

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

**Variation of condition 1 (09/01345/IPM) for extension of time limit at Glenisla Golf Club, Alyth, Blairgowrie, PH11 8JJ**

Ref. No: 13/001114/IPM  
 Ward No: 2 - Strathmore

### Summary

This report recommends approval of an application for the variation of the time limit condition associated (condition 1) imposed on an extant planning in principle consent for Improvements to golf club/course, erect 9 business units, hotel, nursing home and residential development at the Glenisla Golf Course, Alyth

### BACKGROUND AND PROPOSAL

- 1 The application site covers an area of approx 51.29 ha of land at the Glenisla Golf Club, a public golf course (with approx 300 members), located to the east of Alyth. The site can be essentially divided into two parts, east and west. The western part is currently occupied by several existing golf holes associated with the course, whilst the eastern part of the site largely consists of agricultural fields, with the flood plain of the Alyth Burn running west to east.
- 2 In June 2010, the Council granted outline planning permission for the improvements to the existing golf club/course, the erection of 9 business units, the erection of a hotel, the erection of a nursing home and a residential development including a retirement village.
- 3 This planning application seeks to vary the standard time limit condition which was attached to that consent through a planning application made under Section 42 of the Planning Act. The standard time limit condition which is imposed on the extant planning consent (condition 1) reads:-

*Application for the approval required by a condition imposed on this Planning Permission in Principle shall conform with the requirements of Regulation 12 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 and of Section 59 (2) and (3) of the Town and Country Planning (Scotland) Act 1997 as amended by Section 21 of the Planning etc. (Scotland) Act 2006 and, in particular, must be made before whichever is the latest of the following:*

- (i) *the expiration of 3 years from the date of the grant of the planning permission in principle,*

- (ii) *the expiration of 6 months from the date on which an earlier application for the requisite approval was refused, or*
  - (iii) *the expiration of 6 months from the date on which an appeal against such refusal was dismissed.*
- 4 The applicant has indicated that they seek to amend the condition to allow for a further three years to submit the required matters required by conditions.
- 5 Section 42 of the Town and Country Planning (Scotland) Act 1997 is a mechanism which allows for the submission of a planning application for the development of land without complying with conditions subject to which a previous planning permission was granted. Section 42 of the Act stipulates that in this type of application “the Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted”.

## **PROCEDURAL MATTERS**

### **Pre-application Consultation (PAC)**

- 6 The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 which came into force on the 30 June 2013, removes the requirement for Pre-application Consultation for Section 42 applications (which relates to a ‘major planning application’) made on, or after the 3 February 2013.

### **Environment Assessment**

- 7 Deciding whether or not an Environmental Statement should be re-submitted as a result of a change or modification to an approved development is a decision which is made by the relevant competent, determining authority, which in this case is the Council. As there are no statutory provisions or procedures on this subject, it is reasonable that the Council should make the decision on whether or not a new environmental statement is required for this application after consideration of the following two questions.
- a) *Is the development proposed significantly different that the original environmental statement needs to be revised or added too?*
  - b) *Is the environmental effects of the development so significantly different as to invalidate the original environmental statement and consultee responses?*
- 8 As the answers to both questions, is ‘no’, it is the unequivocal view of the Council (as the component Authority) that a new or updated Environmental Statement is not required.

## **NATIONAL POLICY and GUIDANCE**

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

## **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.

Of relevance to this application are

- Paragraphs 45 -51: Economic Development
- Paragraphs 92-97: Rural developments
- Paragraphs 149-158: Open space and physical activity
- Paragraphs 66-91: Housing

### **Planning Advice Note 43 (Golf Courses and Associated Developments)**

- 11 States that the location, siting and design of new courses and facilities will typically present developers, planning authorities and other interested parties with a wide range of issues to consider. Not least amongst these will be the policies in development plans dealing with the countryside and green belts. To assist that consideration, this Planning Advice Note:

- provides background information;
- sets out the locational and land-use context of Scottish Sports Council research;
- restates the existing national planning policy framework;
- identifies the planning issues associated with golf courses and related developments; and
- gives advice on development plan policies

### **Planning Advice Note 67 (Housing Quality)**

- 12 *Designing Places*, published November 2001, sets out the Scottish Governments aspirations for design and the role of the planning system in delivering them. This Planning Advice Note explains how *Designing Places* should be applied to new housing.

### **Planning Advice Note 76 (Designing new residential streets)**

- 13 This document has been produced in line with the Scottish Governments drive to promote the design agenda. It follows on from *Designing Places* and forms

part of the design based series of PANs. In particular, it complements, and should be read in conjunction with, *PAN 67 Housing Quality*. The advice applies to everyone engaged in the planning, design and approval of streets in new residential developments including planners, road engineers, architects and developers. In particular, it means that planners and engineers should work more closely together.

#### **Circular 4/1998 - The use of conditions in planning permissions**

- 14 Scottish Government planning Circular 4/1998 - The use of conditions in planning permissions states that conditions can enable many development proposals to proceed where it would otherwise have been necessary to refuse planning permission. The guidance establishes that conditions should meet the following six tests, requiring that they be: necessary, relevant to planning, relevant to the development, enforceable, precise and reasonable in all other respects.
- 15 The Circular also deals with the 'Renewal of permissions before expiry of time-limits' in para. 52. This states that developers who delay the start of development are likely to want their permission renewed, as the time-limit for implementation approaches. Under Article 5 of The Town and Country Planning (General Development Procedure) (Scotland) Order 1992 applications for such renewals may be made simply, referring to the existing planning permission, although the Planning Authority have power subsequently to require further information, if needed. As a general rule, such applications should be refused only where:
  - a. there has been some material change in planning circumstances since the original permission was granted (e.g. a change in some relevant planning policy for the area, or in relevant road considerations or the issue by the Government of a new planning policy which is material to the renewal application);
  - b. there is likely to be continued failure to begin the development and this will contribute unacceptably to uncertainty about the future pattern of development in the area; or
  - c. the application is premature because the permission still has a reasonable time to run.

#### **DEVELOPMENT PLAN**

- 16 The Development Plan for the area consists of the Tayplan 2012 and the Adopted Eastern Area Local Plan 1998

#### **TAY plan Strategic Development Plan 2012**

- 17 Whilst there are no specific policies or strategies specifically relevant to this proposal, as the application simply relates to extending the time period of the consent, nevertheless, the overall vision of the Tay Plan should be noted.

18 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.”*

### **Eastern Area Local Plan 1998**

19 Within the local Plan, the following policies are applicable:-

#### **Policy 1 : Sustainability**

20 Seeks to ensure that, where possible, 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.

#### **Policy 2 & 38: General Landward Policies**

21 Apply throughout the Landward area and in particular stipulates siting criteria to assist the integration of development sites within rural landscapes with particular regard to visual impact, residential amenity, suitable access to road network and available services. In addition, the policy also discourages development adjacent to settlements which are the subject of inset maps such as Alyth village in this case.

#### **Policy 3 : Flooding**

22 States that development in areas liable to flood, or where remedial measures would adversely affect flood risk elsewhere, will not normally be permitted. For the purposes of this policy flood risk sites will be those which are judged to lie within:-

- Areas which flooded in January 1993.
- Sites which lie within a flood plain.
- Low lying sites adjacent to rivers, or to watercourses which lead to categories 1 and 2.

#### **Policy 6 : Light Pollution**

23 States that the Council will not grant consent for proposals which would result in unnecessary and intrusive light pollution. The use of locations and lighting systems which limit light pollution, together with conditions to control the period of usage will be encouraged.

### **Policy 12 : Designated Sites**

- 24 States that 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 14 & 15: Nature Conservation**

- 25 Seeks to ensure that protected species and their habitats are protected from inappropriate and insensitive developments.

### **Policy 20 : Archaeology**

- 26 States that the Council will safeguard the settings and archaeological landscapes associated with Scheduled Ancient Monuments (that are protected under the Ancient Monuments and Archaeological Areas Act 1979), unless there are exceptional circumstances.

### **Policy 28 :Golfing**

- 27 States that additional golf courses within the Plan area will be encouraged provided the applicant can prove there is demand for such a facility. The upgrading of existing facilities will be encouraged provided they are consistent with other Local Plan policies.

### **Policy 49 : Housing in the Countryside**

- 28 Is the Local Plan version of the Housing in the countryside Policy and is applicable in most of the landward area.

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

- 29 On the 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 is 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.
- 30 Under the LDP, the site lies within the landward area of the plan, where the following policies are directly applicable.

### **Policy RD3: Housing in the Countryside**

- 31 The Council will support proposals for the erection, or creation through conversion, of single houses and groups of houses in the countryside which fall into at least one of the following categories: (a) Building Groups (b) Infill sites (c) New houses in the open countryside on defined categories of sites as set out in section 3 of the Supplementary Guidance (d) Renovation or replacement of houses (e) Conversion or replacement of redundant non-domestic buildings (f) Development on rural brownfield land. This policy does not apply in the Green Belt and its application is limited within the Lunan Valley Catchment Area to economic need, conversions or replacement buildings.

### **Policy RD4: Affordable Housing**

- 32 Residential development, including conversions, consisting of 5 or more units should include provision of an affordable housing contribution amounting to an equivalent of 25% of the total number of units proposed. Whenever practical, the affordable housing should be integrated with and indistinguishable from the market housing. If the provision of the affordable housing on-site is not possible the Council will seek off-site provision. Failing that, and in appropriate circumstances, a commuted sum will be required from developers. The details of provision, including tenure, house size and type, will be a matter for agreement between the developer and the Council and based upon local housing need and individual site characteristics.

### **Policy CF1: Open Space Retention and Provision**

- 33 Council will seek the provision of appropriate areas of informal and formal open space that is accessible to all users as an integral part of any new development where existing provision is not adequate. Where it is physically impossible or inappropriate to meet the open space provision onsite, consideration may be given to the provision of a suitable alternative. In areas where there is an adequate quantity of accessible open space in a locality, a financial contribution towards improvement or management of existing open space may be considered an acceptable alternative.

### **Policy HE1A: Scheduled Monuments**

- 34 There is a presumption against development which would have an adverse effect on the integrity of a Scheduled Monument and its setting, unless there are exceptional circumstances.

### **Policy HE1B: Non-Designated Archaeology**

- 35 The Council will seek to protect areas or sites of known archaeological interest and their settings. Where development is proposed in such areas, there will be a strong presumption in favour of preservation in situ. Where, in exceptional circumstances, preservation of the archaeological features is not feasible, the developer, if necessary through appropriate conditions attached to the granting of planning permission, will be required to make provision for the survey,

excavation, recording and analysis of threatened features prior to development commencing. If discoveries are made during any development, work should be suspended, the local Planning Authority should be informed immediately and mitigation measures should be agreed.

### **Policy NE1: Environment and Conservation Policies**

- 36 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 that:(a) the objectives of designation and the overall integrity of the designated area would not be compromised; or(b) any locally significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social and economic benefits.

### **Policy NE3: Biodiversity**

- 37 The Council will seek to protect and enhance all wildlife and wildlife habitats, including grasslands, wetlands and peat-lands and habitats that support rare or endangered species. The Council will apply the principles of the Tayside Biodiversity Partnership Planning Manual and will take account of the Tayside Local Biodiversity Action Plan (LBAP) when making decisions about all applications for development. Proposals that have a detrimental impact on the ability to achieve the guidelines and actions identified in these documents will not be supported unless clear evidence can be provided that the ecological impacts can be satisfactorily mitigated.

### **Policy EP5: Nuisance from Artificial Light and Light Pollution**

- 38 The Council's priority will be to prevent a statutory nuisance from occurring first and foremost. Consent will not be granted for proposals where the lighting would result in obtrusive and/or intrusive effects. Proposed lighting equipment should comply with current standards, including approved design standards. The Council may secure the regulation of lighting installations and their maintenance through the use of conditions attached to the granting of planning permission.

### **Policy EP8: Noise Pollution**

- 39 There will be a presumption against the siting of development proposals which will generate high levels of noise in the locality of existing or proposed noise sensitive land uses and similarly against the locating of noise sensitive uses near to sources of noise generation. In exceptional circumstances, where it is not feasible or is undesirable to separate noisy land uses from noise sensitive uses, or to mitigate the adverse effects of the noise through the negotiation of design solutions, the Council may use conditions attached to the granting of planning consent, or if necessary planning agreements, in order to control noise levels. A Noise Impact Assessment will be required for those development proposals where it is anticipated that a noise problem is likely to occur.

- 40 In addition to this, the site has been identified as having an approved residential application which could provide additional employment and housing opportunities for Alyth.

## PLANNING SITE HISTORY

- 41 An outline planning consent was obtained in 2010 for the improvements to golf club/course, the erection of 9 business units, the erection of a hotel, a nursing home and a residential development including a retirement village when the Full Council approved planning application 09/01345/IPM.

## CONSULTATIONS

- 42 **Alyth Community Council** No comments received.
- 43 **SEPA** Raise no objections.
- 44 **SNH** No comment made.
- 45 **Scottish Water** Raised no concerns.
- 46 **Environmental Health** Raised no concerns.

## REPRESENTATIONS

- 47 None received.

## ADDITIONAL STATEMENTS

Environment Statement	Submitted as part of the 2009 application
Screening Opinion	Carried out as part of the 2009 application.
Environmental Impact Assessment	Submitted as part of the 2009 application
Appropriate Assessment	Carried out as part of the 2009 application.
Design Statement / Design and Access Statement	Not required
Report on Impact or Potential Impact	None

## APPRAISAL

- 48 Section 42 of the Town and Country Planning (Scotland) Act 1997 enables the determination of applications to develop land without compliance with conditions previously attached. The legislation specifies that on such an application the Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted, and if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission

accordingly. If they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

- 49 Taking the above into account, the assessment of this application therefore only relates to the time limit stipulated in condition no. 1 of the extant planning permission and whether or not to allow the time period in which development can commence to be extended.
- 50 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, whilst the Local Development Plan 2012 is a significant material consideration in the determination of this application.
- 51 To this end, the determining issue as to whether or not the time period should be extended is ultimately whether or not the policy framework of the Council has materially changed enough for the Council to consider a different recommendation. For reasons stated below, whilst I consider there to be a material change in Council policy since the determination of the 2009 application took place, the overall themes, aims and aspirations of Council policy has not. To this end, I therefore ultimately recommend that the time period be extended.

### **Policy**

- 52 The planning application for improvements to the golf club/course, the erection of 9 business units, a hotel, a nursing home and a residential development is considered to be unsustainable in this rural location and contrary to the adopted Local Plan and National Planning Guidance. However, it is a matter of fact that an application for this development was approved by the Council in 2010 on the basis that the perceived economic, employment and tourist related benefits which the proposal would bring to the local area outweighs the specific land use planning policies.
- 53 In terms of the proposed Local Development Plan 2012, this plan acknowledges the existence of the extant consent and indicates that the proposal could provide for additional employment and housing opportunities, potentially 50 homes during the life of the Plan. In terms of this particular site and the relevant policies, the content of the adopted Local Plan (which the application was originally assessed against) and the proposed Local Development Plan 2012 are extremely similar with no major, significant changes.
- 54 Whilst I still have reservations regarding the nature of the proposal, and its sustainability in this location, the relevantly recent decision by the Council to approve the original application (and the fact that the consent is still alive until the 23 September 2013) is a material planning consideration, which is made even more significant in the absence of any notable changes in Council policies.

- 55 As this development is intrinsically linked to both the leisure and housing industries, both of which have been significantly affected by the recent (and ongoing) economic downturn, I consider that the provision of an additional three years through the section 42 process to be appropriate to help bring the detailed elements of this site forward.

### **Economic Development**

- 56 Due to the nature of the proposal, the development if implemented will have a positive impact on the local economy (both during the construction phase and once operational) and the tourist sector of the area. Members will be aware of a recent report agreed by the Enterprise and Infrastructure Committee at its meeting on 28 August 2013 on Development of Golf tourism in Perth and Kinross. The development proposed under this current application would be in line with the terms of that report in respect of assisting in the promotion of golf tourism.

### **LEGAL AGREEMENTS**

- 57 None required.

### **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.

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

- 59 Whilst I acknowledge that there has been a change in Council policy since the 2009 planning decision was made, the content of the current and proposed policies are extremely similar to those which were pertinent when the 2009 planning application was determined. Bearing this in mind and the fact that there has been no change in the site's physical characteristics I have no objections to the extension of time to allow the development to commence.

### **RECOMMENDATION**

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

1. The reserved matters relating to planning approval 09/01345/IPM shall be submitted for the approval of the Planning Authority in the form of a written application accompanied by detailed plans not later than:-
  - (i) the expiration of 6 years from the date of the original grant of outline planning permission dated the 23 September 2010.
  - (ii) the expiration of 6 months from the date on which an earlier application for such approval was refused, or

- (iii) the expiration of 6 months from the date on which an appeal against such refusal was dismissed;

whichever is the latest.

**Reason:**

- 1 In accordance with the terms of Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended by Section 21 of the Planning etc (Scotland) Act 2006.

**B JUSTIFICATION**

The proposal is considered to be contrary to the Development Plan however there are material reasons which justify approval of the application.

**C PROCEDURAL NOTES**

None.

**D INFORMATIVES**

- 1 The conditions contained in planning permission notice ref. 09/01345/IPM dated 23 September 2010 in respect of Improvements to golf club/course, erect 9 business units, hotel, nursing home and residential development, except only insofar as expressly modified by Condition No. 1 attached to this planning permission notice.
- 2 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.

Background Papers: None

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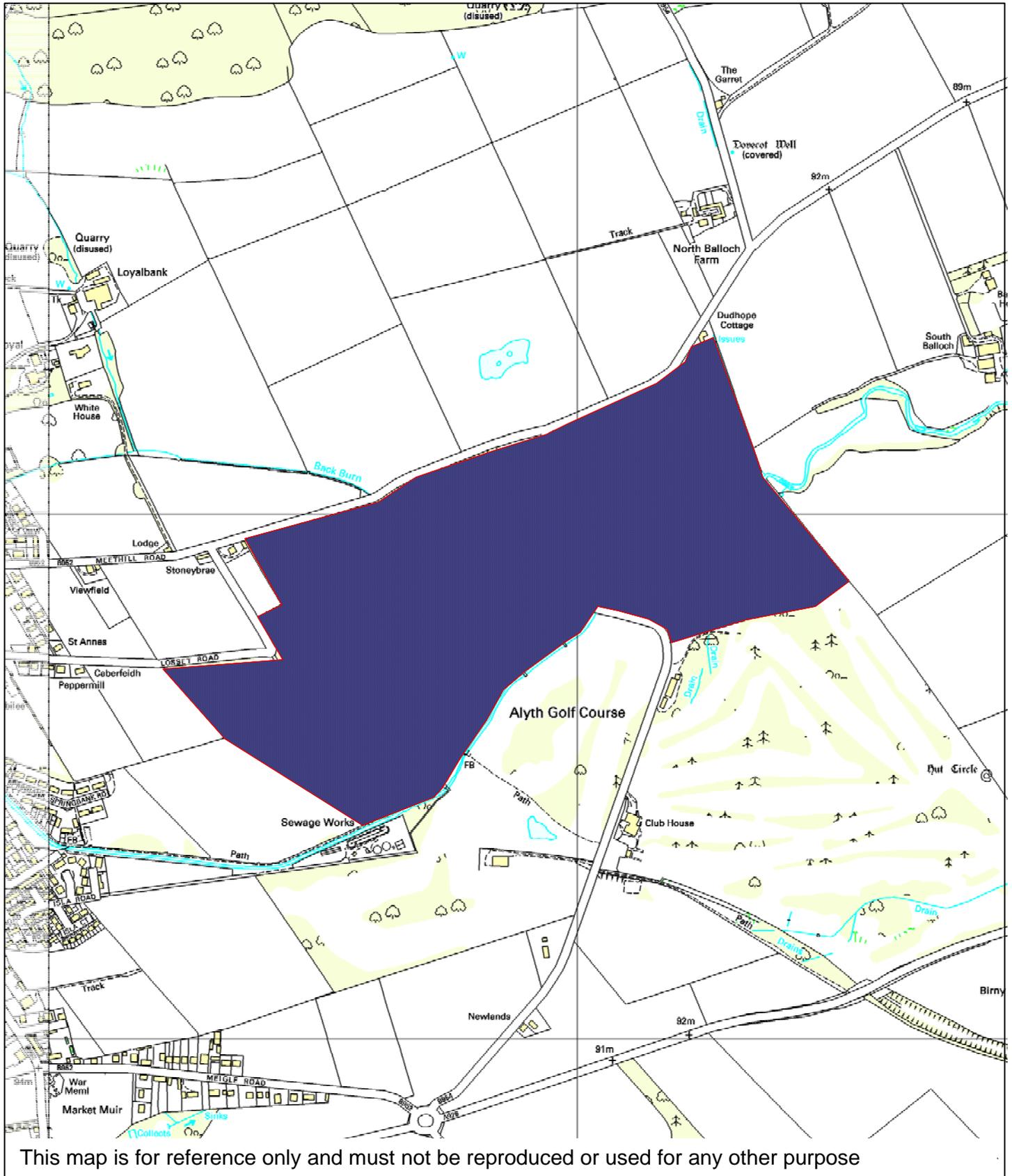
Date: 22 August 2013

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

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