

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

Modification of existing consent (12/00228/FLL) to amend Condition 5 to allow convenience sales at Unit 7A, Ruthvenfield Road, Inveralmond Industrial Estate PH1 3EE

Ref. No: 13/02371/FLL
Ward No: N1– Perth City North

Summary

This report recommends approval of the application for modification of existing consent (12/00228/FLL) to amend Condition 5 to allow convenience sales as the development is considered to comply with the relevant provisions of the Development Plan.

BACKGROUND AND DESCRIPTION

- 1 In January 2007 detailed planning consent was granted by the Development Control Committee for the demolition of the Caithness Glass factory, which occupied a substantial building within Inveralmond Industrial Estate, and its replacement by a development comprising a mix of retail, manufacturing and visitor centre uses. The approved design takes the form of a large block which is sub-divided into seven generous units, six of which are allocated for retail purposes. The consent was also the subject of a Section 75 agreement which included a requirement for a minimum of 50% of the retail units to be tourist related and restrictions on the range of goods to be sold.
- 2 Originally it was expected that Caithness Glass would decant into the remaining unit, which at 2234 square metres is by far the largest, and unit no.7 was identified for that purpose. Once building operations on site were complete the occupation of the site was restricted by Condition 18 of planning consent 06/00805/FUL which required that no retail unit shall be occupied until the glass making factory is operational. This is also covered in a Section 75 agreement. Due to economic considerations Caithness Glass was taken over and has relocated to smaller premises in Crieff.
- 3 Consent was then granted in January 2009 for the development site to be occupied without having to comply with Condition 18. This consent therefore allowed for units 1-6 to be occupied in advance of unit 7. In August 2012 consent was granted (12/00228/FLL) for a change of use of unit 7 from visitor centre and manufacturing to two class 1 retail units (7A and 7B). Unit 7B now has consent for convenience retailing and is occupied by Marks and Spencer (M&S) and Unit 7A for comparison goods only (currently unoccupied and subject to this application). Condition 5 of consent 12/00228/FLL states the following:

“Notwithstanding the terms of the Town & Country Planning (Use Classes) (Scotland) Order 1997 (or any order revoking and re-enacting the order with or without modification) retailing from the comparison unit hereby approved shall be limited to the retail sale and display of comparison goods only. Any convenience goods sold are to be purely ancillary to main use.”

- 4 This condition means that only comparison goods can be sold from unit 7A.
- 5 This application seeks consent to modify this condition to allow for the sale of convenience goods from unit 7A and has been submitted on behalf of Aldi.
- 6 At time of writing, of the overall site at Highland Gateway, one of the units is currently occupied by Tiso, which is an anchor store located in unit 1 at the opposite end of the site from the unit under consideration here and Marks and Spencer occupy unit 7B. A single unit is also occupied by Nevada Bob's Golf Shop. The remaining units are unoccupied.
- 7 It should be noted that the area in which the units are located will be referred to as Highland Gateway within this report.
- 8 A Retail Impact Assessment and Transport Assessment accompany the application.
- 9 There is an associated application (13/02372/FLL) which is also under consideration at this Committee which refers to the installation of a servicing pod, amendment to car parking area and other ancillary physical works to both Units 7A and Unit 6 associated with the proposed convenience retailing use. This effectively involves the conversion of the vacant unit 6 at Highland Gateway into the servicing area for the proposed Aldi store.

NATIONAL POLICY AND GUIDANCE

Scottish Planning Policy 2010

- 10 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.

11 Of relevance to this application are:

- Paragraphs 45-48 : Economic Development
- Paragraphs 52-65 : Town Centres and Retailing
- Paragraphs 165-176: Transport

DEVELOPMENT PLAN

12 The Development Plan for the area consists of the TAYPlan: Strategic Development Plan 2012-2032 and the Local Development Plan 2014.

TAYPlan: Strategic Development Plan 2012-2032

13 The principal relevant policies are in summary:-

Policy 3: Managing TAYPlan's Assets

14 Further assist in growing the year round role of the tourism sector.

Policy 7: Town Centres

15 Whilst there is no policy which is directly applicable, the text relating to town centres is relevant. It states *'the region's town centres are where many businesses, services and facilities are located and are some of the most accessible locations by a range of transport modes. Protecting and enhancing the vitality and viability of all centres, and particularly town centres, directly contribute to providing good quality places and to the region's economic competitiveness. Therefore the mix and quality of town centres and their land uses have a critical role in delivering the vision and objectives of this Plan'*.

LOCAL DEVELOPMENT PLAN (LDP) 2014

16 The application site is identified as a Commercial Centre in the adopted LDP where retail units will be encouraged but some uses will be restricted depending on the legal agreements and planning obligations which are in place.

The principal relevant policies are;

RC3: Commercial Centres

17 Proposals for retail units will be promoted in commercial centres depending on restrictions placed on developments through planning consents and legal agreements. Improvements, including increasing floorspace will be supported provided parking provision and landscaping is not compromised.

Policy RC5 Retail Obligations and Controls

- 18 Proposals to modify planning obligations or other planning controls that control floorspace and / or the range of goods that can be sold must be justified by a health check, a retail impact assessment and where appropriate a transport assessment, and will only be acceptable where they are in accordance with the criteria set out.

OTHER POLICIES

The Perth and Kinross Retail Review 2011

- 19 There is no quantitative capacity for a new foodstore in Perth following the recent approval at St Catherine's Retail Park.

SITE HISTORY

- 20 06/00805/FUL Planning permission for the demolition of the existing building and the erection of a new visitor centre/manufacturing/retail complex, new vehicular access and re-configured/extended car and coach parking, approved January 2007 but not issued until April 2007 following the drafting of a Section 75 agreement to control the range of goods to be sold and the use of unit 7 for the re-location of Caithness Glass.
- 21 08/01671/FUL Variation of existing consent (06/00805/FUL) to allow occupation of retail units without complying with condition 18 to allow units 1-6 to be occupied in advance of unit 7.
- 22 10/01844/FLM Alterations and change of use from visitor centre/retail to convenience, ancillary goods unit and cafe with associated car parking – Withdrawn
- 23 12/00228/FLL Alterations and change of use from visitor centre and manufacturing unit to form two retail units (class 1) at Unit 7 – Approved August 2012

CONSULTATIONS

Transport Scotland

- 24 No objections.

REPRESENTATIONS

- 25 No letters of representation have been received although one letter of representation was received after the closure of the advertisement period regarding the potential impact the Aldi store will have on local shops in Bankfoot. Whilst the proposed Aldi store will serve a catchment area to the north of Perth the type of shopping proposed is considered to differ from the top up shopping offered by local shops within villages and as such the impact is considered to be negligible.

ADDITIONAL STATEMENTS

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	Retail Impact and Transport Assessment submitted

APPRAISAL

Policy

- 26 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) requires the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The determining issues here are whether the proposals comply with Development Plan policy or if there are other material considerations, which justify a departure from policy. The most relevant policies of the Development Plan are listed in the policy section above.
- 27 Consideration requires to be given as to whether the proposed development accords with National Policy and Development Plan policies. In particular whether the retail capacity exists to accommodate the proposal without overall detriment to Perth City Centre.
- 28 In accordance with national policy, the aim of the Development Plan is to direct new retail investment towards existing town centres as this offers the best opportunity to provide for the whole community as well as offering the potential to reduce car journeys. However, it is accepted in SPP 2010 that town centre locations are not essential and this recommends that the sequential approach should be applied which defines a range from 'town centre' to 'out of centre' and that reasonableness and flexibility should be exercised by all parties in the selection process. Policy 7 of the TAYPlan echoes this. It is left to Local Authorities in co-ordination with related strategies and stakeholders to assess how centres might accommodate requirements for new development and identify appropriate sites having regard to other policies in the Development Plan. Whilst the sequential test does not prohibit new retail developments outwith town centres, there is still a requirement for new developments to be accessible by a range of transport modes, especially public transport. If the new site can be accessed and linked with the existing town centre, even in an edge of centre position, then the proposals would be more in compliance with national and local policies – in that there would be a greater possibility of linked shopping trips and more mutual trade and footfall between the site and the town centre.

- 29 Within the Visions and Objectives section of the TAYplan the aim is to promote and enhance Perth as an economic driver and tourist destination and to support its role as a key retail and service centre by encouraging further improvements to the range and quality of retail provision. It also seeks to promote a significant shift in the plan area from car to other modes of transports.
- 30 Policy 7 of the TAYplan directs all new large scale retail floorspace to town centres but also identifies other appropriate sites based upon SPP 2010. The recently adopted Local Development Plan designates the Highland Gateway site as a “Commercial Centre” where it states that the primary original function of this centre is to allow for the sale of tourist related products and that this should remain its primary function. It should be noted that in this instance consent already exists for the sale of non tourist related comparison goods from Unit 7A and this application seeks to allow for the sale of convenience goods (food and related) from unit 7A. The policy goes on to state that certain uses will be restricted at this commercial centre depending on the conditions and legal agreements which are in place. Policy RC5 states that proposals for modifications of planning controls which control the range of goods to be sold from a retail unit must be justified by a retail impact assessment and where appropriate a transport assessment. Proposals will only be acceptable where:
- (a) It can be demonstrated that there will be no significant impact (individual or cumulative) on any town centre.
 - (b) It can be demonstrated that the proposal helps meet quantitative or qualitative deficiencies in existing provision.
 - (c) It can be demonstrated that there will be no change to the role or function of the centre in the network of centres.
 - (d) It is supported by a favourable sequential assessment, that demonstrates that no other suitable site in a sequentially preferable location is available or is likely to become available in a reasonable time.
 - (e) It is of an appropriate scale.
 - (f) Any detrimental impacts identified in the transport assessment are mitigated.
- 31 This submission includes both a retail impact assessment and transport assessment.
- 32 The variation sought is to allow for the sale of convenience goods from Unit 7A, which is currently limited to comparison items only, as well as from unit 6, which already has planning permission for unrestricted Class 1 retail use.
- 33 Accordingly, from a total gross floor area of 1563sqm (Unit 6 and 7A), the anticipated Class 1 Retail net floor space created would be 967sqm, with a net convenience provision of 716sqm. It should be noted that unit 6 has consent for unrestricted Class 1 retail floor space of 596sqm. Therefore the additional convenience floor space for the two units together is minor at only 120sqm of net retail floor space. Despite this very limited additional unrestricted Class 1 retail floor space, the applicant has submitted a Retail Impact Assessment of the proposal to demonstrate a worst case scenario.

Need for Proposed Additional Retail Floor Space (Quantitative Assessment)

- 34 An understanding of the current quantitative retail factors within an area allows an understanding of the retail requirements and the effect of bringing forward new retail development. Based on the expenditure data of the Perth and Kinross Retail Review 2011 there is no quantitative capacity for a new food store in Perth following the recent approval of a foodstore at St Catherine's Retail Park (SCRP) and this is backed up within the recently adopted Local Development Plan (LDP).
- 35 The 2011 Retail Review by Roderick Maclean Associates Ltd on behalf of Perth & Kinross Council identifies there is no convenience capacity to support a new foodstore within the Perth Core Area even though the study does suggest that there is a need for further investment in Perth city centre and to improve the range and quality of the retail facilities on offer.
- 36 The forecast spare capacity is just £5million by 2016 and £11 million by 2021, which equates to about 800sqm floorspace by 2016 and 1,900 by 2021. These figures are also based on existing planning consents at Crieff, Scone and Pitlochry but they do not include the recent consent at St Catherine's Retail Park or Sainsbury's Supermarket at Huntingtower.
- 37 The applicant's statement differs from this view and indicates that it considers there is a quantitative deficiency in retail offering which provides scope for a further store in this particular catchment area. It states that the population of the catchment area at 2016 is estimated to be 14,016. According to the statement the total available expenditure for the catchment area equates to £26.99m in 2013 up to £27.45m in 2016.
- 38 The applicant's statement then calculates the expenditure of other stores within the catchment, namely, Tesco, Crieff Road, Farmfoods, Crieff Road, Co-op Rannoch Road, Co-op West Mains Avenue, Co-op Tulloch Square, M&S Highland Gateway and the approved Sainsburys Huntingtower. Of these stores Tesco, Crieff Road and Co-op Rannoch Road are afforded policy protection and are designated centres.
- 39 The statement indicates that outflow from the catchment area is anticipated to be £13.43m (50% of total expenditure) and that the majority of this flows to existing locations such as Asda Dunkeld Road, Morrisons St Catherine's Retail Park, Aldi Glasgow Road and Lidl Riggs Road. The statement then takes into account the approved Sainsburys at Huntingtower and M&S at Highland Gateway and still indicates that there will be an outflow from the catchment area of £6.59m, comprising 24% of all expenditure.
- 40 The proposed store is likely to generate £3.36m for convenience sales and £1.15 in comparison sales and it is expected that 80% of this turnover will be generated by expenditure from within the catchment area. The statement goes on to indicate that the proposed store will divert trade from other stores within the catchment but not to a significant level.

- 41 The RIA states that there is a projected population increase in Perth leading to 2016. It should also be noted that a great deal of the population increase in Perth will likely be relatively close to the site at Highland Gateway as indicated in the adopted Local Development Plan with sites at H7 Bertha Park, H70 Perth West and H73 Almond Valley Village.
- 42 In my view the applicant has sufficiently demonstrated that there is some small quantitative capacity within this catchment area for a further convenience floor space although it should be noted that the LDP indicates that there is little quantitative need in the wider Perth area. In any case, as outlined earlier, consent already exists for a total class 1 retail floor space (including convenience retailing) of 596sqm within unit 6. As unit 6 is proposed to be used for warehousing for Aldi in association with convenience floor space proposed in Unit 7A, unit 6 will therefore not take up this retail floor space. The convenience retail floor space is being formed within unit 7A and equates to a net additional 120sqm of retail floor space on top of the existing consented space within unit 6. Therefore the actual additional class 1 retail floor space for convenience goods permitted on the wider site is negligible. Given this and despite the differences between the quantitative assessment provided by the applicant and that outlined in the LDP and Retail Review I am prepared to accept additional convenience floor space proposed.
- 43 Nevertheless the qualitative reasons for a store in this location are also required and the proposal also needs to ensure there is no adverse impact on the town centre.
- 44 This report will go on to consider the qualitative benefits of a convenience food store at this location in later paragraphs.

Catchment Area

- 45 The RIA states that the catchment area is based upon a 5 minute off-peak drive time from the store and is considered appropriate in the context of Aldi's typical trading patterns and with the modest scale of convenience goods sales proposed. The catchment area encompasses parts of west and north west Perth, with Aldi's existing store on Glasgow Road serving central Perth and areas to the east of the River Tay. Given its strategic location the applicant also anticipates that the store will draw trade from beyond the catchment area in the form of pass by trade and linked trips in association with other traders at Highland Gateway. The site is easily accessible by private car using the existing road network and is therefore likely to be able to serve the catchment area indicated in the RIA. The store will also provide shopping for passing vehicular traffic and potentially those working in the nearby Inveralmond Industrial Estate. There are also pedestrian routes to the application site from both the Industrial Estate and from northern Perth, however it is recognised that the links for pedestrians from northern Perth are limited and involve crossing the A9 or Inveralmond roundabout. Overall I am satisfied with the catchment area data submitted by the applicant.

Sequential Assessment

- 46 Policy 7 of the Tayplan requires that a sequential approach is demonstrated for out of town centre or edge of centre retail sites. SPP 2010 sets out the Government's

aspirations for town centres in relation to retailing and emphasises the need for Development Plan policies to better reflect local circumstances. It goes on to state that the sequential approach requires flexibility and realism from Planning Authorities, developers, owners and occupiers to ensure that different types of retail and commercial uses are developed in the most appropriate location.

- 47 The sequential approach requires locations for retail development to be considered in the following order:
- town centre,
 - edge of town centre,
 - other commercial centres identified in the Development Plan,
 - out of centre locations that are or can be made easily accessible by a choice of transport modes.
- 48 As this site is designated as a Commercial Centre I do not consider it necessary to make a full assessment of sequentially preferable sites in this instance. The applicant has indicated that there are no available sequentially preferable sites available.

Improved Distribution and Accessibility of Shopping Provision/Impact on Town Centre

- 49 Policy 7 of the TAYplan and Government guidance on retailing requires new retail development to provide for significant improvements in distribution and accessibility of shopping provision. The site does have limited access from Perth other than by car but is readily accessible to those working within Inveralmond Industrial Estate and to those travelling past Perth on the A9 and there is scope for the site to be accessible to those areas of Perth which are designated for future residential development in the Local Development Plan.
- 50 It can also be argued that given the location of the application site adjacent to the A9, a main route linking the South to the North, there will be a number of passing motorists who may not wish to and normally do not travel into the centre of Perth but wish the convenience of a stopping off place for food shopping which is easily accessible from the motorway network. This type of shopping facility is provided in numerous cities throughout Scotland.
- 51 This type of shopper is unlikely to want to visit the town centre in any case and would likely travel straight past Perth without spending any money in the local economy. The introduction of a further alternative food retail use here would encourage that type of shopper to spend in the Perth area and would also help to encourage further retail uses to occupy Highland Gateway to the benefit of the local economy.
- 52 I therefore believe it can be argued that this store will not result in a significant impact on the vitality and viability town centre as the users of the site will be different from those who frequent the town centre. The proposal will therefore allow for an increased expenditure in the Perth area to be for the benefit of the economy as a whole.

Qualitative Deficiency

- 53 The existing Tesco at Crieff Road and the approved Sainsbury's at Huntingtower are intended to serve a much wider catchment area as well as providing a more traditional superstore offering, compared within Aldi's discount retailing offer.
- 54 There is no operator like Aldi within the catchment area identified in the applicant's submission and I agree with the statements conclusion that the catchment area population would benefit from the introduction of an operator such as Aldi in a relatively accessible location which sits relatively close to the local resident population. As there are no operators such as Aldi within the catchment area at this time and the proposed store will offer something different to consumers providing enhanced competition and improved choice. The applicant also argues that the proposed store will fill a gap where food shopping trips are taking place outwith the catchment area, reducing leaked expenditure. This meets the requirements of the SPP and Development Plan and is advantageous for the local population as it will reduce the need to travel.
- 55 The store is also considered to compliment the recently approved M&S store and will help Highland Gateway develop into an attractive gateway site which reflects its now designated status as a commercial centre. Once again it is worth noting that the above is based upon a worst case scenario as the total additional convenience floor space proposed at Highland Gateway is negligible.

Economic Justification/Benefit to Highland Gateway

- 56 The application for the M&S included considerable justification for the store in order to be of benefit to Highland Gateway and encourage inward investment at the site. Clearly, with the submission of this application the benefit of approval of M&S at the site is now being realised with a further retailer coming forward. There are still further vacant sites at Highland Gateway and the approval of a further retail unit will only serve to improve the attractiveness of the Highland Gateway and encourage further inward investment.
- 57 The Highland Gateway site is in a key location adjacent to the entrance into Perth from the north and could also act as a departure point for those travelling north up the A9. Therefore it is considered important to ensure that inward investment in this location takes place and that is likely one of the reasons why it was designated as a Commercial Centre within the recently adopted LDP. It is believed that offering support for a further convenience retail use in Unit 6 and 7A will allow this to happen. In this instance and in regard to this particular site there are considered to be robust enough reasons for allowing a food retail use despite limited capacity in the Perth Area. It should be noted that this recommendation is based solely upon the circumstances at Highland Gateway and the requirement to ensure this site becomes fully operational from an economic development standing. The fact there is in reality a limited increase in actual convenience retail floor space also has significant weighting in this recommendation.

- 58 This recommendation therefore has no bearing on any future applications for further food retail in the Perth area. I am satisfied that allowing this food retail use will not have any significant detrimental impact on the town centre and any minor impact which it creates is outweighed by the need to ensure the viability of the Highland Gateway site given its prominent location referred to above.

Transport/Traffic Impact

- 59 The site already has an existing access from Inveralmond Road just off the A9 and there are car parking facilities in place. A Transport Assessment has been submitted with the application to which Transport Scotland have offered no objection in respect of impact on the nearby trunk road network. The Council's Transport Planners have also been consulted and have offered no objection to the proposal stating that whilst a small uplift in traffic is shown the impact would be minimal and the Inveralmond Roundabout would continue to operate within capacity at peak times. There is therefore not considered to be any significant impact on transport considerations if a variation of condition was granted.

Noise and Ventilation

- 60 This application relates solely to a variation of condition and the existing conditions on the 2012 permission in relation to noise and ventilation will remain in place and cover this aspect. Furthermore the application for physical works to Units 6 and 7A where the majority of plant is proposed will also allow conditions to be applied.

Conditions

- 61 Approval of this consent would allow for Unit 7A to be occupied for convenience sales. The neighbouring unit 6 (which is a currently vacant retail unit) is to be used for warehousing associated with this permission. Part of the justification for approving this application is that the consented retail floor space for unit 6 is not being taken up and therefore the net increase in convenience retail floor space is not significant. In order to ensure this for the future I recommend a condition be attached to this consent which restricts the permission to the applicant (Aldi) only as this will ensure that unit 6 is unlikely to separately let from unit 7A as it is likely to remain as warehousing. This will ensure that no further convenience retailing is granted at Highland Gateway without a further application being required but still providing the appropriate consent for Aldi to operate from the site to the wider benefit of the Highland Gateway site and Perth.

LEGAL AGREEMENTS

- 62 The existing legal agreement for the site requires Unit 7 to be marketed for a sustained period of 12 months to seek a visitor attraction use for this site. Evidence was submitted as part of the 2012 application for the M&S which demonstrated that no suitable attraction was found hence the submission and approval of that application for a change of use. The retail element of the S75 relates to Units 1-6 and therefore no amendments are required to the existing S75 in relation to this application which relates to unit 7A. Furthermore no additional S75 is considered necessary.

DIRECTION BY SCOTTISH MINISTERS

- 63 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

- 64 In conclusion, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, it is clear that the proposal does comply with the adopted Development Plan which designates the application site as a Commercial Centre. The information submitted by the applicant is considered sufficient to justify a convenience retailing use in this location and meets the criteria required by policy. Furthermore the actual uplift in convenience floor space is negligible in comparison with the existing provision at Highland Gateway. I have taken account of material considerations, Government Guidance and the individual justifications for this particular site and find that these serve to add weight to a recommendation of approval in this instance and that the permission should be granted to amend condition 5 of consent 12/00228/FLL to allow for open class 1 retail use within unit 7A.

RECOMMENDATION

A Approve the application subject to the following:

- 1 This consent relates solely to Unit 7A and is restricted to Aldi Stores Limited only to the satisfaction of the Council as Planning Authority.

Reason

- 1 To ensure that the permission is restricted to the applicant only to control the level of convenience floor space at Highland Gateway.

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 This application relates to consent for the variation of Condition 5 of consent 12/00228/FLL to allow convenience retailing to take place in Unit 7A. Conditions 3 and 4 of 12/00228/FLL relate solely to the approved convenience store located within Unit 7B.

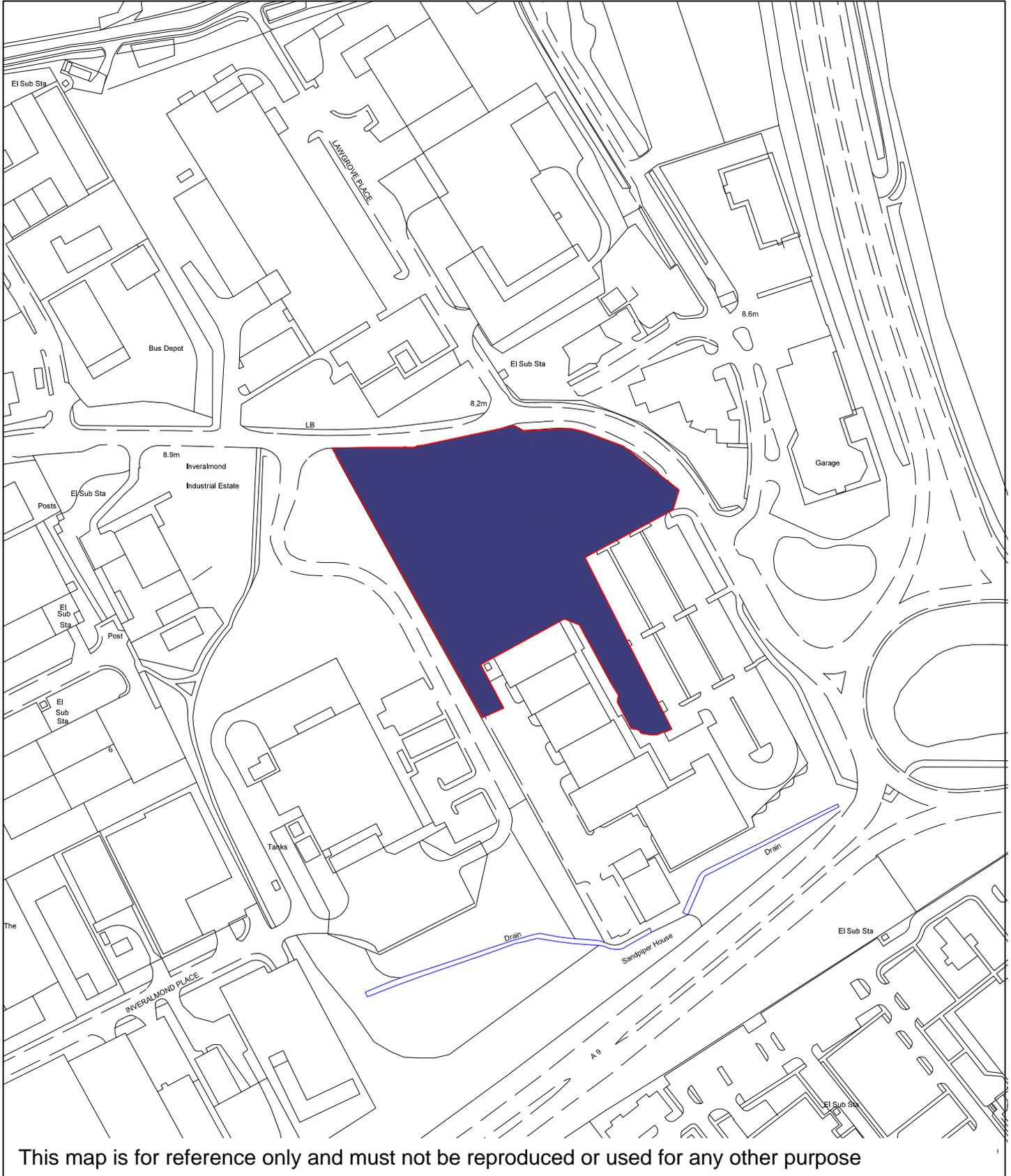
Background Papers: None
Contact Officer: John Williamson – Ext 75360
Date: 21 February 2013

Nick Brian
Development Quality Manager

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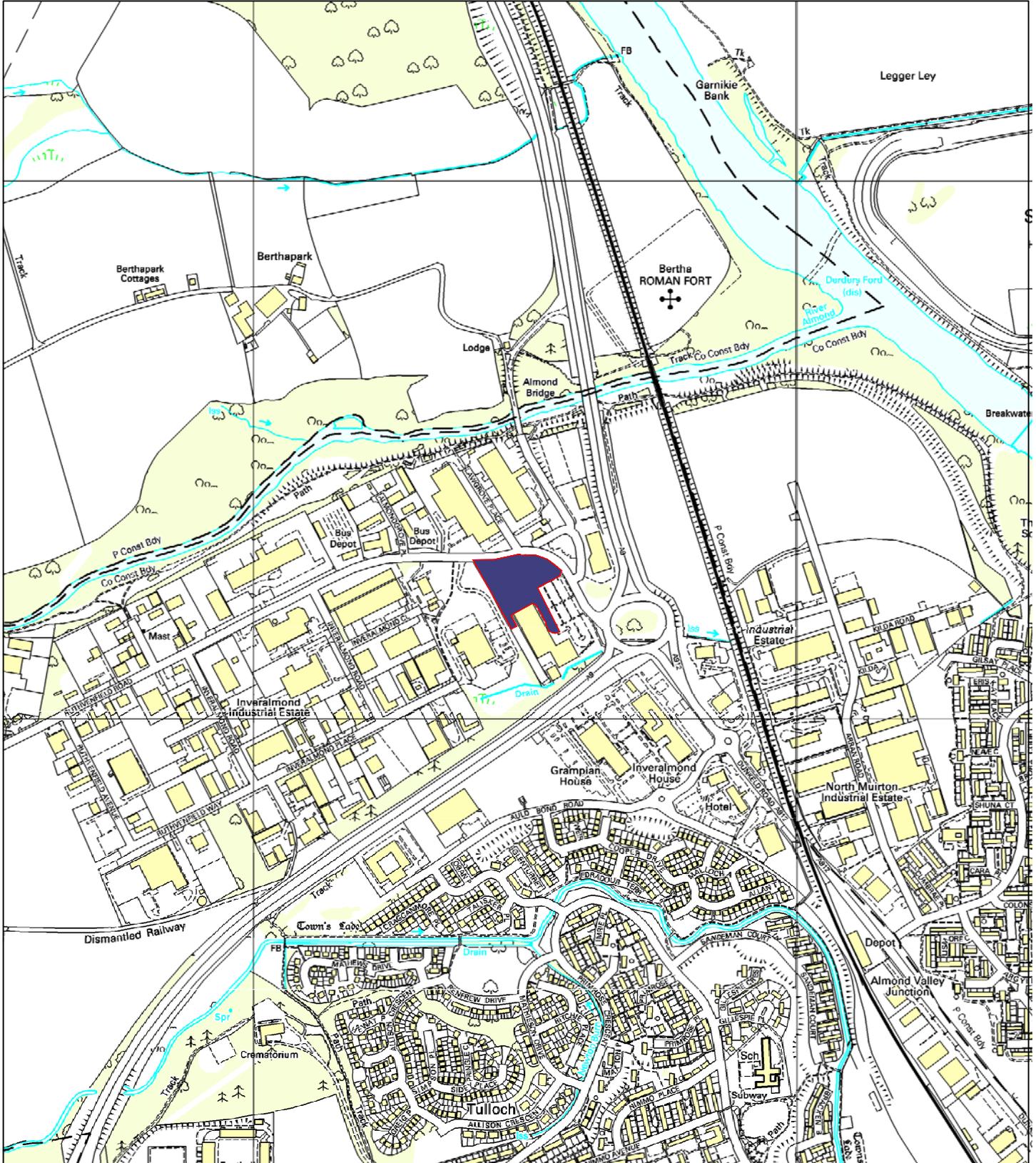
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Perth & Kinross Council

13/02371/FLL

Unit 7A, Ruthvenfield Road, Inveralmond Industrial Estate, Perth

Modification of existing consent (12/00228/FLL) amend Condition 5



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