

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

Realignment of the A93 and the B951, construction of a new A93/B951 junction and bridge over Allt Na Lair Burn, Glenshee

Ref. No: 13/00161/FLL

Ward No: 3 - Blairgowrie and the Glens

Summary

This report recommends approval of the application for the realignment of the A93 and the B951, construction of a new A93/B951 junction and new bridge over Allt Na Lair Burn, Glenshee. The development is considered to comply with the Development Plan, subject to appropriate planning conditions.

BACKGROUND AND PROPOSAL

- 1 The site is located approximately fifty metres south-east of East Lair, Glenshee, Perth, Scotland and centres upon the junction of the A93 carriageway with the B951 carriageway. The site includes a two kilometre section of the existing A93 carriageway and a five hundred metre section of the existing B951.
- 2 The applicant confirms the proposed scheme is being driven by two factors. The first is the fact that the existing Lair Bridge is failing, structurally, and is currently supported by props. The second relates to road safety concerns at the A93 / B951 junction.
- 3 The proposal will result in the existing A93 carriageway being replaced by a straighter section of carriageway, designed to improve standards. It will incorporate a new single-span bridge structure approximately thirty metres downstream of the existing bridge's location. The existing A93 / B951 junction will be relocated fifty metres north of its current position.
- 4 The northern section of the site falls within the boundary of the Cairngorms National Park Authority (CNPA). Following notification to the Park Authority, they called the application in for their own determination. This results in the part of the application within the National Park being dealt with by the CNPA, while Perth and Kinross Council deals with the remainder of the application. This will result in separate decision notices being prepared by each Authority that require to be issued concurrently.

HIERARCHY OF APPLICATIONS

- 5 This application is a local application as defined by the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009 due to the length of the realignment of the road being less than 8.0KM in length. This means there is no statutory requirement imposed on the applicant to undertake pre-application consultation activity with the local community.

Environmental Impact Assessment (EIA)

- 6 EEC Directive (No 2003/35/EC) requires an Authority giving a planning consent for particular large scale projects the 'competent authority', (and in this case Perth and Kinross Council) to make its decision in the knowledge of any likely significant effects on the environment. The Directive therefore sets out a procedure that must be followed for certain types of project before they can be given 'development consent'. This procedure, known as Environmental Impact Assessment (EIA), is a means of drawing together, in a systematic way, an assessment of a project's likely significant environmental effects. This helps to ensure that the importance of the predicted effects, and the scope for reducing any adverse effects, are properly understood by the public and the relevant competent authority before it makes its decision.

- 7 An Environmental Statement supports the planning application and is a key part of the applicant's submission. As a result of the Scoping exercise the following issues have been incorporated within this ES:
 1. Introduction.
 2. Consideration of Alternatives.
 3. Cumulative Impact Assessment.
 4. Cultural Heritage.
 5. Disruption Due to Construction.
 6. Ecology & Nature Conservation.
 7. Impact of Road Scheme Upon Policy & Plans.
 8. Landscape Effects: Landscape Character.
 9. Landscape Effects: Visual Impact /assessment.
 10. Noise & Vibration.
 11. Road Drainage & the Water Environment.
 12. Motorised Users.
 13. Summary & Conclusion.

NATIONAL POLICY AND GUIDANCE

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

National Planning Framework

- 9 The second National Planning Framework for Scotland (NPF) was published in June 2009, setting out a strategy for Scotland's spatial development for the period up until 2030. Under the Planning etc (Scotland) Act 2006 this is now a statutory document and material consideration in any planning application. The document provides a national context for development plans and planning decisions as well as informing the on-going programmes of the Scottish Government, public agencies and local authorities.

The Scottish Planning Policy 2010

- 10 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.
- 11 The following sections of the SPP are of particular importance in the assessment of this application:-
- Paragraph 25: Determining planning applications
 - Paragraph 33: Sustainable Economic Growth
 - Paragraphs 34 – 44: Sustainable Development and Climate Change
 - Paragraphs 110 – 124: Historic Environment
 - Paragraphs 125 – 148: Landscape and Natural Heritage
 - Paragraphs 165 – 176: Transport
 - Paragraphs 196 – 211: Flooding and Drainage
 - Paragraph 255: Outcomes
- 12 The following Scottish Government Planning Advice Notes (PAN) are also of interest:
- PAN 1/2011 Planning and Noise
 - PAN 2/2011 Planning and Archaeology
 - PAN 40 Development Management
 - PAN 51 Planning, Environmental Protection and Regulation
 - PAN 58 Environmental Impact Assessment
 - PAN 60 Planning for Natural Heritage
 - PAN 61 Planning and Sustainable Urban Drainage Systems
 - PAN 69 Planning & Building Standards Advice on Flooding
 - PAN 75 Planning for Transport
 - PAN 79 Water and Drainage

DEVELOPMENT PLAN

- 13 The Development Plan for the area consists of the Tayplan Strategic Development Plan 2012 – 2032 Approved June 2012 and the Adopted Eastern Area Local Plan 1998.

TAY plan Strategic Development Plan 2012

- 14 The vision set out in the TAYplan states that:

“By 2032 the TAYplan region will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice, where more people choose to live, work and visit and where businesses choose to invest and create jobs.”

- 15 Policy 2: Shaping Better Quality Places seeks to ensure that climate change resilience is built into the natural and built environment, integrate new development with existing community infrastructure, ensure the integration of transport and land uses, ensure that waste management solutions are incorporated into development and ensure that high resource efficiency and low/zero carbon energy generation technologies are incorporated with development to reduce carbon emissions and energy consumption.
- 16 Policy 3: Managing TAYplan’s Understanding and respecting the regional distinctiveness, habitats and scenic value of the TAYplan.

Eastern Area Local Plan 1998

- 17 The Plan identifies the protection and enhancement of the environment as a key Council Strategic Policy.
- 18 The principal relevant policies are in summary:

Policy 01: Sustainable Development

- 19 The Council will seek to ensure, where possible, that development within the Plan area is carried out in a sustainable manner. Where development is considered to be unsustainable but has other benefits to the area which outweigh the sustainability issue, the developer will be required to take whatever mitigation measures are deemed both practical and necessary to minimise any adverse impact. The following principles will be used as guidelines in assessing the sustainability of projects:-
- a) Non-renewable resources should be used wisely and sparingly, at a rate which does not restrict the options of future generations.
 - b) Renewable resources should be used within the limits of their capacity for regeneration.
 - c) The quality of the environment as a whole should be maintained and improved.
 - d) In situations of great complexity or uncertainty the precautionary principle should apply.

- e) There should be an equitable distribution of the costs and benefits (material and non-material) of any development.

Policy 02: General Development Policy

- 20 All developments within the Plan area not identified as a specific policy, proposal or opportunity will also be judged against a series of criteria including, a landscape framework, the scale, form, colour and density, of existing developments within the locality, compatible with its surroundings in land use terms and they should not result in significant environmental damage or loss to the amenity or character of the area and the site should be large enough to accommodate the development satisfactorily in site planning terms.

Policy 03: Flood Risk

- 21 Development in areas liable to flood, or where remedial measures would adversely affect flood risk elsewhere, will not normally be permitted.
- 22 For the purposes of this policy flood risk sites will be those which are judged to lie within:-
- (1) Areas which flooded in January 1993.
 - (2) Sites which lie within a flood plain.
 - (3) Low lying sites adjacent to rivers, or to watercourses which lead to categories 1 and 2.

23 Policy 12: Environment and Conservation

- 24 In the absence of imperative reasons of overriding public interest, the Council will not grant consent for, or support, development which would damage the integrity of Sites of Special Scientific Interest, National Nature Reserves, Special Protection Areas, Ramsar Sites and Special Areas of Conservation.

Policy 13: Environment and Conservation

- 25 The Council will not normally grant consent for any development which would have an adverse effect on sites of local nature conservation interest and will seek to protect the integrity of such sites identified on the proposals maps and any others approved by the Council, which may be identified by Scottish Natural Heritage, SWT and others with the owners' agreement during the Plan period. The Council will apply the same policy to principal wildlife corridors.

Policy 14: Environment and Conservation

- 26 The Council will not normally grant consent for any development which would have an adverse effect on:- sites supporting species mentioned in Schedules 1, 5 and 8 of the Wildlife and Countryside Act, 1981 as amended; Annex II or IV of the European Community Habitat and Species Directive; Articles 1.4 and 1.2 of the European Community Wild Birds Directive.

Policy 15: Environment and Conservation

- 27 The Council will not normally grant consent for any development which would have an adverse effect upon those habitats and species listed in Annex I and II of the EC Habitats and Species Directive.

Policy 21: Archaeology

- 28 The Council will seek to protect unscheduled sites of archaeological significance. Where development is proposed in such areas, there will be a strong presumption in favour of preservation in situ and where in exceptional circumstances preservation of the archaeological features is not feasible, the developer, if necessary through appropriate conditions attached to planning consents, will be required to make provision for the excavation and recording of threatened features prior to development commencing.

Policy 23: Listed Buildings

- 29 There will be a presumption against the demolition of Listed Buildings and a presumption in favour of consent for development involving the sympathetic restoration of a Listed Building, or other buildings of architectural value. The setting of Listed Buildings will also be safeguarded.

Policy 30: Public access and informal recreation

- 30 The Council linking with others will seek to improve public access to the countryside and informal recreation provision throughout the Plan area.

Policy 38: Landward general policies

- 31 Developments in the landward area, as shown on Proposals Map A, on land which is not identified for a specific policy, proposal or opportunity will generally be restricted to agriculture, forestry, recreation, tourism related projects or operational developments of statutory undertakers and telecommunications operators, for which a countryside location is essential. Developments will also be judged against a series of criteria including, a good landscape framework, the development should be compatible with its surroundings in land use terms and should not result in a significant loss of amenity to the local community and the site should be large enough to accommodate the development satisfactorily in site planning terms.

Policy 55: Roads and Transport

- 32 The Council will seek to give priority to improvements to the A93 north of Blairgowrie in order to improve accessibility to the Glenshee Ski Centre and road safety generally.

Proposal 5 The Council proposes to undertake the following schemes along the A93 which are included in the Capital Expenditure Programme:-

Scheme	Programme Start Year	Type of Scheme
A93/B951 Lair Junction	Future years	New road scheme on new alignment in diversion from existing road
A93 Craighall Gorge/Middle Mause	Future years	New road scheme on new alignment in diversion from existing road
A93 Glenkilrie	Future years	New road scheme on new alignment in diversion from existing road
A93 Glenkilrie to North of Lair	Future years	Earthworks to form verges with localised widening on bends
A93 Blue Brig to Glenkilrie	Future years	Earthworks to form verges with localised widening on bends
A93 South of Finegand to Dalhenzean	Future years	Earthworks to form verges with localised widening on bends
A93 Dalhenzean to Spittal	Future years	Earthworks to form verges with localised widening on bends
A93 North of Drimmie to Blue Brig	Future years	Earthworks to form verges with localised widening on bends
A93 Westfield of Rattray	Future years	New road scheme largely on existing road alignment
A93 Spittal to Rheidorrach 1 & 2	Future years	Earthworks to form verges with localised widening on bends
A93 Spittal to Rheidorrach 3 & 4	Future years	Earthworks to form verges with localised widening on bends

Roads and Transport Department Programme of Works for A93 - based on Financial Plan 1998-99.

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

- 34 Members will be aware that on 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.

Under the proposed LDP, the following policies apply:-

PM1A: Placemaking

- 35 Requires all new development to contribute positively to the quality of the built and natural environment. Design and landscaping will be key requirements of any new development proposal.

PM1B: Placemaking

- 36 Identifies placemaking design criteria which should be satisfied by all new development.

Policy TA1A: Existing Infrastructure

- 37 The Plan identifies existing transport infrastructure; encouragement will be given to the retention and improvement of these facilities provided the improvements are compatible with adjoining land uses.

Policy CF2: Public Access

- 38 Development proposals that would have an adverse impact upon any (proposed) core path, asserted right of way or other well used route, or that would otherwise unreasonably affect public access rights will be refused, unless those impacts are adequately addressed in the plans and suitable alternative provision is made.

Policy HE1B: Non-Designated Archaeology

- 39 Identifies that the Council will seek to protect areas or sites of known archaeological interest and their settings.

Policy HE2: Listed Buildings

- 40 The appropriateness of layout design, scale and siting of any development which affects a listed building or its setting will be carefully considered by the Council.

Policy NE1A: International Nature Conservation Sites

- 41 Identifies that development which could have a significant effect on a SAC will only be permitted where appropriate assessment is undertaken;(if required).

Policy NE1C: Local Designations

- 42 Confirms that development which would affect an area designated as being of local nature conservation or geological interest will not normally be permitted, except where the Council as Planning Authority is satisfied the objectives of designation and the overall integrity of the designated area would not be compromised; or any locally significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social and economic benefits.

Policy NE1B: National Designations

- 43 Development which would affect a Site of Special Scientific Interest will only be permitted where the Council as Planning Authority is satisfied that the proposed development would not affect the integrity of the area or the qualities for which it has been designated; or any such adverse effects are clearly outweighed by social, environmental or economic benefits of national importance.

Policy NE3: Biodiversity

- 44 Identifies that the Council will seek to protect and enhance all wildlife and wildlife habitats. Development may be required to demonstrate that all adverse effects on species and habitats have been avoided where possible.

Policy NE4: Green Infrastructure

- 45 Provides support for the development that will contribute to the creation, protection, enhancement and management of green infrastructure.

Policy ER6: Managing future Landscape change to conserve and enhance the diversity and quality of the area's landscape

- 46 Requires new development proposals to be compatible with the distinctive characteristics and features of the Perth & Kinross Landscape. New development proposals will be required to conserve and enhance the landscape qualities of Perth and Kinross. Identifies that the Tayside Landscape Character Assessment will be used for assessing development proposals along with other material considerations.

Policy EP2: New Development and Flooding

- 47 There will be a general presumption against proposals for built development or land raising on a functional flood plain and in areas where there is a significant probability of flooding from any source, or where the proposal would increase the probability of flooding elsewhere.

Policy EP3C: Surface Water Drainage

- 48 Identifies all new development will be required to employ Sustainable Urban Drainage Systems (SUDS) measures.

Policy EP8: Noise Pollution

- 49 Identifies a presumption against the siting of development proposals which will generate high levels of noise in the locality of existing noise sensitive uses. Identifies that conditions will be used to limit noise for developments where design and siting alone would deliver insufficient mitigation.

OTHER POLICIES

50 None.

Planning Site History

51 12/01653/SCRN Screening Opinion for EIA (A93 Lair Bridge Replacement) 9 October 2012.

52 12/02013/SCOP New road realignment of A93 and new bridge 7 December 2012.

CONSULTATIONS

Scottish Government

53 Under the Environmental Impact Assessment (Scotland) Regulations 2011 the Scottish Government are a statutory consultee to any submitted EIA. The comments detailed below are representative responses to either the content of the Environmental Statement and the appropriateness or otherwise of the submitted development proposal.

Transport Scotland

54 No objection. Overall there will be a minimal increase in traffic on the trunk road.

Historic Scotland

55 No objection.

Scottish Environment Protection Agency

56 No objection subject to conditions.

Scottish Natural Heritage

57 No objection to the proposed development as it is not likely that there will be a significant effect upon the protected features of the River Tay Special Area of Conservation (SAC). An Appropriate Assessment is therefore not required.

58 In terms of protected species the Environmental Statement appears competent in identifying the protected species across the site and provides appropriate mitigation, which, if followed, should ensure compliance with the Wildlife and Countryside Act 1981 (as amended) and avoid harmful and illegal impacts to the protected species.

Scottish Water

59 No objection.

Environmental Health

60 No objection subject to conditions.

Flood Officer

61 No objection subject to conditions.

Access Officer

62 No objection subject to conditional control securing access improvements.

Perth & Kinross Heritage Trust (Archaeology)

63 No objection subject to an archaeological condition being applied to the consent.

Cairngorms National Park Authority

64 Northern element of the application called in for their determination.

REPRESENTATIONS

65 There are no letters of representations on this application.

ADDITIONAL STATEMENTS

66	Environment Statement	Submitted
	Screening Opinion	Undertaken
	Environmental Impact Assessment	Yes
	Appropriate Assessment	Not required
	Design Statement/Design and Access Statement	Not required
	Report on Impact or Potential Impact	Details contained in ES

APPRAISAL

Policy Appraisal

67 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 Development Plan consists of the TAYplan 2012 and the Eastern Area Local Plan 1998. The Perth and Kinross Council Local Development Plan – Proposed Plan January 2012 is a material consideration in the determination of the application and has progressed to examination by the Scottish Ministers.

68 Policy 55 of the Eastern Area Local Plan (EALP) is of particular importance in the determination of this application as it seeks to improve accessibility and

road safety on the A93 to the north of Blairgowrie. The submitted scheme is also contained in proposal 5 of the EALP which identifies the need for a new road, on a new alignment at the A93/B951 Lair Junction.

- 69 Although the policy position as detailed above is supportive of the scheme there is a requirement to take account of the potential impacts the proposal may have on the environment and weigh up the 'positives' and 'negatives' which will determine whether the scheme is environmentally acceptable. Any significant adverse effects on local environmental quality must be outweighed by the improvement to road safety.

Impact on Cultural Heritage

Heritage Assets within Historic Scotland remit

- 70 Historic Scotland are satisfied that there will be no significant effects on scheduled monuments and their setting, category A listed buildings and their setting, gardens and designed landscapes and battlefields appearing in their respective inventory.

Listed Buildings

- 71 While the word setting is not defined in planning legislation Historic Scotland's guidance on this matter confirms that authorities are firmly encouraged not to interpret the word narrowly. It highlights at all times the listed building should remain the focus of its setting. Attention must never be distracted by the presence of any new development whether it be within or out with the curtilage. In this rural location I consider the appropriate factors to take into account are the principal views either of or from the listed buildings.
- 72 The nearest listed buildings to the site are Cray Church and Dalnaglar Castle. Because of the existing topography, landscape cover as well as the distances involved there is not considered to be any visual impact on the setting of these listed buildings. Consequently the application is accordance with TAYPlan Policy 3, Policy 23 of the EALP as well as policy HE2 of the PLDP.

Unscheduled Archaeology

- 73 Archaeological sites are an important, finite and non-renewable resource and should be protected and preserved in situ wherever feasible. The presence and potential presence of archaeological assets are required to be considered by planning authorities when making decisions on applications. Where preservation in-situ is not possible planning authorities should, through the use of conditions or a legal agreement, ensure that developers undertake appropriate excavation, recording, analysis, publication and archiving before and/or during development.
- 74 Perth and Kinross Area Archaeologist (PKHT) has been consulted. They confirm that the Cultural Heritage chapter of the EIA and survey has identified several sites within the development area. PKHT recommended that a

programme of archaeological works be carried out to prevent and mitigate against damage caused to archaeological sites which should include the fencing off of the well preserved section of military road to the north of Lair Bridge during construction works; the relocation of the memorial cross following completion of construction works; archaeological investigation prior to construction works commencing at the two sections of military road which will be directly impacted by the proposed development; and archaeological monitoring where ground breaking works are carried out in areas that show no evidence of modern disturbance.

- 75 In line with Scottish Planning Policy (Historic Environment sections 110-124) an archaeological condition requiring a written scheme of investigation will be attached to permission. This would ensure compliance with policy 21 of the EALP and policy HE1B of the PLDP and allow the mitigation strategy to be refined in consultation with PKHT.

Impact on Natural Heritage

- 76 The site is directly connected to the Forest of Clunie Special Protected Area and Site of Special Scientific Interest, which abuts its western side. The Forest of Clunie is a Caledonian pine forest that includes rivers and streams. The site is also directly connected to the River Tay Special Area of Conservation via the Allt an Lair Burn watercourse.
- 77 The Habitats Directive is a major contribution by the European Community to implementing the Biodiversity Convention agreed by more than 150 countries at the 1992 Rio Earth Summit. As well as establishing Natura 2000 areas, the Directive has a number of wider implications, such as those relating to European Protected Species.

River Tay Special Area of Conservation

- 78 Whilst the watercourses within/adjacent to the proposed development site are not themselves designated, they are connected to the River Tay Special Area of Conservation(SAC). The qualifying interests of the Tay Special Area of Conservation are as follows:-
- Atlantic salmon
 - sea lamprey
 - river lamprey,
 - brook lamprey,
 - clear-water lochs and
 - otters.
- 79 SNH have been consulted on the application and they advise that that there will be a significant effect upon the protected features of the River Tay Special Area of Conservation (SAC).

Forest of Clunie Special Protection Area and Site of Special Scientific Interest

- 80 The Forest of Clunie Special Protection Area (SPA) designation is classified for its internationally important populations of breeding birds, hen harrier, merlin, short-eared owl and osprey while the Site of Special Scientific Interest (SSSI) designation is associated with black grouse and its breeding bird assemblage.
- 81 The works associated with the development are outwith the designated sites. In this case the Environmental Statement specifies that no adverse impacts relating to construction and operation of the scheme are expected on the designated site. Consultation with the council's bio-diversity officer offers no objection to the proposal.

Protected species and habitats

- 82 The ES appears competent in identifying and surveying for protected species across the site and provides appropriate mitigation where required. If followed this would avoid harmful and illegal impacts to the protected species and habitats.
- 83 Taking the above into account it is considered that the proposed development would comply with the applicable requirements within policies 12, 14 and 15 of the adopted EALP and policies NE1A, NE1C and NE1D of the PLDP if conditional control was applied.

Hydrology, Hydrogeology and Ground Conditions

- 84 Construction of the new road alignment would involve activities that have the potential to affect the geology, hydrogeology and surface water hydrology at both construction and de-commissioning phases. The ES examines the direct impacts of development on these issues.

Flooding

- 85 The Council's flooding section confirm that they are content for conditions to be imposed on the consent to ensure flow capacity, drainage calculations and discharge rates are dealt with at the Roads Construction Consent Stage.
- 86 SEPA offer no objection to the proposal on flood risk grounds.
- 87 With conditional control the proposal is considered to with Policy 2 of the TAYplan which seeks climate resilience to be built into the natural and built environment along with Policy 03 of the EALP which relates to Flood Risk.

Pollution prevention and environmental management

- 88 During construction, operation and decommissioning of the proposed Development the agent has confirmed that a number of established good practice measures will be put in place to control surface and ground water

pollution and manage surface water run-off/drainage. These are designed to ensure the protection of the surface water, geological and hydro geological regimes.

- 89 SEPA do not raise objection to the proposals provided that conditions are included as part of any planning approval to deliver a full site specific Construction Environmental Management Plan (CEMP).

Disruption to wetlands

- 90 Groundwater Dependent Terrestrial Ecosystems (GWDTEs), which are types of wetland, are specifically protected under the Water Framework Directive. SEPA originally objected to the application as there were concerns that GWDTEs could be affected. Following clarification mitigation can be put in place to protect this area of wetland. The surface water from the road can be directed into this area of wetland to supplement ground water. Details can be secured by condition as well as being factored into the Construction Environmental Management Plan (CEMP).

Private Water Supplies

- 91 Consultation with Environmental Health's Water Team confirms that the private water supplies are known to be in the area. However the proposed works are unlikely to affect these supplies.

Noise

- 92 The planning system has an important role to play in preventing and limiting noise pollution. Although the planning system cannot tackle existing noise problems directly, it has the task of guiding development to the most suitable locations and regulating the layout and design of new development. The noise implications of development can be a material consideration in determining applications for planning permission.

Construction Noise

- 93 Environmental Health agrees with the methodology used for the assessment for noise and vibration which was assessed in accordance with British Standard 5228-1:2009 Code of Practice for Noise & Vibration Control on Construction & Open Sites
- 94 They concluded that vibration levels will be of minor significance and that construction activity noise predictions indicated that there is unlikely to be a significant effect on the sensitive receptors with mitigation measures in place. Section 10.6.1 details the proposed mitigation measures and this can be secured by condition and incorporated into the Construction Environmental Management Plan (CEMP).

Operational Noise and Vibration

- 95 The assessment of road traffic noise and vibration has been undertaken in accordance to the Design Manual for Roads and Bridges (DMRB) volume 11 Section 3 Part 7 (HA 213/11) Noise & Vibration. Based on a long term traffic noise assessment a neutral impact for the majority of noise sensitive receptors within the calculation area were predicted, with some receptors experiencing a potential reduction in traffic noise levels due to the realignment of the proposed junction.
- 96 Environmental Health confirm due to the increase in ground attenuation as well as the increased distance from the closest noise sensitive receptor to the new road layout there is predicted that ground borne vibration levels will have no adverse impact. An assessment for airborne vibration showed that there again was no adverse impact.

Landscape Impacts

- 97 Policy 9 of the Eastern Area Local Plan 1998 (EALP) is a key development plan policy which seeks to safeguard the intrinsic landscape quality of the area. There are further requirements in policy 02 and 38 of the EALP as well as policy ER6 of the PLDP which also relate to the areas landscape framework and characteristics. The site is within the Mid Highland Glens landscape character types as specified by the Tayside Landscape Character Assessment 1999(TLCA). This landscape type comprises the middle sections of the most significant Highland Glens. These sections of glen are distinguished by the concentration of agricultural activity on the narrow valley floor, and the predominance of rough grazing, bracken and heather moorland on the valley slopes. Several glens, notably Glen Shee, Strathardle and Strathraan, contain main roads, bringing with them larger volumes of traffic and a greater amount of development.
- 98 The TLCA acknowledges that there are forces for change within this landscape character type and highlights that transport infrastructure are one of these pressures. For the most part, the middle parts of the Highland Glens are served by minor roads. These generally sit easily in the landscape, following natural contours along the floor of the glen, winding their way between drumlins and marking the boundary between the rough valley sides and the grazed floor of the glen. It is important that the diminutive and low-key appearance of these roads is maintained and that minor improvements and signage do not compound to give an overly 'urban' effect. Taking this into account it is important to minimise the creation of cuttings and embankments when upgrading or improvements occur.
- 99 In support of the application chapter 8 assesses landscape effects on Landscape Character while chapter 9 assesses the Landscape Visual Impact. In this case there will be a number of temporary changes to the landscape character during the works. The impact of these character changes is regarded as moderate adverse and the proposed mitigation measures will reduce their impact to temporary slight adverse. There will be a long-term moderate adverse

impact on the landscape character of the surrounding area until the mitigation measures (i.e. new planting) become established. Owing to the fact that the character of the area is already defined by some existing infrastructure, it is believed that the final impact will be neutral.

- 100 During initial operation period, there will be an overall long-term slight to moderate adverse impact upon four of the seven survey points due to the new planting requiring time to establish. Once established, this impact will become a permanent neutral. However, throughout the operational lifespan of the scheme, there will remain a permanent slight adverse impact due to the introduction of new infrastructure within an open rural landscape. Overall I am content that the proposal will not have a sufficiently significant adverse impact on the Mid Highland Glens landscape character type as defined by Scottish Natural Heritages Tayside Landscape Character Assessment 1999 to warrant refusal of the application. Planting and landscaping will be controlled via conditions.

Public Access

- 101 Outdoor Access has now been given a new context in Scotland, since the Land Reform (Scotland) Act 2003. This establishes a duty on local authorities to uphold the outdoor access rights as specified in Section 13(1) of the Act. However, this duty on local authorities does not stop them from carrying on with the authority's other functions, an example of this is when they are considering planning applications for development on land over which access rights are exercisable, they will still be able to give consent for developments. Although, where appropriate, local authorities should consider attaching a suitable planning condition to enable them to ensure reasonable continuing public access.
- 102 The existing section of the B951 carriageway that lies between the eastern end of the MTBL/8 footpath and the Cateran Trail provides an informal link between the two pedestrian access routes. At present, there are no provisions provided for pedestrians at the site for users wishing to cross the A93 carriageway. As part of the proposed scheme design, new access provisions will be provided as an enhancement to facilitate safe crossing of the new A93 carriageway. These provisions will include such features as, extending the MTBL/8 footpath to meet the new A93 carriageway, installing a self-closing gate at the side of the new A93 carriageway and new directional signage relating to the Cateran Trail.

Environmental Impact Assessment

- 103 The purpose of the EIA process is to examine the likely significant environmental effects from a proposed development having regard to the project and its nature, size or locality. Through the EIA process, a proper understanding of the interaction between the project and its location should be assessed to determine if the effects on the environment are likely to be significant and if there are associated mitigation measures which make this acceptable.

104 In Part II, Schedule 4 of the Environmental Impact Assessment (Scotland) Regulations 2011 outlines the information required to be included in any EIA. The basic content and the associated background information of the Environmental Statement are considered to meet the requirements of those regulations.

Assessment of Alternatives within the Environmental Statement

105 For each of the main alternatives studied, an indication of the main reasons for the choice, that is, why the alternative was not adopted, taking account of its environmental effects and those of the submitted project; noting that the predicted environmental effects of the alternatives rejected may have been better or worse than the submitted project. Thus, the EIA process does not absolutely constrain the selection of the submitted project in preference to alternatives studied, but it is reasonable to expect that a rational explanation would be included in the Environmental Statement as to why a more, or less, environmentally harmful project was chosen for submission.

106 In this case the Environmental Statement contains an outline of the alternatives studied by the proposer in chapter 2. The consideration of alternative design solutions has also been discussed and in this case I am content with this approach.

PLANNING AUTHORITY WITH AN INTEREST IN THE LAND

107 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 in. 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. In this case the recommendation for approval of this application is not a departure from the Development Plan, therefore notification to the Ministers is not required.

LEGAL AGREEMENTS

108 None required.

DIRECTION BY SCOTTISH MINISTERS

109 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

110 Section 25 of the Act requires the determination of the proposal to be made in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. The assessment above has taken account of

the development plan and where necessary provided weight to material considerations.

- 111 Although the road realignment works will have an impact on the landscape this can be reduced through the deployment of mitigation measures. Furthermore there is considerable weight to be given to the improvement in accessibility and road safety to the A93. When balancing the potential impacts the development may have on the environment and sensitive receptors, both positive and negative, I conclude that a grant of planning permission for the proposed development with conditional control would comply with the Development Plans for the area.

RECOMMENDATION

A Approve the application subject to the following conditions:-

1. The development shall be undertaken in accordance with the Application and Environmental Statement, unless otherwise provided for by conditions imposed on the planning consent. The development shall be undertaken in its entirety, with no partial implementation and construction activities shall be completed within an 18 month period from the commencement of the development unless otherwise agreed in writing by the Planning Authority.
2. Prior to the commencement of development a detailed design to deal with surface water shall be submitted to and approved by the Planning Authority in consultation with the Scottish Environment Protection Agency. This shall ensure surface water is diverted to the head of the wetland to the East of the A93. Such details shall be submitted not less than two month prior to the agreed scheduled commencement date. Thereafter the development shall be fully undertaken in accordance with the approved plans.
3. Prior to Commencement of development, a detailed Construction Environmental Management Plan (CEMP) detailing environmental mitigation measures and construction method statements, including specific measures for environmental monitoring during construction, shall be submitted to and approved by the Planning Authority in consultation with the Scottish Environment Protection Agency and Perth and Kinross Council's Environmental Health Section. Such details shall be submitted not less than two month prior to the agreed scheduled commencement date and shall incorporate detailed pollution avoidance and mitigation measures for all construction elements. Thereafter the development shall be fully undertaken in accordance with the approved CEMP.
4. 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 works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by Perth and 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 and Kinross Heritage Trust.

5. Prior to Commencement of Development, a fully detailed landscaping mitigation plan which will ensure there is no net loss of trees associated with the felling required to implement the consent shall be submitted to and approved in writing by the Planning Authority. The approved scheme shall be fully implemented to the satisfaction of the Planning Authority no later than the first planting season following the commissioning of development. Any plant failures through disease, weather exposure, neglect or damage shall be replaced with equivalent species within one year of such failure all to the satisfaction of the Planning Authority.
6. Prior to the commencement of development, details of the path link between MTBL/8 footpath and the CATERAN Trail shall be submitted to the Planning Authority for approval in writing. This shall detail the specification of the footpath, details of the self-closing gate and location as well as the location of new directional signage relating to the CATERAN Trail. Following approval the infrastructure shall be installed on completion of the construction works all to the satisfaction of the Planning Authority.
7. For the avoidance of doubt the bridge soffit will be constructed to accept the flow capacity of a 1/200 return period. Full calculations will be submitted for approval to the flooding team prior to commencement of any works. Thereafter the development shall be fully undertaken to accord with the approved details associated with this condition all to the satisfaction of the Planning Authority.
8. The discharge rate from the road drainage system to water body/watercourse will not exceed Greenfield runoff rates. Full design calculations will be submitted for approval to the flooding team prior to commencement of any works. Thereafter the development shall be fully undertaken to accord with the approved details associated with this condition all to the satisfaction of the Planning Authority.
9. Construction work on the site shall be confined to the hours of 0700-1900 Mondays to Fridays and 0700-1300 hours on Saturdays, with no working on Sundays, local or national public holidays unless otherwise agreed in writing with the planning authority.

REASONS:

- 1 To ensure the development is implemented in accordance with the application documentation and that it is constructed in one continuous phase and within an acceptable timescale.
- 2 In the interest of protecting environmental quality and of bio-diversity.

- 3 In the interests of visual amenity; to ensure necessary facilities are in place; and to minimise pollution risks arising from construction activities.
- 4 In order to ensure the protection of any archaeological interest of the site.
- 5 To ensure that the proposed development does not prejudice the appearance of the locality.
- 6 To ensure improvement in public access between existing footpaths and the Cateran Trail.
- 7 To ensure the provision of an acceptable drainage system in the interests of the amenity of the area and for the protection of the water environment as well as alleviating the potential risk of flooding due to impendance of flood flows and reduction of flood storage capacity.
- 8 To alleviate the potential risk of flooding due to impendance of flood flows and reduction of flood storage capacity .
- 9 To minimise disturbance and protect the amenity of nearby residents.

B JUSTIFICATION

The proposal is considered to comply with the Development Plan and there are no other material considerations that would justify a departure there from.

C PROCEDURAL NOTES

None.

D INFORMATIVES

- 1 CEMP shall include a schedule of noise and vibration monitoring; this must be implemented through out the construction period to demonstrate compliance with the lowest threshold levels. As well as a method statement of all works that has the potential to cause disturbance to demonstrate best practice. It should also include mitigation measures associated with the Groundwater Dependent Terrestrial Ecosystems (GWDTEs).
- 2 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).
- 3 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.

- 4 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.
- 5 The applicant is advised that the works are likely to need a licence under the Water (Controlled Activities) Regulations 2005 (CAR). The applicant should contact SEPA's Perth Environmental Protection and Improvement Team (Tel: 01738 627989) in regard to this. The applicant should ensure that all works on site comply with the best practice guidelines laid out in SEPA's published Pollution Prevention Guidance, found at www.sepa.org.uk
- 6 The developer is advised to contact Mr David Strachan, Archaeologist to discuss terms of reference for work required Tel 01738 477080.

Background Papers: None

Contact Officer: John Russell Ext 75346

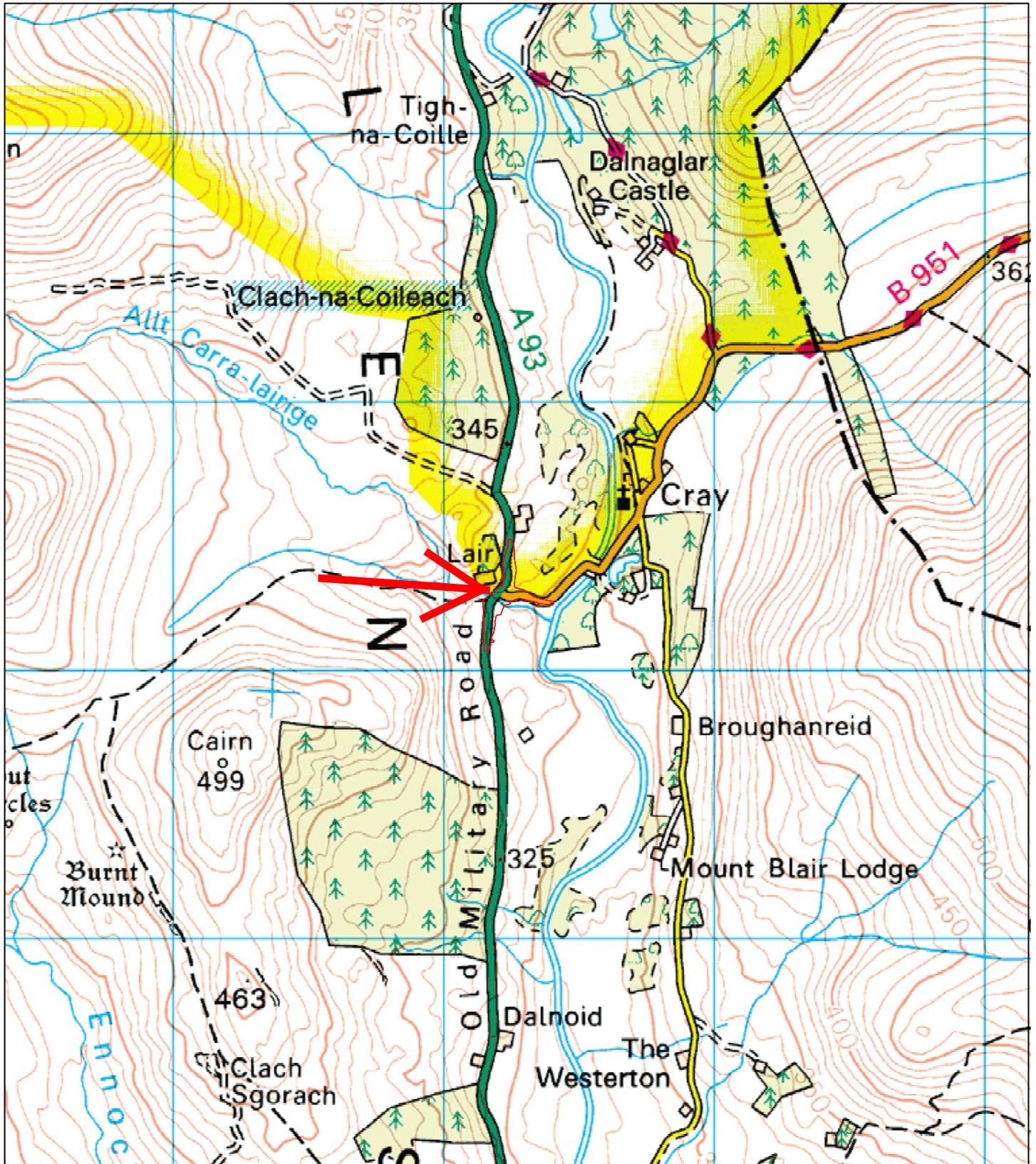
Date: 08 April 2013

Nick Brian
Development Quality Manager

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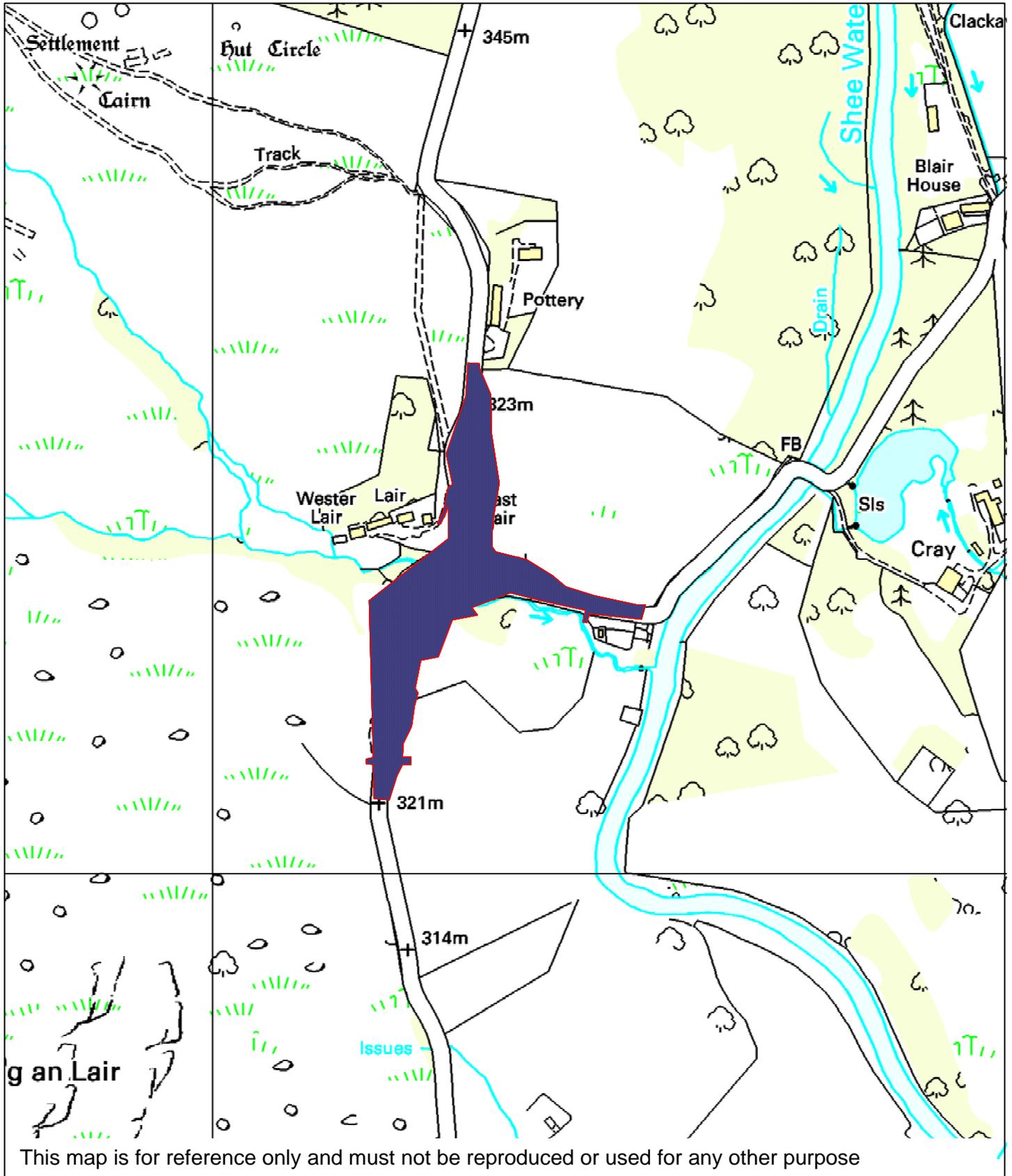
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Perth & Kinross Council

13/00161/FLL

Land 50 Metres South East Of East Lair, Glenshee

Realignment of A93 & B951, construction of a new A93/B951 junction & bridge



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