

Perth and Kinross Council  
Development Management Committee – 21 August 2013  
Report of Handling by Development Quality Manager

**Erection of a dwellinghouse (in principle) at Land 40 metres West of Devon Lade, Main Street, Crook of Devon**

Ref. No: 13/00658/IPL  
Ward No: 8 – Kinross-shire

**Summary**

This report recommends approval of the application for the erection of a dwellinghouse in principle as the development is considered to comply with the relevant provisions of the Development Plan.

**BACKGROUND AND DESCRIPTION**

- 1 This application relates to an area of sloping ground to the west of the property known as Devon-Lade House, within the village settlement of Crook of Devon. At present the site is an open area of extended garden ground that serves Devon-Lade House. To the north of the site lies the lade that runs into the River Devon and to the south lies a number of residential properties. At present the site is accessed through the grounds of Devon-Lade House.
- 2 This site has a long history with four previous failed attempts to deliver planning permission for residential development in 1994, 2011 and in 2012. The applications in 1994 were refused largely in relation to the proposed means of access, both from the public road and within the site itself. In 2011 the applicant again submitted an application in principle for the erection of a dwellinghouse within the site with access taken through the garden ground to the south of Devon-Lade (Ref: 11/01281/IPL). However this application was withdrawn following a request by the planning officer for more detailed information to demonstrate how the applicant would propose to access the site and develop the plot. A further application was then submitted in 2012, (12/01198/IPL) which was refused on grounds of an inadequate access and the impact this access would have on residential amenity.
- 3 The current application alters the location of the access so that it now travels down the existing track to the south east and then travels to the north of the existing Devon-Lade, part of the double garage is to be demolished and the access effectively wraps around the north of Devon-Lade and into the application site from the east. The plans also provide an indicative layout and a section through the site with site levels, finished floor levels and an approximate ridge line. No detailed elevation plans or proposed external finishes have been provided at this stage.

**NATIONAL POLICY AND GUIDANCE**

**Scottish Planning Policy 2010**

- 4 This SPP is a statement of Scottish Government policy on land use planning and contains:

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

5 The relevant paragraphs of this document are as follows:

- Paragraphs 66 - 91 Housing
- Paragraphs 142 - 145 Protected Species
- Paragraphs 146 - 148 Trees & Woodland
- Paragraphs 196 - 211 Flooding and Drainage
- Paragraphs 165 - 181 Transport

## **DEVELOPMENT PLAN**

6 The Development Plan for the area consists of the Approved Tayplan 2012 and the Adopted Kinross Area Local Plan 2004 (KALP).

### **TAYplan Strategic Development Plan 2012 – 2032 - Approved June 2012**

7 Under the TAYplan the principal relevant policy is:-

#### **Policy 3: Managing Tayplan's Assets**

8 Understanding and respecting the regional distinctiveness and scenic value of the TAYplan area through:

- ensuring development likely to have a significant effect on a designated or proposed Natura 2000 sites (either alone or in combination with other sites or projects), will be subject to an appropriate assessment. Appropriate mitigation requires to be identified where necessary to ensure there will be no adverse effect on the integrity of Natura 2000 sites in accordance with Scottish Planning Policy; and
- safeguarding habitats, sensitive green spaces, forestry, wetlands, floodplains (in-line with the water framework directive), carbon sinks, species and wildlife corridors, geodiversity, landscapes, parks, townscapes, archaeology, historic buildings and monuments and allow development where it does not adversely impact upon or preferably enhances these assets.

#### **Kinross Area Local Plan 2004**

9 The application site is located within the settlement boundary of Crook of Devon and is designated for residential or compatible uses. The principal relevant policies are:-

### **Policy 1 'Development Criteria'**

- 10 All developments within the Plan area will be judged against criteria including, the scale, form, colour and density of development within the locality, compatible with its surroundings in land use terms and should not result in a significant loss of amenity to the local community. The local road and public transport network should be capable of absorbing the additional traffic generated by the development and a satisfactory access onto that network provided, sufficient spare capacity in drainage, water and education services to cater for the new development. The site should be large enough to accommodate the impact of the development satisfactorily in site planning terms and should be designed so as to be energy efficient.

### **Policy 4 Flood Risk**

- 11 Development in areas liable to flood, or where remedial measures would adversely affect flood risk elsewhere, will not normally be permitted.

### **Policy 20 Protected Species and Habitats**

- 12 Development which would affect:

- (i) Sites supporting species mentioned in Schedules 1, 5 and 8 of the Wildlife and Countryside Act 1981, as amended; and Annex II or IV of the European Community Habitats Directive or Annex 1 of the European Community of Wild Birds Directive; and
- (ii) Those habitats listed in Annex 1 of the European Community Habitats Directive

will only be permitted where appropriate assessments have demonstrated to the satisfaction of the Planning Authority that:

- (a) There will no adverse impact on species of habitats.

### **Policy 81 'Village Uses'**

- 13 Inset Maps 3-13 indicate villages where residential amenity and village character will be retained and if possible, improved. Some scope may exist for infill development but only where this will not adversely affect the density, character or amenity of the village. Proposals which erode areas of public or private open space will be resisted. General encouragement will be given to proposals which will improve the character and environment of the village;

## **PERTH AND KINROSS PROPOSED LOCAL DEVELOPMENT PLAN 2012**

- 14 On 30 January 2012 the Proposed Plan was published. The Council's current adopted Local Plans will eventually be replaced by the Local Development Plan. The Council's Development Plan Scheme sets out the timescale and stages leading to adoption. The Proposed Local Development Plan underwent a period of representation ending in April 2012 and is currently the subject of an

examination, but it not expected that the Council will be in a position to adopt the Local Development Plan before December 2014. The Proposed Local Development Plan 2012 is a material consideration in the determination of this application, reflecting a more up to date view of the Council than those contained in the relevant adopted Local Plan.

- 15 The relevant policies of the above plan are as follows:

**Policy PM1 Placemaking**

- 16 Development must contribute successfully to the quality of the surrounding built and natural environment.

**Policy RD1 Residential Areas:**

- 17 Identifies areas of residential and compatible uses where existing residential amenity will be protected. General encouragement will be given to uses including infill residential, improvements to shopping facilities which serve local needs, proposals which improve the character and amenity of the area and others subject to criteria.

**Policy EP2 – Flooding**

- 18 There will be a general presumption against development where a proposal would increase the probability of flooding elsewhere.

**Policy NE1 – National, local and European protected species –**

- 19 Should be considered in development proposals.

**Policy NE3 – Bio Diversity**

- 20 The Council will seek to protect and enhance wildlife and wildlife habitats.

**OTHER POLICIES**

**Education Contributions**

**Planning Guidance Note – Developer Contributions May 2009**

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

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

- 22 This guidance sets out the basis on which Perth and Kinross Council will seek to secure contributions from developers of new homes towards the cost of

meeting primary education infrastructure improvements necessary as a consequence of development. All new housing from the date of adoption including those on sites identified in adopted Local Plans will have the policy applied.

## **SITE HISTORY**

- 23 PK94/0753: Erection of two houses (in outline) – Refused
- 24 PK94/1597: Erection of a house (in outline) – Refused
- 25 11/01281/IPL: Erection of a dwellinghouse (in principle) – Application Withdrawn, 19 October 2011
- 26 12/01198/IPL Erection of a dwellinghouse (in principle) - Refused

## **CONSULTATIONS**

### **Education and Children’s Services**

- 27 Education Contribution Policy not applicable at this stage as application is only in principle.

### **Local Flood Prevention Authority**

- 28 No objection.

### **Environmental Health**

- 29 Potential contamination, recommend conditions.

### **Scottish Water**

- 30 No objection.

### **SEPA**

- 31 No objection subject to conditions.

## **REPRESENTATIONS**

- 32 A total of 10 letters of representation have been received within the statutory advertisement period all of which object to the application and have raised the following relevant issues: -

- Flooding
- Residential Amenity
- Visual Amenity
- Trees
- Bio Diversity

- Access/road safety
- Character of area
- Contrary to Development Plan policy

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

## ADDITIONAL STATEMENTS

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

## APPRAISAL

### Policy

- 34 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 as amended by Planning Etc (Scotland) Act 2006 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise. The determining issues in this case are whether: - the proposal complies with development plan policy; or if there are any other material considerations which justify a departure from policy. The most relevant policies of the Kinross Area Local Plan (KALP) in this instance are outlined in the policy section above. The Council's Proposed Local Development Plan 2012 is a relevant material consideration in this instance.

### Principle

- 35 The site lies within the village settlement boundaries of Crook of Devon where Policy 81 'Village Uses' is applicable. This policy outlines that some scope may exist for infill development but only where this will not adversely affect the density, character or amenity of the village. Having visited that site I consider that the site itself to be of a sufficient size to accommodate a single dwellinghouse whilst also providing more than adequate garden ground. This is similar to the conclusion reached on the assessment of the previously refused application. It is also noted that whilst a number of objections have been made regarding development pattern within the village, there are a number of similar examples of backland development in the immediate vicinity of this site. I therefore do not accept the argument that the proposed plot would be inconsistent with the prevailing building pattern within the village. Furthermore, it is considered that the indicative layout plan and section through the site illustrates that the site could be developed without having any significant adverse impact on the amenity of the neighbouring plots to the south of the site. The proposal is therefore considered to be generally acceptable in terms of Policy 81 of the KALP.

### **Driveway Access**

- 36 The most recently refused application for this site was refused on the basis of the impact which the proposed driveway access would have an un-due impact on the amenity of Devonlade as the proposed access was wedged into a small area to the south of the existing house. This access has now been revised and is now proposed to occupy a position to the south of Devonlade. The existing double garage is to be partially demolished to accommodate this revised access. This revised access is considered to be a significant improvement in terms of addressing the impact on residential amenity. The proposed driveway to the new house will sit mainly at a lower level than the existing house and will be partially screened by proposed hedging. This proposed hedging can be ensured through a planning condition on any consent given to ensure the provision of an adequate landscaping plan. The proposed revised access ensures the protection of the amenity of the existing house and allows for adequate usable private amenity space to remain. As such I am satisfied that this revised access arrangement addresses the reason for refusal on the previous application.

### **Traffic/Road Safety**

- 37 The Council's Transport Planner has advised that he is aware the previous refusal of consent to an application affecting the same access location in 1994. However the A977 Main street, Crook of Devon now forms part of the local road network since it was de-trunked in 1996 and as such is no longer subject to the requirements of the Design Manual for Roads and Bridgeworks (DMRB). With regard to traffic volume, this route currently operates well within its capacity and as such he can find no cause to restrict such minor development within Crook of Devon.
- 38 In regards to sight lines, the guidance regards assessment of sight lines in urban zones have been revised by the Transport Research laboratory and now forms part of "Designing Streets" the Scottish Government Policy guide which was introduced in April 2010. Consequently the sight lines at this location are considered to be adequate.
- 39 A letter of representation raises concerns with this view and goes into significant detail regarding the adequacy of the access. It should be noted that this access is proposed to serve one additional house and is therefore not considered to have any significant detriment in regard to road safety.
- 40 Adequate parking and turning facilities for the site can be requested by suitably worded planning conditions.
- 41 As such, on the basis of the above, the Council's Transport Planners have no objection to the proposed development. Again this view is similar to that expressed in the Report of Handling for the previously refused application and there is no reason to depart from this previously established view.

## Flood Risk

- 42 The application site sits to the south of the Devon-Lade which runs into the River Devon. A Flood Risk Assessment has been submitted with this application. The Report of Handling for the previously refused application indicated that SEPA and the Council's Flood Prevention Officer raised no objection to the development of this site subject to the finished floor levels (FFL) of the house being above recommended levels as outlined in the report, and that any land raising required would only be permitted outwith the estimated flood risk area. There have been a number of letters of representation regarding the potential flood risk of the site which question the view of SEPA and the Council's Flood Prevention Officer.
- 43 The Council's Flood Prevention Officer (FPO) has been consulted in this instance and remains of the view outlined in the previous application. He offers no objection to the proposed provided:
- The FFL of the house is a minimum of 144.38m AOD
  - The development extent is located out with the 1/200 flood plain and any land raising is located out with the 1/200 flood plain (i.e. above 143.78mAOD.)
  - If any land raising is required within the 1/200 flood plain, equal (or better) compensatory storage is provided
- 44 SEPA have also been consulted on the application and have offered no objection to the application subject to a condition which ensures that there is no landraising undertaken within the functional flood plain (i.e below 143.47m AOD (i.e below 143.47m AOD – not including adjustment for climate change). The indicative plans submitted indicate that no land raising is proposed at this level. Furthermore this can be adequately addressed by a condition to ensure that the detail design/levels of the site take account of this requirement. It is noted that the level requested from the Council's Flood Prevention Officer is higher than that requested by SEPA as it includes an allowance for climate change, therefore any condition applied should reflect this higher level.
- 45 The proposed FLL of the house is 146.15m AOD which is well above the estimated 1 in 200 year flood level. It is acknowledged that to achieve these levels, landraising is proposed. However the proposed area of uplift is located outwith the functional floodplain and there is no requirement to provide compensatory storage. This strategy is therefore compliant with the avoidance principle as promoted Scottish Planning Policy.
- 46 The proposed new access for the development which occupies a position to the south of the existing detached garage is in close proximity to the lade and as such is referred to by SEPA in their consultation response. SEPA have indicated that they have some concerns with the accuracy of the submitted plans in relation to the estimated 1 in 200 year flood outline marked next to the proposed access as no topographic information has been submitted for this location. It therefore appears that part of the proposed access may lie within the functional flood plain. However the condition referred to above to ensure

that no landraising occurs in the functional flood plain (i.e land below 143.78m AOD) will ensure that the development will have a neutral impact on flood risk.

- 47 SEPA go on to state that there is safe pedestrian access and egress to the site during a flood event but that vehicular access may be subject to flooding and that this is the responsibility of the Council's FPO. This has been discussed further with the FPO and he has indicated that he is satisfied with the details contained with the Flood Risk Assessment regarding the access into the site and that subject to the condition regarding land raising outlined above he has no objection. It should be noted that some letters of representation state that the submitted FRA is dated 2011 and is therefore out of date. This have been discussed with the FPO who states that river topography and rainfall is unlikely to have changed enough to make any significant difference to the findings with the FRA and he is therefore confident in the floor levels provided.
- 48 Given the lack of any objection from both SEPA and the Council's FPO I am satisfied that the site can be development without risk from flooding and that development will not result in flooding elsewhere, all subject to conditions.

### **Bio Diversity/Trees**

- 49 The Council's Bio Diversity Officer has been consulted on the potential impact which development of this site would have on natural heritage. It is noted that letters of representation raise concerns regarding the impact on otter, dipper, kingfisher, red squirrel and water vole. The wooded nature of river banks at this location will provide cover for both the dipper and Kingfisher, and therefore the Bio Diversity Officer has recommended a condition be included to protect these trees to the north of the site with appropriate fencing in accordance with BS 5837 2012 Trees in Relation to Design Demolition and Construction. Otters will be present in the river, but due to the managed nature of the site are unlikely to have a resting area along this stretch of the river, and as no work is planned that will affect the river, or lade then I am satisfied that there will be no impact on otters.
- 50 The trees on site are not favoured by red squirrel and if there are red squirrels in the area it is probably due to them taking advantage of feeders in gardens, and a new house may well be viewed as a positive development for red squirrels in this location.
- 51 Finally, the river itself is not suitable habitat for water voles as it is fast flowing. The slow water in the lade is more suitable for water voles, but there were no signs of feeding or latrines that are typical indications of water vole presence.
- 52 No indication of tree felling has been provided at this point due to the in principle nature of the proposal. A condition is recommended to ensure that a detailed tree survey is submitted which outlines the impact on trees. Upon submission of any detailed application the impact on trees can be assessed further in terms of both bio diversity and visual amenity/landscape character.
- 53 Given the view of the Council's Bio Diversity Officer I am satisfied that the proposed development will have no detrimental impact on protected species,

subject to conditions, and the proposal therefore complies with the relevant policies in relation to protected species and natural heritage.

### **Education**

- 54 As this application is for permission in principle there is no requirement to apply the Developer Contribution's Planning Guidance Note in regard to Education Infrastructure at this stage. However, it is prudent to apply a condition to any consent given to ensure this Guidance Note is complied with when any detailed application is submitted.

### **Contamination**

- 55 The site is located close to a former paper mill and therefore there is potential for the ground to be contaminated. Environmental Health have therefore requested a condition requesting that any ground contamination found during construction is dealt with appropriately.

### **Residential Amenity**

- 56 I am satisfied that a house can be accommodated on this site without any significant detrimental impact on the residential amenity of neighbouring properties. The site is large enough to accommodate a new house and ensure windows are a suitable distance from boundaries and also to ensure any new house does not overshadow neighbouring ground. The exact design details and scale of the house require to be addressed through the submission of a detailed application and the impact on residential amenity can be further assessed then.

### **Economic Development**

- 57 There are no implications in regard to economic development with this application.

### **DIRECTION BY SCOTTISH MINISTERS**

- 58 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**

- 59 None required.

### **CONCLUSION AND REASONS FOR RECOMMENDATION**

- 60 In conclusion, the application must be determined in accordance with the adopted Development Plans unless material considerations indicate otherwise. In this respect, the proposal is considered to comply with the adopted Kinross Area Local Plan and Tayplan 2012. I have taken account of material

considerations, including the Proposed Local Development Plan 2012 and find none that would justify overriding the adopted Development Plan. On that basis the application is recommended for approval subject to conditions.

## **RECOMMENDATION**

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

- 1 The development shall not commence until the following matters have been approved by the Planning Authority through the submission of an application or applications for approval of matters specified in conditions:
  - a) A detailed levels survey (existing and proposed) and cross sections showing proposed finished ground and floor levels of all buildings forming part of the development, relative to existing ground levels and a fixed datum point;
  - b) The siting design, height and external materials of all buildings or structures;
  - c) Details of vehicular access to the site and the provision of two car parking spaces and turning facilities;
  - d) Details of all landscaping, planting, screening and boundary treatment;
  - e) A detailed tree survey to the requirements of BS 5837 2012 to indicate those trees required for removal and those to be retained and protection measures for retained trees.
  
- 2 In pursuance of condition 2a) the scheme shall include
  - i) A detailed levels survey to indicate that the finished floor level of the house is at a minimum level of 144.38m AOD;
  - ii) A detailed levels survey to indicate that the proposed house is located outwith the 1 in 200 year flood risk area and that any land raising required, in relation to both the house and the access, is located outwith the functional flood plain (above 143.78m AOD). Details of all land raising required shall be clearly indicated on both the site plan and detailed cross section drawings.
  
- 3 In pursuance of condition 2c) the scheme shall include;
  - i) Turning facilities to enable all vehicles to enter and leave in a forward gear which shall be formed prior to the occupation of the dwellinghouse;
  - ii) A layout to accommodate a minimum of two car parking spaces which shall be formed prior to the occupation of the dwellinghouse;
  - iii) Suitable storage for waste disposal/collection which shall be formed prior to the occupation of the dwellinghouse.
  
- 4 In pursuance of condition 2e) the scheme shall include;

A detailed tree survey and tree constraints plan in accordance with BS5837:2012 Trees in relation to construction.

- (a) The tree survey shall clearly indicate the location of trees and their crown spread which are within or bordering the site on a scalable plan, allocate them a reference number, provide an assessment of their general state of health and stability and provide details of any topping, lopping or felling required.
  - (b) A tree constraints plan which shall clearly detail the trees to be retained and identify their root protection area (RPA) on a scalable plan, the location of protective fencing for the retained trees shall be marked on this plan and a specification of the protective fencing provided. Any works required to be undertaken within the RPA of the retained trees shall be detailed. The tree constraint plan shall also show details of those trees proposed for removal. The exact position of the proposed access track shall also be indicated on this plan and the detailed method for constructing the access to ensure the protection of adjacent trees annotated on the plan.
  - (c) That the erection of protective fencing shall be undertaken in accordance with the plan and fencing specification approved under section (b) of this condition before any equipment, machinery or materials are brought on to the site for the purposes of the development. Thereafter the fencing shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced and the ground levels within those areas shall not be altered nor shall any excavation be made unless details have been approved under paragraph (b) or written consent from the Planning Authority has been sought.
- 5 The development shall be in accordance with the requirements of the Council's Primary Education and New Housing Development Policy approved in May 2009 all to the satisfaction of the Council as Planning Authority.
- 6 The Council shall be immediately notified in writing if any ground contamination is found during construction of the development, and thereafter a scheme to deal with the contamination shall be submitted to, and agreed in writing by, the Council Planning Authority. The scheme shall include a full timetable for the reclamation measures proposed. Verification shall be provided by the applicant or his agent, on completion, that reclamation has been undertaken in accordance with, and to the standard specified in, the agreed reclamation scheme.

**B JUSTIFICATION**

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

**C PROCEDURAL NOTES**

None.

## **D INFORMATIVES**

- 1 Applicants are advised that should their application for Approval of Matters specified be refused and/or their appeal against such refusal dismissed outwith the three year time limit they are entitled to submit a revised application for Approval of Matters specified within six months after the date of refusal of the earlier application or of the dismissal of an appeal against such refusal.
- 2 No work shall be commenced until an application for building warrant has been submitted and approved.

Background Papers: 10 letters of representation

Contact Officer: John Williamson – Ext 75360

Date: 30 July 2013

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

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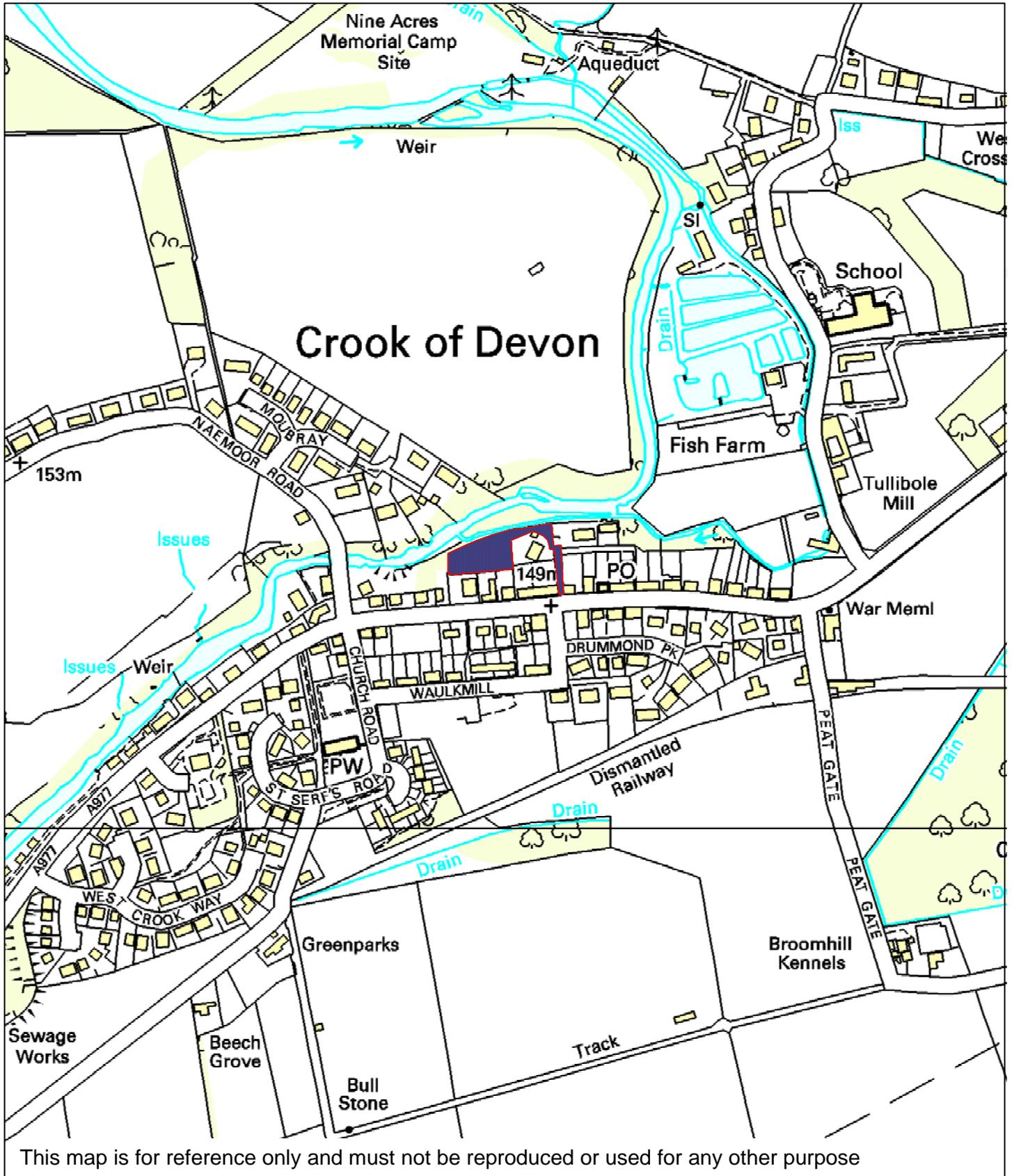


# Perth & Kinross Council

13/00658/IPL

Land 40 Metres West Of Devonlade, Main Street, Crook of Devon

Erection of a dwellinghouse (in principle)



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↑ Scale  
1:5001

# Perth & Kinross Council

## 13/00658/IPL

### Land 40 Metres West Of Devonlade, Main Street, Crook of Devon

Erection of a dwellinghouse (in principle)



↑ Scale  
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