices set out in SEPA's Sustainable Urban Drainage Systems Manual.

### **Policy 94 Kinross Settlements rural development Opportunities**

- 16 Inset Maps 14 - 29 identify small settlements where there may be some scope for small scale residential and compatible development provided this will not adversely affect the density, character or amenity of the settlement and where all the following criteria are met: -
- (a) Development is located to accord with the existing pattern of building and open space within the settlement.
  - (b) The design and layout of the development should respect the setting and amenity of adjacent properties.
  - (c) Ribbon development is avoided.

Note: Within the Loch Leven Catchment Area Policy 95 also applies.

### **Policy 95 Kinross Settlement Rural Development Opportunities**

- 17 Maps 14, **16**, 17, 20 – 23 and 26 - 29 identify settlements within the Loch Leven catchment area where the Council will support the development of housing subject to the introduction of publicly maintained drainage systems with capacity for the entire village incorporating one of the following:-
- a. Phosphate reduction facilities capable of reducing the phosphate discharge to 2mg/l.
  - b. Connection of the settlement to the Kinross or Milnathort sewage systems.
  - c. The diversion of foul drainage outwith the Loch Leven Catchment area.

- 18 Before development can commence a minimum of 50% of the existing settlement must have agreed to connect to the new system and a development brief must have been prepared to the satisfaction of the Council as Planning Authority.

### **Opportunity 6**

- 19 Carnbo identified for a maximum of 5 private units with following developer requirements:
- Provision of public drainage system with capacity to accommodate surrounding development.
  - Connection of surrounding properties to public drainage system in accordance with Policy 12.

## **PERTH AND KINROSS COUNCIL LOCAL DEVELOPMENT PLAN - PROPOSED PLAN JANUARY 2012**

- 20 Members will be aware that on the 30 January 2012 the Proposed Local Development Plan was published. The adopted Local Plan will eventually be replaced by the Proposed Local Development Plan (LDP). The LDP has recently undergone a period of public consultation. The Proposed Local Development Plan may be modified and will be subject to examination prior to adoption. It is not expected that the Council will be in a position to adopt the Local Development Plan before December 2014. The Plan may be regarded as a material consideration in the determination of this application, reflecting a more up to date view of the Council.

- 21 Under the Proposed LDP the principal relevant policies are:-

### **RD1 (Residential Areas)**

- 22 Seeks to ensure that existing residential areas are protected.

### **Policy PM1: Placemaking**

- 23 The Council has stated that development must contribute successfully to the quality of the surrounding built and natural environment.

### **Policy PM3: Infrastructure Contributions**

- 24 Where the cumulative impact of new developments will exacerbate a current or generate a future need for additional infrastructure provision or community facilities, planning permission will only be granted where contributions which are reasonably related to the scale and nature of the proposed development are secured. In calculating the impact of new developments the Council will look at the cumulative long-term effect of new development. Contributions will be sought for:

- (a) the provision of on-site facilities necessary in the interests of comprehensive planning; and/or

- (b) the provision, or improvement of, off-site facilities and infrastructure where existing facilities or infrastructure will be placed under additional pressure.
- 25 The requirements of this policy may be secured through legal agreements to deliver planning obligations and will be concluded between the applicant and the Council, prior to the issue of planning permission.

### **Policy EP3: Water Environment and Drainage**

- 26 The Council aims to work towards the objective of protection of existing water environment and no adverse impact through any drainage proposals as defined in subsection policies **EP3A: Water Quality**, Policy **EP3B: Foul Drainage** and Policy **EP3C: Surface Water Drainage**.

## **OTHER COUNCIL POLICIES**

### **Development Contributions 2012**

- 27 This Guidance concentrates on the delivery of developer contributions to provide a means to enable the proposed development to proceed and to meet the needs of the local community associated with the new development by securing contributions towards the provision of infrastructure and services. In terms of Primary Education contributions, the Guidance will be applied to new housing in areas where a primary school capacity constraint has been identified. A capacity constraint is defined as where a primary school is operating, or likely to be operating following completion of the proposed development and extant planning permissions, at or above 80% of total capacity.

### **Site History**

- 28 08/01210/FLL Erection of 4 dwellinghouses – Refused
- 29 12/01268/FLL Erection of 4 dwellinghouses - Withdrawn

## **CONSULTATIONS:**

### **The Executive Director (Education & Children Services):**

- 30 Indicated that the local primary school is operating at over its 80% capacity and that a financial contribution should be sought for the additional dwellings.

### **Scottish Water:**

- 31 Commented on the planning application and have raised no concerns.

### **Scottish Environment Protection Agency:**

- 32 No objections to the application, subject to compliance with appropriate conditions for flood risk.

**Perth and Kinross Heritage Trust:**

- 33 Site confirmed to be within area with archaeological potential. Archaeology condition recommended.

**PKC**

**Community Greenspace:**

- 34 No obstruction to core path (FSWY/156)

**The Environmental Health Manager:**

- 35 Raised no concerns subject to appropriate conditions.

**Structures & Flooding Section**

- 36 No objection on basis of additional information submitted and to be controlled through a condition.

**REPRESENTATIONS**

- 37 The application has attracted 8 letters of objection. The issues raised by the objectors are summarised as follows:

**a. Traffic/Road Safety/Access**

- Inappropriate access onto main road
- Inappropriate access for fourth property proposed – unmade farm access
- Potential increase in surface water
- Cars passing through settlement not heeding speed limits –this development will exacerbate problems
- Additional traffic and potential light pollution

**b. Flooding/Drainage**

- Foul water drainage exacerbating problems at Carnbo – not assisting
- Impact on the man made lade, passing under the road south towards the Quiech
- Surface water from driveways causing problems to neighbouring dwellings to south (downhill from site)
- Water tables/levels impacted adversely

**c. Established policy position**

- 2010 reasons for refusal
- Position of water treatment works
- Contrary to Policy 94
- Contrary to Policy 48
- 300% increase

**d. Wider residential amenity concerns**

- Loss of views, privacy and natural light
- Market – not appropriate scale/size of housing for Carnbo. Urban houses in rural area.
- Proposed boundary wall reflecting traffic noise back onto neighbouring properties
- Control over gravel driveways
- No benefit to existing village residents
- Ongoing building/construction works

**ADDITIONAL STATEMENTS**

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Environment Statement	None
Screening Opinion	None
Environmental Impact Assessment	None
Appropriate Assessment	N/A
Design Statement / Design and Access Statement	Submitted
Report on Impact or Potential Impact	FRA submitted and private drainage details in relation to Loch Leven Catchment

**APPRAISAL**

**Policy**

- 39 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) require the determination of the proposal in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. 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. The most relevant policies of the Kinross Area Local Plan (KALP) are 2, 6, 94 and 95.

**DEVELOPMENT PLAN**

**Kinross Area Local Plan 2004 (KALP)**

- 40 Carnbo is identified on 'Inset Map 16' as a small settlement. Policy 94 identifies that there may be some scope for small scale residential development provided this will not adversely affect the density, character or amenity of the settlement. The Local Plan identifies Carnbo as suitable for a maximum of 5 new dwellinghouses within the settlement policy boundary.
- 41 Through various planning applications at separate locations within Carnbo, it has been established that this maximum number only applies to development on Greenfield sites. Developments on brownfield land or conversions are not

counted towards the total. Planning permissions on Greenfield land since the adoption of the KALP 2004 take the total number of dwellings within the settlement boundary of Carnbo to 5.

- 42 Carnbo is within the Loch Leven Catchment Area and the relevant drainage policies should be applied.

### **Policy 95**

- 43 There is an identified drainage issue in Carnbo and Policy 95 attempted to address these issues with the creation of a public drainage system on the back of new development.
- 44 Subsequently a Reporter when determining an appeal has determined that Policy 95 is unworkable and the use of private systems should be allowed if the required phosphate reduction can be achieved. Private drainage systems have been used or proposed in each of the current permissions.

### **Proposed Local Development Plan 2012**

- 45 The Proposed Plan identifies the majority of this site within the settlement boundary of Carnbo and has not changed from that shown in the KALP. The limit on the maximum number of new dwellings within the settlement has however been removed. A number of representations have been received in relation to Carnbo but none with regards to the removal of the maximum number of dwellings so this issue can now be considered a material consideration as it will not be considered by the Scottish Government Reporters.

### **Policy 48**

- 46 The area of land within the application site that lies outwith the established settlement boundary has been identified for foul drainage treatment to serve the four dwellings proposed and properties associated with the wider drainage mitigation scheme. The situation of below ground foul drainage facilities at this location, outwith the settlement boundary is not considered to have an adverse impact on visual amenity and will have no impact on the established settlement boundary of Carnbo.

### **Development Plan Conclusion**

- 47 The above ground, physical building proposals all lie within the settlement boundary of Carnbo in both the KALP and Proposed Plan. In terms of the KALP it would exceed the limit of 5 dwellings on greenfield sites within the settlement. The Proposed Plan has removed this limit which has not received any representations and as such is a material consideration.

### **Site History**

- 48 An application was submitted in 2008 (08/01210/FLL), which was recommended for refusal and upheld at the Local Review Body (LRB) of

2 November 2010, and an earlier submission in 2012 (12/01268/FLL), which was latterly withdrawn. In 2008, after various discussions with the case officer regarding an improved design position and a reduction in proposed scheme numbers to four; the application was ultimately recommended for refusal, following consultation with the Council's Policy Team as a result of development of the site exceeding the stated five units in the plan 'Opportunity 6' of KALP in line with policies 94 and 95.

- 49 The LRB decision notice added that in addition to the threshold of five units being exceeded, the proposal would adversely affect the character and amenity of Carnbo (contrary to policy 94).
- 50 The original 2012 planning submission 12/01268/FLL was withdrawn to reconsider drainage details and additional boundary landscaping.

### **Archaeology**

- 51 The proposed development site is considered to have archaeological potential, situated immediately to the south of recorded find spot of a prehistoric cemetery. Cremation urns, probably dating to the Bronze Age, were uncovered in 1842. Given the sites proximity to know archaeology it is recommended that an archaeological evaluation be undertaken to appropriately establish the presence or absence of archaeology on the development site.

### **Drainage and Flooding**

- 52 The application site is within the Loch Leven Catchment Area where there is a requirement for phosphorus mitigation to the catchment as part of any built development. SNH and SEPA have both confirmed that the mitigation proposed is well in excess of the 125% required. Conditions and a Legal Agreement to form part of any planning approval to deliver and sustain the phosphorus reduction are advised. This would prevent any potential adverse impact on the integrity of the protected site and habitat and sustain phosphorous reduction gains for the long term.
- 53 Surface water drainage was also identified as an issue through the development of this site to neighbouring properties through a fixed drainage culvert, which passes under the A91 and onto the South Queich.
- 54 Additional information submitted by the applicant states that no additional flows will be conveyed to the watercourse which is culverted beneath the road and there will therefore be no additional loading on the smaller discharge pipe behind Ochill Cottage. This therefore addresses the issue raised in previous correspondence. Calculations have been submitted that confirm the proposed infiltration trenches have capacity to attenuate any surface water flows from the house and garage roofs.
- 55 Previous comments on this site recommended that a planning condition was imposed to ensure that flood risk would not be increased elsewhere.

- 56 The submitted flood risk assessment (FRA) has concluded that there is no risk of flooding from the South Queich Burn as the site is situated a sufficient height difference above the watercourse. Other FRAs have carried out detailed hydraulic modelling of the South Queich in the vicinity of the development and have found that the site is not at risk of flooding from the South Queich's 1 in 200 year flood event.
- 57 A review of ordnance survey maps indicates that a lade runs along the southern boundary of the development site. The consultants explain that this is in a poor condition. A FRA carried out for another site locally looked into the condition of this lade and found that it was no longer functioning but there could be a number of small field drains located along the former route of the lade. As a result, if any land drains are encountered during the construction of the dwellings, contact should be made with the flood prevention authority and SEPA. There is unlikely to be a risk of flooding from the lade as the proposed dwelling's finished floor levels are a sufficient height above the flood relief level.
- 58 A small watercourse runs along the eastern boundary of the development site. No assessment has been undertaken on this watercourse however the FRA and drawing number 12/02025/2 entitled "Site Plan" shows an overland flow path will be created in the event that the downstream culvert was under designed or became blocked. The maximum flood level at the development site is 163.22mAOD before flood water would spill onto the main road in a southern direction away from the dwelling. This level is based on the review of the topographic information provided in plan 12/02025/2. To ensure that the development does not increase the risk of flooding to neighbouring areas there should be no alteration to ground levels below 163.22mAOD. Proposed finished floor levels of 165.25mAOD are sufficient to prevent any risk of flooding. We would recommend that finished ground levels around the dwellings slope away from the developments to prevent flood water ponding against the dwellings.
- 59 It is understood that a flood drainage route is to be located to the east of the development. The watercourse has not been clearly illustrated on the site plan and it is unclear as to whether the proposed flood drainage ditch is to remain an open channel. The flooding team have highlighted they would not support culverting of the drainage ditch, addressed by condition.
- 60 Locally there are a number of flooding issues due to surface water runoff. It is imperative that the runoff from this development is controlled and released at greenfield runoff rates.

### **Road and Pedestrian Safety**

- 61 The number and location of proposed accesses have been fully considered by the Transport Planning Section. There are no concerns relating to vehicular or pedestrian safety, subject to compliance of proposed conditions; including the extension of an existing footway. In addition, surface water which has been raised as an issue through representations will be controlled in accordance with best practice.

## **Landscaping**

- 62 Additional sections and viewpoints were requested to show the impact of the proposed augmented landscape plan as a natural 'entrance' feature to Carnbo. The proposed landscape planting and boundary walling proposed are considered appropriate in this context. Due to parts of the landscaping being situated outwith the established red site line boundary however, it will be appropriate to control and tie up this element as part of any resultant Legal Agreement.

## **Design and Materiality**

- 63 The design and scale of the resultant buildings is considered to be satisfactory and at a scale appropriate to the wider site context. The relationship of the buildings has been considered with prominence respecting the road frontage and a broadly informal layout arrangement, still respecting the approximate building line of Carnbo Farmhouse; similar to the wider Carnbo settlement. The exterior building materials proposed are good quality, taking cues from surrounding built development. The plot density reflects the surrounding properties and edge of settlement location.

## **Residential Amenity**

- 64 The impact on neighbouring amenity has been carefully considered in respect of the proposed development. The issue of loss of view and aspect is not a material planning consideration. The scale, position and overall relationship of the proposed dwellings are not considered to have an adverse impact on the existing residential amenity of surrounding properties. The orientation of the properties is such that even in a late evening summer sun, there is no calculated loss of sunlight to neighbouring residents located on the south of the A91. At the closest point (garage of plot 2), the affected properties are in excess of 25 metres south of any resultant building.
- 65 Environmental Health colleagues have recommended a condition to control noise and odour from the proposed wastewater treatment facility, but are otherwise satisfied that there will not be any adverse impact on neighbouring amenity in respect of noise or odour from the resultant development.

## **Primary Education Contributions**

- 66 The Developer Contributions 2012 document, seeks a financial contribution for primary education in respect of all new dwellings (with the exception of existing consent, affordable housing or single bedroomed units) within the catchment of primary schools that are operating at over 80% capacity. The local Fossoway primary school (RDM) is operating at over its 80% capacity. The applicant accepts this requirement, and has indicated that they wish to delay their required payment subject to house completions. I have no objection to this approach, subject to the completion of a legal agreement. The current contribution figure of £6395 per unit is to be applied.

## **Market Demand**

- 67 Concerns have been raised through individual representation that there is no demand for additional housing of this scale in the area and this proposal is therefore surplus to demand. The planning system should not become directly involved with market forces but should limit itself to dealing with proposals on face value in the context of accordance with the Development Plan and other material considerations.

## **DIRECTION BY SCOTTISH MINISTERS**

- 68 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.

## **LEGAL AGREEMENTS**

- 69 A legal agreement for the deferred payments of Education contributions, securing the delivery of external boundary landscaping along the settlement boundary of Carnbo and securing foul drainage phosphate mitigation measures of affected properties in perpetuity must be concluded prior to the issuing of any consent. In the event of the Section 75 Agreement not having been executed by the applicant, landowner and any other relevant party within 6 months of date of the decision taken on this application, then the application shall be refused.

## **CONCLUSION AND REASONS FOR RECOMMENDATION**

- 70 Section 25 of the Act requires that determination of the proposal should be made in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. The current proposals are now consistent with the objectives of the Development Plan.
- 71 The provision of four dwellinghouses on this site is considered to finish off the settlement at the western edge, whilst providing the opportunity for supplementary structural planting to provide a positive landscaping feature, appropriately defining the settlement boundary.

## **Recommendation**

### **A Approve the application subject to the following conditions:**

1. The proposed development must be carried out in accordance with the approved plans, unless otherwise provided for by conditions imposed on the planning consent.
2. The vehicular access shall be formed in accordance with the Council's Roads Development Guide Type B, Fig 5.6 access detail to the satisfaction of the Council as Planning Authority.

3. The gradient of the accesses shall not exceed 3% for the first 5 metres measured back from the edge of the carriageway and the access shall be constructed so that no surface water is discharged to the public highway.
4. A 1.8m wide footway constructed to the standard and specifications required by the Council as Roads Authority shall be provided along the entire site frontage with the A91, to link to the existing bus stops and be implemented prior to the occupation of any of the dwellinghouses.
5. Turning facilities shall be provided within the site to enable all vehicles to enter and leave in a forward gear, prior to the occupation of any of the dwellinghouses and to the satisfaction of the Council as Planning Authority.
6. The gradient of the accesses shall not exceed 3% for the first 5 metres measured back from the edge of the carriageway and the access shall be constructed so that no surface water is discharged to the public highway.
7. Prior to the occupation or use of the approved development a minimum of two No. car parking spaces per dwelling shall be provided within the site.
8. Details of the specification and colour of the proposed external finishing materials to be used shall be submitted for the approval of the Planning Authority prior to the commencement of the development. The scheme as approved shall be implemented prior to the occupation and or use of the development.
9. The natural stone boundary walling as proposed shall be detailed and subsequently constructed with lime mortar jointing and pointing to the full satisfaction of the Council as Planning Authority.
10. The wastewater treatment facility and associated drainage, storage and pumping installations shall be designed, operated and maintained such that noise and/or odour therefrom, are not perceptible in any domestic property.
11. Storm water drainage shall be provided 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.
12. There shall be no alteration to ground levels below 163.22mAOD, unless otherwise agreed in writing by both SEPA and the Council as Planning Authority.
13. There shall be no culverting of the flood drainage ditch or east boundary watercourse.
14. The approved detailed landscaping and planting scheme for the site shall be implemented as part of the site development programme, prior to the occupation of any part of the development and thereafter maintained in perpetuity.

15. Any planting failing to become established within five years shall be replaced in the following planting season with others of similar size and species.
16. No development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of archaeological investigation which has been submitted by the applicant, agreed by Perth & Kinross Heritage Trust, and approved by the Planning Authority. Thereafter, the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with Perth & Kinross Heritage Trust.
17. The core path (FSWY/156) forming the access to the development must not be obstructed during building works or on completion. Any damage done to the route & associated signage during building works must be made good prior to occupation or completion of development (whichever comes first). Any temporary restrictions to public access required to facilitate works on site must be agreed in writing and in advance with the Council Access Officer.

**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. In the interests of pedestrian and traffic safety and in the interests of free traffic flow.
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6. In the interests of pedestrian and traffic safety and in the interests of free traffic flow.
7. In the interests of pedestrian and traffic safety and in the interests of free traffic flow.
8. In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.
9. In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.
10. To ensure the amenity of nearby premises is adequately safeguarded.

11. In accordance with best management practices and avoid all unnecessary risk of adverse impact on neighbouring residential property through a localised flooding event.
12. To avoid all unnecessary risk of adverse impact on proposed residential development through a localised flooding event.
13. To ensure that flood flow paths remains unchanged and so minimise the risk of flooding to neighbouring areas.
14. In the interests of visual amenity and to ensure the satisfactory implementation of the proposed planting scheme.
15. In the interests of visual amenity and to ensure the satisfactory implementation of the proposed planting scheme.
16. To ensure sites of archaeological interest are properly protected and recorded as appropriate.
17. In order to retain an appropriate standard and ongoing provision of the core path network; complying with the objectives of national and local Planning Policies, including retention of local and wider community facilities.

## **B JUSTIFICATION**

The proposal is not in accordance with the Development Plan on the grounds of policy restrictions on dwelling numbers, however the Proposed Development Plan is a material reason in this case to justify departure from the Development Plan.

## **C PROCEDURAL NOTES**

1. Consent shall not be issued until a Legal Agreement has been completed and signed in respect of securing education contributions, the delivery of external boundary landscaping along the settlement boundary of Carnbo and foul drainage phosphate mitigation measures of affected properties in perpetuity.
2. In the event of the Section 75 Agreement not having been executed by the applicant, landowner and any other relevant party within 6 months of date of the decision taken on this application, then the application shall be refused for the following reasons:-
  - (i) Without the developer contributions to be secured by the Section 75 Agreement the proposed development is unacceptable due to a lack of sufficient school capacity at Fossoway Primary School and the proposal would therefore be contrary to the Council's approved guidance on Primary Education and New Housing Development.
  - (ii) Without the control of the Section 75 Agreement to secure phosphate mitigation the proposal would be contrary to Policies 10 -13, Drainage

within Loch Leven Catchment Area of the adopted Kinross Area Local Plan 2004.

- (iii) Without the control of the Section 75 Agreement to secure external boundary landscaping the proposal would be contrary to Policies 5 & 6, Design & Landscaping of the adopted Kinross Area Local Plan 2004.

## **D INFORMATIVES**

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See Section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
- 2 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.
- 3 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.
- 4 The applicant is advised that in terms of Sections 56 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environment Protection Agency.
- 5 The applicant is advised that the granting of planning consent does not guarantee a connection to Scottish Water's assets. A totally separate drainage system will be required with the surface water discharging to a suitable outlet. Scottish Water requires a sustainable urban drainage system (SUDS) as detailed in Sewers for Scotland 2 if the system is to be considered for adoption.
- 6 This development will require the 'Display of notice while development is carried out', under Section 27C(1) of the Town and Country Planning Act 1997, as amended, and Regulation 38 of the Development Management Procedure (Scotland) Regulations 2008. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for guidance. According to Regulation 38 the notice must be:
  - Displayed in a prominent place at or in the vicinity of the site of the development
  - Readily visible to the public
  - Printed on durable material.

- 7 Please consult the Street Naming and Numbering Officer, The Environment Service, Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth PH1 5GD
- 8 Please consult the Perth and Kinross Heritage Trust, Heritage Officer to discuss the procedures of archaeological works required and written Terms of Reference.

Background Papers: 8 Letters of representation  
Contact Officer: Callum Petrie – Ext 75353  
Date: 8 April 2013

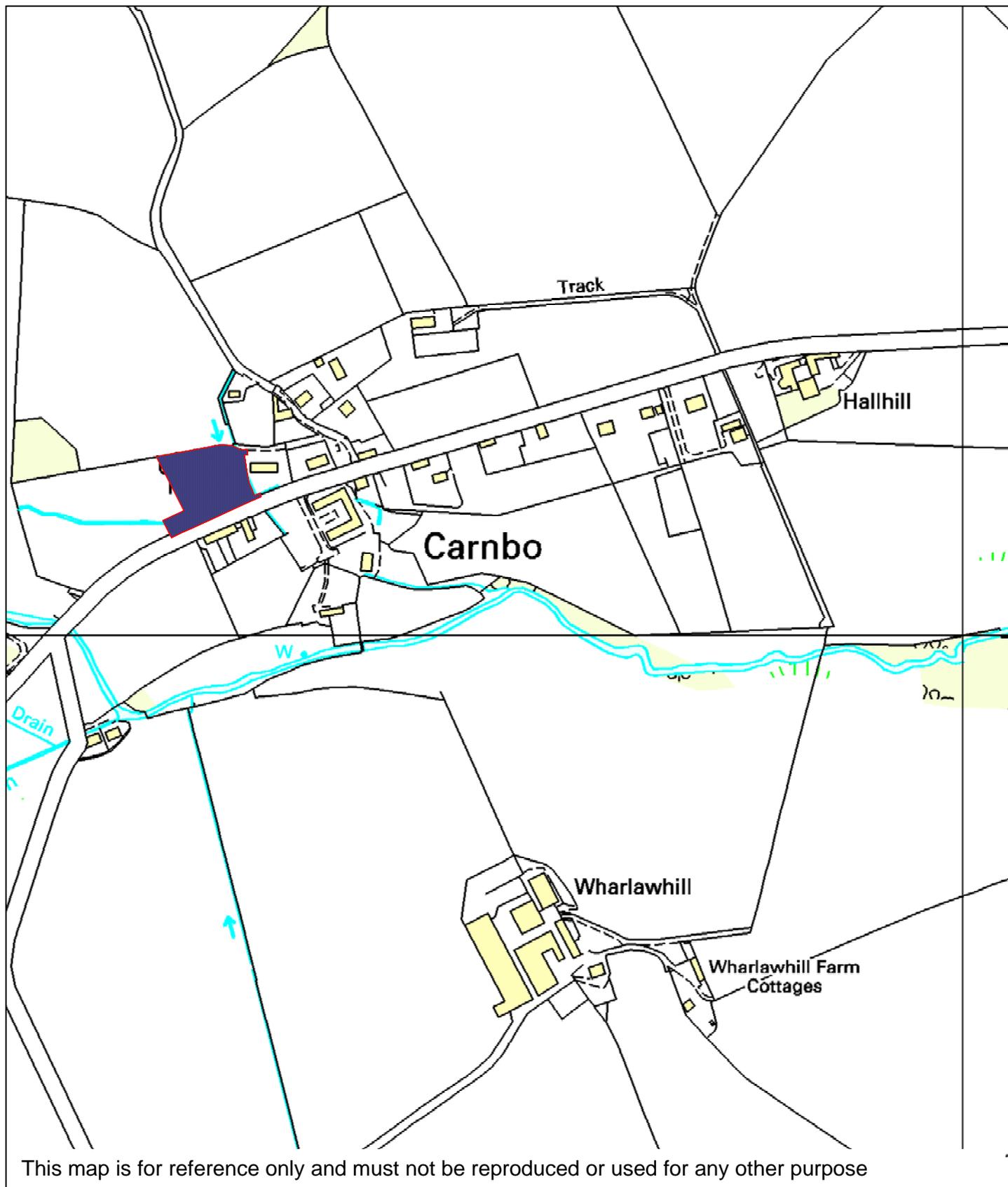
**NICK BRIAN  
DEVELOPMENT QUALITY MANAGER**

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