

Perth and Kinross Council  
Development Management Committee –17 July 2013  
Report of Handling by Development Quality Manager

**Formation of flatted residential development (in principle) at Land to the South of Witchhill, Kinnoull Terrace, Perth**

Ref: No: 13/00698/IPL  
Ward No: 12 – Perth City Centre

### Summary

This report recommends refusal of a planning in principle application for a residential development on the grounds that the proposal is contrary to the Development Plan, National Planning Guidance and the proposed Local Development Plan 2012 by virtue of its adverse impact on the visual amenity of the local area, its adverse impact on the character of the Conservation Area and the fact that an acceptable vehicular access cannot be achieved.

### LOCATION AND DESCRIPTION OF SITE

1. The site comprises an area of approximately 630 sq metres of former garden ground associated with a large Category 'B' listed building located on Kinnoull Terrace, known as 'Witchhill'. The site lies within the Kinnoull Conservation Area and is surrounded by a series of listed buildings including the Kinnoull Primary School, which is adjacent to the eastern boundary. The site sits on an elevated sloping knoll, on the rock outcrop associated with the former Kinnoull quarry which sits approximately 3-5 metres above the street level of Dundee Road. The site is currently overgrown with several mature trees scattered across the site and along its boundaries. The natural topography of the site is a steep slope, running roughly from east to west

### PROPOSAL

2. The proposal seeks to establish the principle for residential development on the site. Indicative elevations and footprint plans, showing basic access and parking arrangements have been submitted by the applicant in support of this planning application. No specific details of the scale or elevational details of the building have been submitted, to establish how the associated site challenges would be overcome, although the approximate footprint appears to extend to 160 sqm. The application form indicates that a single building would accommodate four flats and four associated parking spaces, plus a pedestrian stairway to Dundee road. In terms of the scale of the building, to accommodate the numbers envisaged by the applicant, the indicative elevation appears to be two storeys (six bay window running lengthways north to south); although it is hard to fully establish this from the quality of the submission.

3. Vehicular access to the site would be taken from Kinnoull Terrace which is a long narrow street that has a junction onto Bowerswell Road. Parking provision for 4 cars would be provided within the site.

## **SITE HISTORY & BACKGROUND**

4. This site has a prolonged planning history of outline planning applications (by the same applicant), all of which have been either consistently refused consent by the Council, or by the Scottish Ministers on appeal, or by both.
5. The first notable application was submitted in 1996 which was for the erection of 4 flatted dwellings (PK96/0697). After this application was refused by the Council, the application was appealed to Scottish Ministers. Following a public local inquiry, the reporter dismissed the appeal on the grounds that the proposal would be contrary to the development plan, inconsistent with government guidance and likely to be a hazard to traffic and pedestrian safety. In addition, the reporter also noted that in his opinion, the proposal would be unlikely to preserve the setting of the group of listed buildings around the site or to preserve (or enhance) the character or appearance of the conservation area.
6. In 2000, another application for the erection of 4 flats and associated car parking (00/01466/OUT) was refused planning permission. The applicant again chose to appeal the decision to Scottish Ministers. The appeal was again dismissed, with the reporter concluding that the proposal was contrary to the Development Plan notably policies 41, 58 and 59 in the Perth Area Local Plan 1995 (Incorporating Alteration No1, Housing Land 2000).
7. Planning application 07/01745/OUT was submitted, for a residential flatted development with an indicative number of 6 residential units proposed. This application was refused planning permission under delegated powers (as per the Council's approved scheme of delegation) principally on the grounds that the proposal was contrary to the Development Plan, a safe access could not be achieved and the detrimental impact the proposal would have on the setting of both the Conservation Area and the surrounding group of listed buildings.
8. Planning application 08/00248/OUT was submitted, for a residential flatted development with an indicative number of 4-6 units proposed. This application was refused planning permission under delegated powers (as per the Council's approved scheme of delegation); principally on the grounds that the proposal was contrary to the Development Plan, a safe access could not be achieved and the detrimental impact the proposal would have on the setting of both the Conservation Area and the surrounding group of listed buildings. The applicant again chose to appeal the decision to Scottish Ministers (08/00074/REF). The appeal was again dismissed, with the Reporter concluding that the proposal was contrary to the Development Plan.
9. A pre-application enquiry 12/00687/PREAPP was submitted in 2012. Consistent planning advice was provided to the applicant, highlighting key policy issues, but also including a recommendation that due to the understood constraints of the site, it was strongly recommend that any future application be made in full to allow all aspect of the proposal(s) to be considered in detail.

10. The application now under consideration by Development Management Committee is principally the same as the 2008 submission.

## **NATIONAL PLANNING GUIDANCE**

11. The Scottish Government expresses its planning policies through The National Planning Framework 1 & 2, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Designing Places, Designing Streets, and a series of Circulars. Of particular relevance to this planning application are:-

### **Scottish Planning Policy 2010 (SPP)**

12. 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.

13. Of relevance to this application are paragraphs:-

- Paragraphs 24 – 27: Determining Planning Applications
- Paragraphs 34 – 40: Sustainable Development
- Paragraphs 41 – 44: Climate Change
- Paragraphs 67 – 88: Housing
- Paragraphs 110 – 112: Historic Environment
- Paragraphs 113 – 114: Listed Buildings
- Paragraphs 115: Conservation Areas
- Paragraph 169: - Transport

### **Scottish Historic Environment Policy (SHEP) (2011)**

14. Sets out Scottish Ministers' policies, providing direction for Historic Scotland and a policy framework that informs the work of a wide range of public sector organisations.

## **DEVELOPMENT PLAN**

15. The Development Plan for the area consists of the Approved TAYPlan June 2012 and the Adopted Perth Area Local Plan 1995, incorporating Alteration No. 1 Housing Land 2000.

## **TAYPlan June 2012**

16. The principal relevant policy is in summary:

### **Policy 2: Shaping Better Quality Places**

17. Part F of Policy 2 seeks to 'ensure that the arrangement, layout, design, density and mix of development and its connections are the result of understanding, incorporating and enhancing present natural and historic assets, the multiple roles of infrastructure and networks and local design context, and meet the requirements of Scottish Government's 'Designing Places' and 'Designing Streets' and provide additional green infrastructure where necessary'.

### **Policy 3**

18. This policy seeks (amongst other things) to protect our cultural heritage from inappropriate developments.

### **Perth Area Local Plan 1995 (Incorporating Alteration No1, Housing Land 2000) (PALP)**

19. The site lies within the settlement boundary for Perth, within an area zoned for residential use. The relevant policies are in summary:

#### **Policy 41 – General Residential**

20. Located within an area of general residential and compatible uses where existing residential amenity will be retained and where possible improved. Some scope may exist for infill development, but only where this will not significantly affect the density, character or amenity of the area concerned. Small areas of private and public open space will be retained where they are of recreational or amenity value to their surroundings.

#### **Policy 58 – Conservation Areas**

21. The site is located within Kinnoull Conservation Area where the architectural or historic character will be retained.

#### **Policy 59 – Listed Buildings**

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

### **Perth and Kinross Proposed Local Development Plan 2012**

23. 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.

24. Under the proposed LDP the principal relevant policies are:-

**Policy PM1: Placemaking**

25. This policy requires that all development must contribute positively to the quality of the surrounding built and natural environment. All development should be planned and designed with reference to climate change, mitigation and adaptation. The design and siting of development should respect the character and amenity of the place and should create and improve links within and, where practical, beyond the site. Proposals should also incorporate new landscape and planting works where appropriate to the local context and the scale and nature of the development.

**Policy RD1: Residential Areas**

26. This policy seeks to protect and improve existing residential amenity. Proposals will be encouraged where they are compatible with the amenity and character of an area and where they improve the character and environment of the area.

**Policy PM2: Design Statements**

27. Design statements will normally need to accompany a planning application if the development:

(c) affects the character and/or appearance of a Conservation Area, Historic Garden, Designed Landscape, or the setting of a Listed Building or Scheduled Monument.

**Policy HE2: Listed Buildings**

28. States that there will be a presumption in favour of the retention of listed buildings, and the protection of their settings.

**Policy HE3: Conservation Areas**

29. States that the Council will encourage proposals which preserve or enhance the character or appearance of the Conservation Area.

## OTHER COUNCIL POLICIES

### **The Developer Contributions Incorporating Primary Education and A9 Junction Guidance 2012**

30. Sets out the Council's Policy for securing contributions from developers of new homes towards the cost of meeting appropriate infrastructure improvements necessary as a consequence of development.

### **Affordable housing Guide 2012**

31. Sets out the Council's Policy for securing appropriate affordable housing provision on a site by site basis.

### **Kinnoull Conservation Area Appraisal (April 2010)**

32. This is a management tool, which helps to identify the special interest and changing needs of an area. It serves as supplementary planning guidance to the Local Plan.

### **Perth and Kinross Community Plan 2013-2023**

33. The draft community plan is a long term strategy which will provide strategic direction for the Perth & Kinross Council until 2023, setting out what the view of what the Council wants for the area in terms of communities and individual people and identities how these visions can be achieved.

## CONSULTATIONS

34. **Bridgend, Gannochy & Kinnoull Community Council:** Objected to the proposal on the grounds of:
  - Lack of detail, with no significant detail to contain no significant material to overcome the reasons for refusal in earlier applications.
  - Highly visual development in the conservation area, the proposed development would be inappropriate and harmful to the amenity of the location and the surrounded listed buildings both visually and in terms of building density – in conflict of policy 58 of the Perth Area Local Plan.
  - Failure to conform to required levels of safe access for both vehicle and pedestrian traffic via Kinnoull Terrace and Dundee Road.
    - No spare road capacity.
    - Air quality issues.
35. **Scottish Water:** No objection.
36. **Environmental Health Manager:** No objection to the application.
37. **Waste Services:** No objection subject to minimum recycling requirements and access requirements being satisfied.

38. **The Executive Director (Education and Children Services)**  
 This development falls within the Kinnoull Primary School catchment area. As this application is only “in principle” it is not possible to provide a definitive answer at this stage however it should be noted that the Developer Contributions Policy would apply to all new residential units with the exception of those outlined in the policy. The determination of appropriate contribution, if required, will be based on the status of the school when the full application is received.
39. These matters are addressed in the Appraisal section of the report.

## REPRESENTATIONS

40. Sixteen letters of representation have been received, three in support of the proposal and thirteen objecting.
41. The grounds of support are that the proposal would be in keeping with the surrounding area, enhance the Conservation Area and fully accords with the aims of sustainability and policies, including TAYPlan, PKC community Plan, development and transport plans. There is considered to be no objective reason for refusal.
42. The building is suggested to be visually insignificant compared with the main road and the associated heavy traffic. The site characteristics are seen to support residential development.
43. In terms of the submitted thirteen objections, the issues are summarised as:
- access arrangements
  - excessive height
  - out of character
  - inappropriate land use
  - potential visual impact of the proposal.
44. These matters are addressed in the appraisal section.

## ADDITIONAL STATEMENTS

45.

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

## **APPRAISAL**

### **Government Policy & Advice**

46. Whilst it is acknowledged and accepted that the site is centrally located within Perth City, and therefore broadly meets some of the sustainability criteria which the applicant has reinforced in his correspondence as to why the site is suitable for development, this on its own does not necessarily deem a site appropriate for development. The planning application is 'in principle' and therefore falls to be fully assessed on the merits of the detail provided. Not enough detail or substantial evidence exists to objectively and comprehensively assess the full merits of the site within the individual site context provided.

### **Development Plan**

47. Section 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 requires the determination of the proposal to be made in accordance with the provisions of the development plan unless material considerations indicate otherwise.
48. In terms of the Development Plan, the applicant has previously indicated that, as the relevant local plan for this area dates back to 1995, its content should not be a material consideration in the determination of current planning applications. The fact remains however that the 1995 local plan is the approved local plan for the area and therefore significant weight must be given to its contents and policies as per the requirements of Section 25 and 37(2) of the Planning Act. In addition to this, and contrary to the views of the applicant, I consider that the relevant policies of the local plan are still consistent with more up to date national policies published since the local plan was approved in 1995, and that the policies contained within the Proposed Plan reflect the same objectives through seeking to protect the setting of Conservation Areas and retaining the character and amenity of the existing residential areas.
49. Accordingly, the key two tests of the acceptability of this proposal are: a) whether or not the proposed residential land use is acceptable and b) whether or not the proposal will have an adverse impact on setting of the listed building and the character of the Conservation Area. For reasons stated elsewhere, I consider the proposal to be unacceptable on both counts and contrary to a host of Council policies.

### **Land Use**

50. The application site is an area of land which lies within the settlement boundary of the City of Perth in an area zoned for residential and compatible uses. Any proposal must therefore meet the criteria for infill opportunities as indicated in this policy. For a development consisting of 4 flats, the site is physically restricted in size through the overall area, its irregular shape, associated topography, and with regards to the overall developable site area. It remains unproven through the associated planning submission that a flatted development of the scale proposed (or any scale for that matter) could be

adequately accommodated within this site, without having an adverse impact on the visual amenity of the area and the character of the surrounding residential area, including the setting of key, landmark listed buildings. Looking at the site shape and its associated topographical constraints, any physical development on this site would have to take place in front of the established building line of Kinnoull Terrace and therefore would be very prominent. The planning submission fails to provide any factual evidence that these matters could be satisfactorily overcome.

51. In addition to siting challenges, it remains unclear through the lack of associated detail provided, how an appropriate level of private amenity space could be facilitated for up to 4 flats, including appropriate car parking and vehicle turning facilities. The layout submitted, albeit indicative, does not clearly demonstrate how the site challenges could be satisfactorily overcome, being both brief and sketchy in nature. It is considered that a conflict therefore remains in meeting the aims of this policy as there is no substantive proof any associated residential development would either provide a suitable environment for any future occupants or preserve the character, density and amenity of the existing area. To this end, I consider the proposed residential land use to be unacceptable.

#### **Impact on Cultural Heritage**

52. In addition to the relevant Development Plan policies, and National guidance, which seeks to protect our cultural heritage assets, Section 59(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires the Council to have special regard to the desirability of preserving setting of a listed building when exercising its planning functions. In addition, section 64(1) requires the Council to special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Areas when exercising its planning function.
53. In terms of the impact on the character of the conservation area, a development consisting of up to 4 flats would materially alter the established building pattern of development and the appearance of this part of the Conservation Area, which is characterised by large Victorian houses set within extensive gardens, in direct contrast with the proposal. The separation element associated with the existing villas is a strong character for the area. The associated development impact of even a modest building would result in a prominent and conspicuous feature that would be detrimental to the appearance and character of the Conservation Area.
54. The site plan and illustrative information indicate a two storey building which is approximately 5m from the edge of Dundee Road, its building line thus being further forward than both Witchhill and Kinnoull Primary School. The Kinnoull Conservation Area Appraisal makes specific mention of Kinnoull Parish Church, Kinnoull Primary School and the contribution of Victorian villas to the character of the area. The contribution of mature tree belts is also highlighted. The applicant appears to suggest that the immediate area surrounding the site has been ruined by the erection of new buildings and alterations of older buildings.

Whilst examples of modern development of varying quality and context are mentioned in the appraisal, as is street furniture and signage, there is no indication in the appraisal that the area has been “hugely damaged”.

55. In terms of the impact on the setting of adjacent listed buildings, this is an elevated site within the original curtilage of Witchhill and the proposed development through its prominent situation, would have an irrefutable impact on the setting of the three listed buildings immediately surrounding the site. The applicant has suggested that the development will not “obscure” any existing views. It is assessed that any development of the scale proposed will be inter-visible with and visually dominate the setting of the affected listed buildings. Factors to consider when assessing impact on setting are outlined in Historic Scotland’s Managing Change (Guidance Note on Setting: para’s 4.13 and 4.14), including Paragraph 4.13: *“An understanding of the impact of a proposed change on setting should not be confined to whether key views to and from the historic asset or place are interrupted, ability to understand and appreciate the historic asset.”*
56. The site sits within a sensitive historic area in terms of the appearance of the area collectively (the Conservation Area) and the individual settings of the historic listed buildings which immediately surround the application site. The quality of the planning submission and associated background detail make it impossible to fully assess the potential impact of any built form on this site. However considering its elevated nature, it is considered practically impossible to erect any form of flatted building (larger than single storey) on this prominent, elevated site that would not result in a significant and detrimental impact upon the setting of all the neighbouring listed buildings and on the character and appearance of the conservation area.

### **Relevance of Site History**

57. All planning applications must be assessed on their own merits in terms of the provisions of the development plan, as well as any other material considerations and individual site circumstances. There are two main tests in deciding whether a consideration is material and relevant:
  - it should serve or be related to the purpose of planning - it should therefore relate to the development and use of land; and
  - it should fairly and reasonably relate to the particular application.
58. It is for the Council as Planning Authority to assess both the weight to be attached to each material consideration and whether individually or together, they are sufficient to outweigh the provisions of the development plan. Where development plan policies are not directly relevant to a development proposal or where there is conflict with declared policy objectives, material considerations will be of particular importance.
59. As the location and the residential nature of this planning application is the same as previous applications which have been considered by both the Council

and the Scottish Ministers, remains consistent and appropriate that the extensive planning history of the site be taken as a significant material consideration which the committee should take into account before making a decision on this planning application. As referred to earlier in this report, the history of decisions on applications on this site is a consistent one of refusal, by both the Council and the Scottish Ministers.

### **Sustainable Development**

60. The concept of sustainability is an embedded element of the planning process, which has been clearly identified through representative supporting comments and the applicant's e-mail correspondence.
61. In terms of assessing the merits of the application, the applicant has submitted additional information in relation to sustainable development, and, in principle, the proposal does meet with some of the broader aims of sustainable development, such as providing new housing within an urban area as opposed to a developing a 'greenfield' site and creating residential development within a short walking distance from existing public amenities associated with a city locale.
62. However, the perceived compatibility of this development with broader sustainability aims needs to be assessed against other material considerations, such as the policies contained in the development plan and other relevant considerations. These include the site history, the individual site characteristics and the lack of detailed, site specific design in proving beyond all reasonable doubt that some form of development is appropriate at this location.
63. In this context, it remains consistently assessed that the potential adverse visual impact on the setting of both the Conservation Area and neighbouring listed buildings, (alongside the resultant impact of the amenity and character of the existing area, the challenging individual site characteristics and the known poor access arrangements all of which are considered insurmountable) as a justifiable material reason to off-set the wider sustainability criteria presented.

### **Access Provision**

64. In addressing previous concerns regarding the access difficulties to the site, the applicant has indicated in his background correspondence that a vehicular access into the site would not be entirely necessary for this development considering the close proximity of the town centre and the ability for future occupiers to walk to their destinations. However, although a concept welcomed, it remains extremely unlikely in the current context that no vehicular movements would be generated by this proposal, with most domestic households continuing to have access to at least one vehicle. In addition to this, as the application is only for planning in principle, there can be no absolute assurances at this stage that no vehicle provision will be required (or indeed proposed) for this development. With no specific car free development proposed and no specific development plan policy to consider a car free

development in Perth and Kinross, it is appropriate to consider the full implications of typical vehicular provision for a proposal of this nature.

65. The proposed development site takes vehicular access from the end of Kinnoull Terrace. The junction of Kinnoull Terrace with Bowerswell Road is restricted in terms of geometry and visibility by existing stone walls.
66. The visibility available, using a standard setback distance of 2.4m, is approximately 16m in the easterly direction (up Bowerswell Road) and approximately 28m in the westerly direction (down Bowerswell Road). These distances do not even meet the more relaxed standards stated in the Scottish Government's 'Designing Streets' Policy document.
67. While it is accepted that this access is already used by the residents on Kinnoull Terrace, an intensification of this sub-standard access is both undesirable and is considered to create an increased risk to both pedestrian and traffic safety.
68. In addition, the width of Kinnoull Terrace at the end is approximately 7m (with no dedicated turning area). This would make turning, especially for larger vehicles, very difficult. It would also compromise pedestrian and traffic safety. However, this issue could be potentially mitigated if it could be established that the provision of a suitable turning area within the development site could be created with no loss of associated parking spaces. Additional details would be required in relation to proposed parking layout and the proposed pedestrian access to Dundee Road to ensure that both can be achieved, are adequate and viable and in order to assess the tie in with the public footway on Dundee Road.
69. In summary, there is currently no overriding evidence to address that the current insufficient access provision and intensification of an existing substandard access can be overcome in the interests of pedestrian and traffic safety.

### **Visual Impact**

70. As this application is for planning in principle, is it not possible at this stage to fully evaluate the potential visual impact of this proposal, despite the site being within a conservation area. The indicative sketches submitted highlight that significant adverse visual impact would be experienced, albeit the sketches are of poor quality. Due to the elevated nature of the site which is in a prominent location, and the likely probability that due to individual site characteristics any building will be sited in front of the rear building line of Kinnoull Terrace, I am concerned that any scale of building (even single storey) would have a detrimental visual impact on the character of this sensitive area, particularly if some of the large trees are removed as part of any detailed submission to facilitate development. It is impossible to fully consider and assess the impact on the visual impact of any residential development at this site, based on the quality and detail of what has been submitted. However notwithstanding this it is considered that the proposal will have a significant adverse visual impact on the area.

### **Affordable Housing**

71. Although the applicant has indicated that the proposal is indicatively for 4 residential units, members should be aware that if they are minded to approve this application then a condition which requires the applicant to fully comply with the terms of the councils Affordable Housing Policy if the numbers involve 5 or more residential units, must be applied to any in principle consent.

### **Education Provision**

72. The site lies within the catchment area of Kinnoull Primary School. The developer contributions policy seeks a financial contribution of £6,395 per mainstream residential unit in areas where the local primary school is operating at over its 80% capacity (not formally applied at principle stage of consent). In this case, no contribution can be applied as the planning application remains 'in principle' or where an extant planning consent with no material change exists. I would therefore recommend in the event that the Committee wish to support this application, an appropriate planning condition is attached which requires the applicant to fully meet with the terms of the contribution policy.

### **Other Matters**

73. The applicant has submitted supporting correspondence concerning this application. The salient additional points that have not been addressed within the main appraisal section of the report are summarised and addressed below.

### **Kinnoull Conservation Area Appraisal 2010**

74. The applicant has suggested that as this document constitutes "supplementary guidance" it cannot be legitimately used to negate any provision of the development plan. Contrary to this suggestion, Paragraph 117 of Scottish Planning Policy (2010) states that: *"Appraisals can assist owners and developers in formulating proposals and should inform development plans and development management decisions."*

### **Public Interest**

75. The applicant has indicated in correspondence that there is a public interest in this site to be developed for residential use which based on wider sustainable benefits. It is acknowledged that by approving this application there would be the potential to augment local housing stock and the site is centrally located within the City of Perth. It is however deemed that the overall benefit to the community, even at a local level, would be negligible and consequently there is not considered to be an overriding public interest position to support a residential proposal at this site, which would otherwise have a potential detrimental impact on a visually sensitive area with identified pedestrian and traffic safety implications, all of which is contrary to the development plan.

### **Planning officers and reporters commenting on subjective planning matters**

76. The applicant suggests it is highly inappropriate for planning officers to comment on subjective matters such as the perceived impact of the development on existing setting and character. As the application is in outline, and limited detailed supporting information has been submitted with this application, there is no other option than to apply a degree of subjectivity to comment on the perceived visual impact that the proposal may have on the area. The only way to fully assess all the subjective matters would be the submission of a fully detailed submission for consideration. Notwithstanding this, both the Conservation Officer and the Case Officer have a degree in urban design enabling them to provide a professional assessment of the site and its merits for any form of development.

### **Weight to the Development Plan and other material considerations**

77. The applicant suggests that previous planning decisions for this proposal have been made on the back of 'personal opinions' by the case officer and Reporter, rather than fully considering the proposal against the development plan and other material considerations. However, throughout the decision making process, the development plan has remained the primary planning consideration.

### **Community Plan**

78. In terms of the community plan, there are elements referred to which supports opportunity sites for sustainable development. However, the wider strategic aims of the plans do need to be considered in the context of national guidance and at a localised level through policies contained in the various local plans. Through recommending a refusal of this application the broader aims of the Council are not considered to have been compromised in this context.

### **CONCLUSION**

79. Notwithstanding the applicant's background correspondence to the application highlighting the site's history, there remains to be no overriding material reason on planning grounds to support the principle of residential development at this sensitive location. All the previous applications which have been presented for very similar proposals have failed to obtain any support from either the Council as Planning Authority or the Scottish Ministers at the appeal stage. With no detailed, site specific proposal presented for consideration, including detailed site investigations, the application has failed to justify that the principle of any form of development in this sensitive location is either acceptable or appropriate. The site is therefore assessed as unsuitable for flatted development for the reasons stated elsewhere in the report, and is recommended for refusal.

## **LEGAL AGREEMENTS**

80. No legal agreement is required for this proposal.

## **DIRECTION BY SCOTTISH MINISTERS**

81. 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.

## **A RECOMMENDATION**

### **Refuse the application on the following grounds.**

- 1 The proposal will adversely affect the density, character and amenity of the existing area by virtue of the physical restrictions of the site to satisfactorily accommodate the development and associated requirements for access, parking, and turning and private amenity space. The proposal is therefore contrary to Policy 41 of the Perth Area Local Plan 1995 (Incorporating Alteration No1, Housing Land 2000) which seeks to ensure that the amenity of existing residential areas is retained.
- 2 The proposal will adversely affect the density, character and amenity of the existing area by virtue of the physical limitations of the site to satisfactorily accommodate the development and associated requirements for access, parking, and turning and private amenity space. The proposal is therefore contrary to Policy RD1 of the Proposed Local Development Plan 2012 and Policy 2 of TAYPlan, which seeks to ensure development is compatible with the amenity and character of the area.
- 3 The prominent situation of the site and the associated density of the development in relation to adjacent residential properties would result in development that would have a detrimental impact on the character and appearance of the Kinnoull Conservation Area. The proposal is therefore contrary to Policy 58 of the Perth Area Local Plan 1995 (incorporating Alteration No1, Housing Land 2000), Policy HE3 of the Proposed Local Plan 2012, Policy 3 of TAYPlan 2012 and salient guidance contained within Scottish Historic Environment Policy 2011, which all seek to ensure that the architectural and historic character of Conservation Areas will be preserved or enhanced, including protecting our existing cultural heritage from inappropriate development.
- 4 The proposal will have a detrimental impact on the setting of neighbouring listed buildings. The proposal is therefore contrary to Policy 59 of the Perth Area Local Plan 1995 (Incorporating Alteration No1, Housing Land 2000), Environment & Resource Policy 3 of TAYPlan 2012 and guidance contained in Scottish Historic Environment Policy 2011, which seeks to ensure that the setting of listed buildings are safeguarded and our cultural heritage is protected from inappropriate development.

- 5 The proposal fails to provide a satisfactory vehicular access into the site as the access from the end of Kinnoull Terrace is a relatively long narrow street with no turning facilities for large service vehicles with its junction with Bowerswell Road considered as being seriously restricted in terms of geometry and visibility by existing stone walls. The proposal is therefore contrary to Policy 65 of the Perth Area Local Plan 1995 (incorporating Alteration No1, Housing Land 2000) through insufficient provision with regard to access and intensification of use of an existing substandard access all in the interests of pedestrian and traffic safety.

**B JUSTIFICATION**

- 1 The proposal is considered to contrary to the Development Plan and there are nomaterial considerations which justify approval of the application.

**C PROCEDURAL NOTES**

- 1 None

**D INFORMATIVES**

- 1 None

**Nick Brian  
Development Quality Manager**

Background Papers: 13 letters of representations  
Contact Officer: Callum Petrie – Ext 475353  
Date: 1 July 2013



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↑ Scale  
1:2500

