

Perth and Kinross Council  
Development Management Committee – 19 February 2014  
Report of Handling by Development Quality Manager

Substitution of the requirement for a Section 75 with phosphorus mitigation conditions in accordance with the Memorandum of Understanding for Planning Procedure for Applications in the Loch Leven Catchment Area dated 2013 for the erection of 2 dwellinghouses (in principle) at Hatchbank Farm, Kinross

Ref. No: 12/00833/IPL  
Ward No: 8 Kinross-shire

**Summary**

This report recommends approval of the substitution of the requirement for a Section 75 Agreement with phosphorus mitigation conditions in accordance with the Memorandum of Understanding for Planning Procedure for Applications in the Loch Leven Catchment Area dated 2013 application for the erection of 2 dwellinghouses in principle.

**BACKGROUND AND DESCRIPTION**

- 1 On 26 September 2012 this Committee were minded to grant an application in principle for the erection of 2 dwellinghouses on a 0.26 hectare area of ground to the south of the Hatchbank Road which is approximately 2 miles to the south of Kinross. The application site lies immediately to the west of the former steading at Hatchbank which has been converted to housing and is situated within the Loch Leven Catchment Area.
- 2 The Minded to Approve decision was subject to the applicant securing suitable phosphorus mitigation measures through the completion of a Section 75 Legal Agreement. Since this decision the Council's Memorandum of Understanding for Planning Procedure for Applications in the Loch Leven Catchment Area dated 2013 has been approved and allows for the substitution of the requirement for a Section 75 Agreement with the use of suitable conditions to secure phosphorus mitigation.
- 3 The applicant has requested that the Section 75 be substituted with the appropriate conditions and the planning consent issued accordingly. The principle of development on the site for residential use has already been considered and is acceptable and this report considers only a change in the procedure for achieving suitable phosphorus mitigation on the site in accordance with new guidance.

**REPRESENTATIONS**

- 4 No re-notification was required in this matter and therefore there have been no further representations.

## **APPRAISAL OF CURRENT APPLICATION**

- 5 The only issue for consideration is the request by the applicant to substitute the Section 75 agreement with the appropriate conditions to deal with phosphate mitigation. As this is an agreed approach through the Council's Memorandum of Understanding for Planning Procedure for Applications in the Loch Leven Catchment Area dated 2013 then it is an acceptable alternative for dealing with phosphate mitigation. All issues will remain the same as per the original committee report and decision

## **CONCLUSION AND REASONS FOR RECOMMENDATION**

- 6 In accordance with the Council's Memorandum of Understanding for Planning Procedure for Applications in the Loch Leven Catchment Area dated 2013 it is recommended that the Committee approves this application subject to the conditions previously agreed and the proposed new phosphorus conditions required in place of a Section 75 Agreement.

## **RECOMMENDATION**

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

- 1 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.
- 2 The development shall not commence until the following matters have been approved by the Planning Authority. The siting, design and external appearance of the development, the landscaping of the site, all means of enclosure, the car parking and means of access to the site.
- 3 All matters regarding access, car parking, road layout, design and specification (including street lighting and disposal of surface water) shall be in accordance with the standards required by the Council as Roads Authority.
- 4 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.

- 5 The indicative plot layout and house elevation dated July 2012 and the house numbers proposed for the site are not hereby approved and are for illustrative purposes only only.
- 6 The foul drainage infrastructure capable of achieving not less than 125% phosphorus mitigation associated with this development shall be undertaken in a phased manner:-
  - a) No development shall commence on the approved development site until the mitigating foul drainage infrastructure at the remote property at Eriska, Cleish, Kinross KY13 0LJ has been installed.
  - b) Following the installation of the foul drainage infrastructure at the remote property the development site shall only be occupied once the foul drainage infrastructure for the development site has been installed to the reasonable satisfaction of the Planning Authority. For the avoidance of doubt the installed drainage infrastructure at the development site as approved shall be retained all to the reasonable satisfaction of the Planning Authority.
- 7 No development shall commence until the applicant has submitted approved CAR licence(s) under the Water Environment (Controlled Activities)(Scotland) Regulations 2011 for the drainage infrastructure associated with this project to the Planning Authority and the Planning Authority has confirmed receipt of the documentation in writing.

## **Reasons**

- 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.
- 2 This is a Planning Permission in Principle under Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended by Section 21 of the Planning etc. (Scotland) Act 2006.
- 3 In the interests of pedestrian and traffic safety and in the interests of free traffic flow.
- 4 In the interests of educational capacity.
- 5 This is an application in principle and to enable the Council to reserve consideration of details.
- 6-7 To ensure appropriate drainage arrangements are installed and retained to remove phosphorus from the Loch Leven Catchment Area thereby ensuring compliance with policies 10, 12 and 13 of the Kinross Area Local Plan 2004 and Enterprise and Infrastructure Committee Resolution of 28 August 2013.

## **B JUSTIFICATION**

The proposal is considered to comply with the Council's new guidance for applications in the Loch Leven Catchment Area.

## **C PROCEDURAL NOTES**

None

## D INFORMATIVES

None

Background Papers: None

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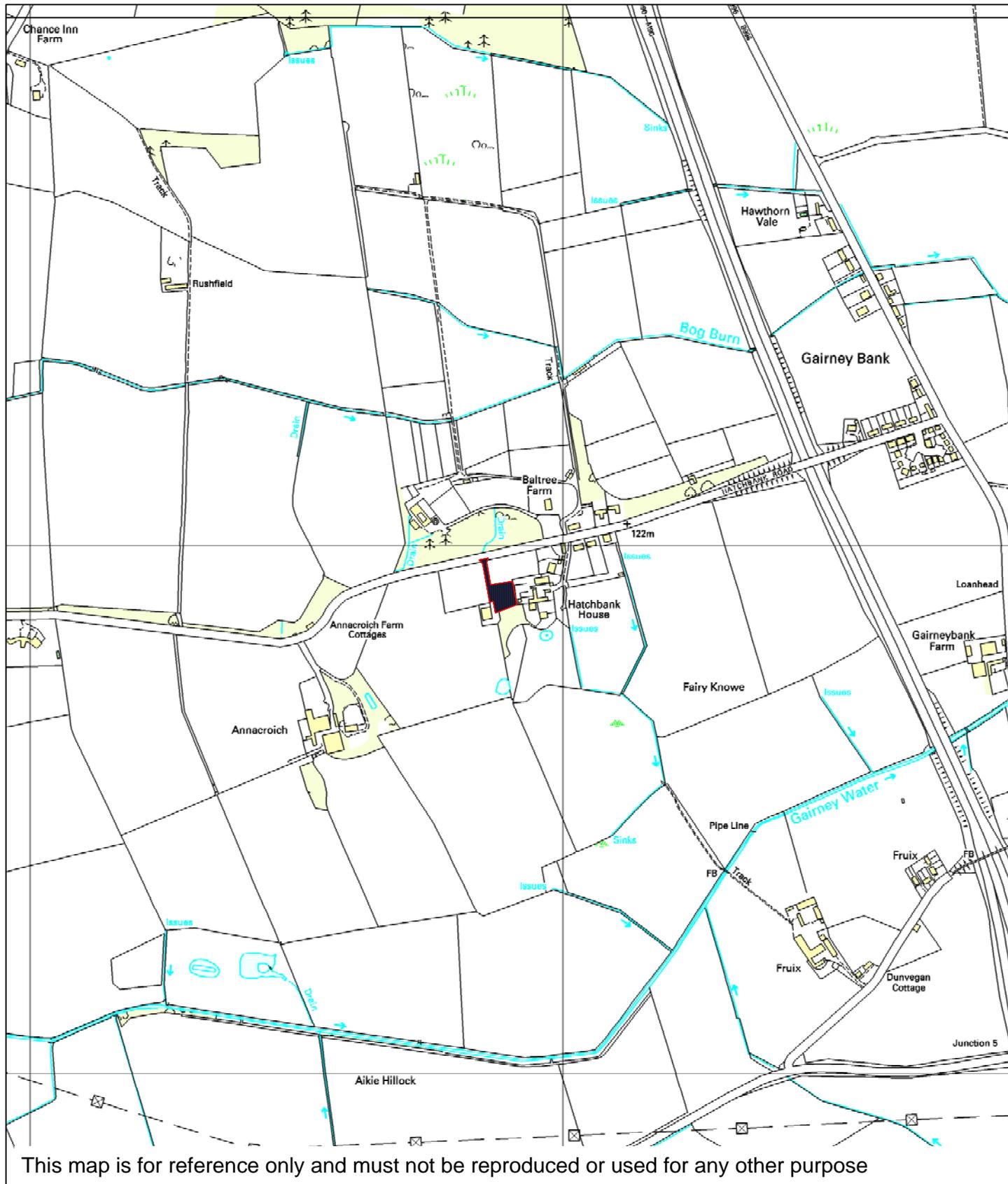
Date: 29 January 2014

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

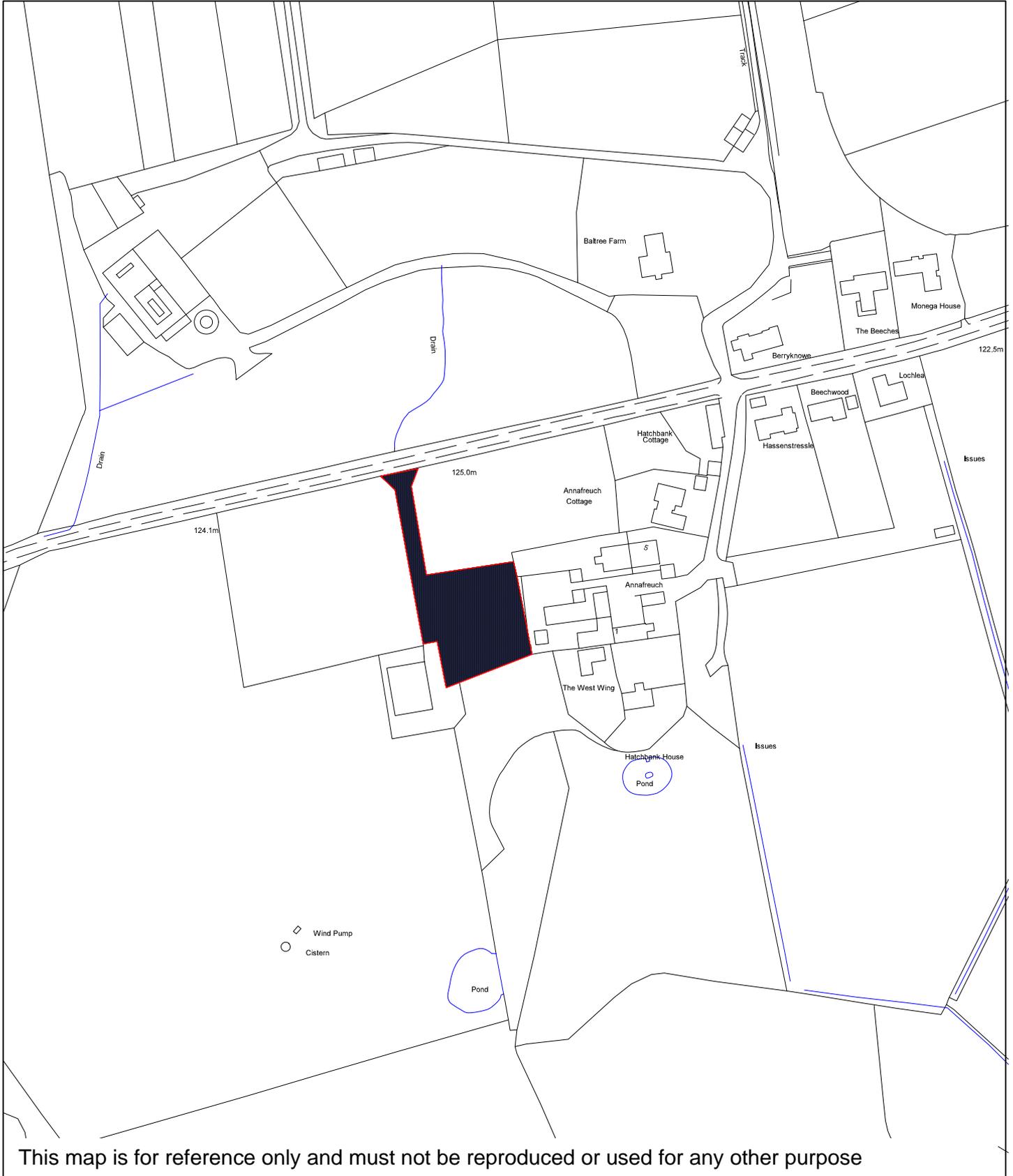
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