

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

Erection of 30 holiday lodges, reception/information centre, erection of 10 dwellinghouses and formation of associated cycle trails and woodlands walkways (in principle) on land west of Gellybanks Farm, Bankfoot

Ref. No: 11/00534/IPM
Ward No: 5 - Strathtay

Summary

This report recommends refusal of this in principle application to establish a mixed use development comprising 30 holiday lodges, reception/information centre, 10 executive homes, leisure and educational areas (including a viewing tower) as well as walkways and cycle routes in a woodland area situated to the North of Moneydie between Perth and Bankfoot.

The holiday lodges do not adhere to the criterion contained within the economic development policies of the local plan while the formation of the executive dwellings (to cross fund the lodges) is contrary to the housing in the countryside policy.

The development is considered to contravene criterion within the natural environment development plan policies. It is also worth noting that the status of the woodland in the Environmental Statement as degraded is misleading. The Forestry Commission have confirmed that a substantial amount of the woodland was felled by the owner and the degradation is a result of the felled areas not being restocked which is required by licence.

While there will be improvements to the recreational and educational offering on the site, which forms a small part of the application, when taking account of the development as a whole the proposal does not adhere to the overarching thrust of the Development Plan.

Taking all these factors into account the application is recommended for refusal and there are no material considerations of weight that would lead to a different conclusion.

BACKGROUND

- 1 The site, Gellybanks Wood, is approximately 4km south of Bankfoot and 6km north of Perth. It measures 67ha (167ac) in area and is located in the countryside outside of any town or village development boundary. A sparse scattering of farm steadings are evident in the landscape around the site which compromise Cottarton, Tophead, Gellybanks and Pitlandie.
- 2 The landscape in this area is made up of broad low ridges and rounded hills. On the lower slopes of the hills agriculture is present with woodland and plantations generally set along the ridges, like Gellybanks Wood. A series of burns and drainage ditches drain the site into the River Tay System.

- 3 The proposal is to form 25 to 30 lodges, car parking and reception buildings around a new lagoon in a clear felled area of approximately 15 acres within the Gellybanks Wood. To enable the lodges to be formed, the applicant has advised that they require to be cross funded by the development of 10 detached executive dwellings in a separate clear felled area of the wood which extends to approximately 8.5 acres.
- 4 The proposed master plan for the site depicts a network of cycle trails and paths around the site. These would link other parts of this site that include a viewing tower and a woodland knowledge centre to the lodges but not the executive dwellings.
- 5 Access to the site would be gained from the unclassified country road which runs along the site's western boundary which forms part of the National Cycle Network Route N77. The proposed layout would require the formation of two access points into the forest, one to serve the woodland knowledge centre and a further larger junction and road which then splits in the site to enable access to the lodges and dwellings.

ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

- 6 Directive 2011/92/EU requires the 'competent authority' (and in this case Perth and Kinross Council) when giving a planning consent for particular large scale projects to do so in the knowledge of any likely significant effects on the environment. The Directive therefore sets out a procedure that must be followed for certain types of project before 'development consent' can be given.
- 7 The procedure, known as Environmental Impact Assessment (EIA), is a means of drawing together, in a systematic way, an assessment of a project's likely significant environmental effects. This helps to ensure that the importance of the predicted effects, and the scope for reducing any adverse effects, are properly understood by the public and the relevant competent authority before it makes its decision.
- 8 A scoping exercise was carried out the Planning Authority on the 14th of January 2009. The statement covers the environmental issues likely to be raised by the proposal at that time key environmental concerns identified through that scoping opinion were:-
 - Site selection criteria
 - Design Strategy
 - Visual Assessment
 - Tourism Assessment
 - Bio-diversity appraisal
 - Ornithological Assessment
 - Noise
 - Highways/Traffic Assessment
 - Water Resource Assessment
 - Archaeological Appraisal and Historic Environment Appraisal

- 9 The Environmental Statement was submitted by the applicant in December 2013 following concerns regarding the competency of this documents initial submission. Subsequent amendments have been made to this document following objections from statutory consultees with the last Supplementary Environmental Information Addendum being formally submitted to the Planning Authority in June 2014.

PRE-APPLICATION CONSULTATION

- 10 Under the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009 this proposal is defined as a major application due to the site falling under category 9 of the Major Developments Schedule with the site being over 2 hectares in area. This means there is a statutory requirement imposed on the applicant to undertake pre-application consultation activity with the local community.
- 11 Pre-application consultation was agreed under Proposal of Application Notice 09/00013/PAN with the public consultation event being undertaken on the 15 January 2010. This was associated with an earlier application 10/00641/IPM that was refused under delegated powers on lack of information.
- 12 While it may have been beneficial for further consultation activity to be undertaken to assist the submission of this application 11/00534/IPM (on the same site and for the same form of development) there is nothing within the regulations which precludes the agent from relying on the earlier consultation exercise.

POLICY

National Policy and Guidance

- 13 The Scottish Government expresses its planning policies through the National Planning Framework 3, the Scottish Planning Policy 2014 (SPP) and Planning Advice Notes (PAN).

National Planning Framework

- 14 The NPF3 is a long-term strategy for Scotland and is a spatial expression of the Government's Economic Strategy and plans for development and investment in infrastructure. Under the Planning etc (Scotland) Act 2006 this is now a statutory document and material consideration in any planning application. The document provides a national context for development plans and planning decisions as well as informing the on-going programmes of the Scottish Government, public agencies and local authorities.

The Scottish Planning Policy 2014

- 15 The Scottish Planning Policy (SPP) was published on 23 June 2014. It sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The

SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:

- the preparation of development plans;
- the design of development, from initial concept through to delivery; and
- the determination of planning applications and appeals.

16 Of relevance to this application is/are,

A successful Sustainable Place

- Paragraphs 74 – 83 Promoting Rural Development
- Paragraphs 92 – 108 Supporting Business & Employment
- Paragraphs 109 – 134 Enabling the Delivery of New Homes
- Paragraphs 135 – 151 Valuing the Historic Environment

A Low Carbon Place

- Paragraphs 152 - 174 Delivering Heat & Electricity
- Paragraphs 175 – 192 Planning for Zero Waste

A Natural, Resilient Place

- Paragraphs 193 – 218 Valuing the Natural Environment
- Paragraphs 219 – 233 Maximising the Benefits of Green Infrastructure
- Paragraphs 254 – 268 Managing Flood Risk & Drainage

A Connected Place

- Paragraphs 269 – 291 Promoting Sustainable Transport & Active Travel
- Paragraphs 292 – 300 Supporting Digital Connectivity

17 The following Scottish Government Planning Advice Notes (PAN) are also of interest:-

- PAN 2/2010 Affordable Housing and Housing Land Audits
- PAN 1/2011 Planning and Noise
- PAN 2/2011 Planning and Archaeology
- PAN 1/2013 Environmental Impact Assessment
- PAN 40 Development Management
- PAN 44 Fitting New Housing Development into the Landscape
- PAN 60 Planning for Natural Heritage
- PAN 65 Open Space
- PAN 68 Design Statements
- PAN 69 Planning and Building Standards Advice on Flooding
- PAN 72 Housing in the Countryside
- PAN 77 Designing Safer Places
- PAN 79 Water and Drainage

Designing places

- 18 This is the first policy statement which marks the Scottish Government's determination to raise standards of urban and rural development.

Development Plan

- 19 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2012-2032 and the Perth and Kinross Local Development Plan 2014.

TAYplan Strategic Development Plan 2012 – 2032

- 20 The TAYplan was approved in June 2012 and it 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.”

Policy 1: Location Priorities

- 21 Focuses the majority of development in the region's principal settlements and prioritises land release for all principal settlements using the sequential approach in this Policy; and prioritise within each category, as appropriate, the reuse of previously developed land and buildings.

Policy 2: Shaping Better Quality Places

- 22 Seeks to ensure that climate change resilience is built into the natural and built environment, integrate new development with existing community infrastructure, ensure the integration of transport and land uses, ensure that waste management solutions are incorporated into development and ensure that high resource efficiency and low/zero carbon energy generation technologies are incorporated with development to reduce carbon emissions and energy consumption.

Policy 3: Managing TAYplan's Assets

- 23 Seeks to respect the regional distinctiveness and scenic value of the TAYplan area and presumes against development which would adversely affect environmental assets.

Perth and Kinross Local Development Plan 2014

- 24 The Local Development Plan was adopted by Perth and Kinross Council on 3 February 2014. It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
- 25 The principal relevant policies are, in summary:

Policy PM1A - Placemaking

- 26 Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place. All development should be planned and designed with reference to climate change mitigation and adaptation.

Policy PM1B - Placemaking

- 27 All proposals should meet all eight of the placemaking criteria.

Policy PM2 - Design Statements

- 28 Design Statements should normally accompany a planning application if the development comprises 5 or more dwellings, is a non-residential use which exceeds 0.5 ha or if the development affects the character or appearance of a Conservation Area, Historic Garden, Designed Landscape or the setting of a Listed Building or Scheduled Monument.

Policy PM3 - Infrastructure Contributions

- 29 Where new developments (either alone or cumulatively) exacerbate a current or generate a need for additional infrastructure provision or community facilities, planning permission will only be granted where contributions which are reasonably related to the scale and nature of the proposed development are secured.

Policy PM4 - Settlement Boundaries

- 30 For settlements which are defined by a settlement boundary in the Plan, development will not be permitted, except within the defined settlement boundary.

Policy ED3 - Rural Business and Diversification

- 31 Favourable consideration will be given to the expansion of existing businesses and the creation of new business. There is a preference that this will generally be within or adjacent to existing settlements. Outwith settlements, proposals may be acceptable where they offer opportunities to diversify an existing business or are related to a site specific resource or opportunity. This is provided that permanent employment is created or additional tourism or recreational facilities are provided or existing buildings are re-used. New and existing tourist related development will generally be supported. All proposals are required to meet all the criteria set out in the policy.

Policy ED4C - Caravan Sites, Chalets and Timeshare Development

- 32 Favourable consideration will be given to new chalet and timeshare / fractional ownership developments where it is clear that these cannot be used as permanent residences and where they satisfy the criteria set out. There shall be

no presumption in favour of residential development if any of the above uses ceases.

Policy ED5 - Major Tourism Resorts

- 33 The improvement or expansion of Major Tourism Resorts will be encouraged, and the landscape setting which is integral to their tourism offer will be protected.

Policy RD3 - Housing in the Countryside

- 34 The development of single houses or groups of houses which fall within the six identified categories will be supported. This policy does not apply in the Green Belt and is limited within the Lunan Valley Catchment Area.

Policy RD4 - Affordable Housing

- 35 Residential development consisting of 5 or more units should include provision of an affordable housing contribution amounting to 25% of the total number of units. Off-site provision or a commuted sum is acceptable as an alternative in appropriate circumstances.

Policy TA1B - Transport Standards and Accessibility Requirements

- 36 Development proposals that involve significant travel generation should be well served by all modes of transport (in particular walking, cycling and public transport), provide safe access and appropriate car parking. Supplementary Guidance will set out when a travel plan and transport assessment is required.

Policy CF1B - Open Space Retention and Provision

- 37 Appropriate areas of informal and formal open space should be provided as an integral part of any new development where existing provision is not adequate. Where there is an adequate supply of open space a financial contribution towards improved open space may be acceptable. Opportunities should be to create, improve and avoid the fragmentation of green networks.

Policy CF2 - Public Access

- 38 Developments will not be allowed if they have an adverse impact on any core path, disused railway line, asserted right of way or other well used route, unless impacts are addressed and suitable alternative provision is made.

Policy HE1A - Scheduled Monuments and Non Designated Archaeology

- 39 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 - Scheduled Monuments and Non Designated Archaeology

- 40 Areas or sites of known archaeological interest and their settings will be protected and there will be a strong presumption in favour of preservation in situ. If not possible provision will be required for survey, excavation, recording and analysis.

Policy HE2 - Listed Buildings

- 41 There is a presumption in favour of the retention and sympathetic restoration, correct maintenance and sensitive management of listed buildings to enable them to remain in active use. The layout, design, materials, scale, siting and use of any development which will affect a listed building or its setting should be appropriate to the building's character, appearance and setting.

Policy NE1 - Environment and Conservation Policies

- 42 National, local and European protected species should be considered in development proposals.

Policy NE2A - Forestry, Woodland and Trees

- 43 Support will be given to proposals which meet the six criteria in particular where forests, woodland and trees are protected, where woodland areas are expanded and where new areas of woodland are delivered, securing establishment in advance of major development where practicable.

Policy NE2B - Forestry, Woodland and Trees

- 44 Where there are existing trees on a development site, any application should be accompanied by a tree survey. There is a presumption in favour of protecting woodland resources. In exceptional circumstances where the loss of individual trees or woodland cover is unavoidable, mitigation measures will be required.

Policy NE3 - Biodiversity

- 45 All wildlife and wildlife habitats, whether formally designated or not should be protected and enhanced in accordance with the criteria set out. Planning permission will not be granted for development likely to have an adverse effect on protected species.

Policy ER6 - Managing Future Landscape Change to Conserve and Enhance the Diversity and Quality of the Areas Landscapes

- 46 Development proposals will be supported where they do not conflict with the aim of maintaining and enhancing the landscape qualities of Perth and Kinross and they meet the tests set out in the 7 criteria.

Policy EP2 - New Development and Flooding

- 47 There is a general presumption against proposals for built development or land raising on a functional flood plain and in areas where there is a significant probability of flooding from any source, or where the proposal would increase the probability of flooding elsewhere. Built development should avoid areas at significant risk from landslip, coastal erosion and storm surges. Development should comply with the criteria set out in the policy.

Policy EP3B - Water, Environment and Drainage

- 48 Foul drainage from all developments within and close to settlement envelopes that have public sewerage systems will require connection to the public sewer. A private system will only be considered as a temporary measure or where there is little or no public sewerage system and it does not have an adverse effect on the natural and built environment, surrounding uses and the amenity of the area.

Policy EP3C - Water, Environment and Drainage

- 49 All new developments will be required to employ Sustainable Urban Drainage Systems (SUDS) measures.

Policy EP15 - Development within the River Tay Catchment Area

- 50 Nature conservation in the River Tay Catchment Area will be protected and enhanced. To ensure that there are no adverse effects on the River Tay SAC. The supplementary planning guidance 'River Tay Special Area of Conservation' is referenced.

OTHER POLICIES

Tayside Landscape Character Assessment (TLCA) 1999

- 51 The Tayside Landscape Character Assessment (TLCA) is published by Scottish Natural Heritage. The TLCA is a 'material consideration' when considering any development proposal in Perth & Kinross. The site is located within the Lowland Hills landscape character-unit. Under the 'Landscape Guidelines' heading the following strategies are recommended which reflect the sensitivities of the landscape and the pressure for change acting upon it.
- Focus new development in existing towns and villages so as to reinforce the historic pattern of settlements and to protect the rural character of other parts of the lowland glens.
 - Discourage the simplistic grafting of housing estates onto the edge of settlements. Encourage more imaginative schemes which respond to the existing patterns of layout, structure, massing and scale.

- Encourage the wider use of vernacular designs, materials and colours, while allowing for modern interpretations of traditional styles.
- Consider positive ways of addressing the interface between settlements and the surrounding countryside. These could include:
 - screening;
 - new buildings which integrate surrounding areas ;
 - key vistas and views ;
 - landmark features;
 - gateways and approaches .
- Where small scale development is permitted encourage developers to use local building materials and to adopt local vernacular in respect to density, massing, design, colour and location. Avoid standard or suburban designs and layouts.

SITE HISTORY

- 52 A planning application for the erection of a leisure, recreational and housing development including 30 lodges, reception centre, 10 dwellinghouses, walkways and cycle paths (in outline) reference 08/02241/OUT was refused on the 8 April 2009 due to lack of information under delegated powers.
- 53 A proposal of application notice for the erection of 30 holiday lodges, 10 dwellinghouses, reception building and formation of associated cycle ways, pond and footpaths was agreed on the 26 January 2010 reference 09/00013/PAN.
- 54 Application 10/00641/IPM for the erection of 30 holiday lodges, 10 dwellinghouses, reception building and formation of associated cycle ways, pond and footpaths was refused under delegated powers on the 18 November 2010 due to lack of information.

EXTERNAL CONSULTATIONS

Scottish Government

- 55 Under the Environmental Impact Assessment (Scotland) Regulations 2011 the Scottish Government are a statutory consultee to any submitted EIA. The comments detailed below are representative responses to either the content of the Environmental Statement and the appropriateness or otherwise of the submitted development proposal.

Transport Scotland (Scottish Government)

- 56 No objection.

Historic Scotland (Scottish Government)

57 No objection.

Scottish Environment Protection Agency (SEPA)

58 SEPA has withdrawn their objection to the application. They confirm that the surface and foul water drainage arrangements appear satisfactory. While there is currently uncertainty regarding the finished floor levels (FFLs) associated with the development this will need to be secured/clarified through the detailed planning application to ensure there is no risk to flooding. They highlight that the formation of the bund structure would not adhere to Scottish Planning Policy but acknowledge that there are engineering and landscaping methods that could alleviate this concern they note there will be a requirement for the development to have a CAR licence.

Scottish Natural Heritage (SNH)

59 SNH has withdrawn their initial objection to the application as the foul drainage strategy and a discharge criterion is agreed with SEPA for the site. They have advised that a standalone construction method statement should be prepared to avoid the release of sediments and pollutants into the River Tay Special Protection Area.

RSPB

60 No objection.

Forestry Commission Scotland (FCS)

61 The FCS note the absence of any mention of the felling licence within the application or the fact that Government funding has been sought to support restocking. While the planning statement (11/00534/4) refers to the site as a 'degraded clear felled forest area' the Forestry Commission point out that the site should be considered within the cycle of standard forest management (i.e. felling and restocking). They point out that the site may be considered 'degraded' only because the owners have delayed the re-stocking for such a long period of time.

FCS provide advice on what should be submitted to enable an assessment against the Scottish Government's Control of Woodland Policy. They advise the site still remains unstocked but note that natural regeneration is now starting to occur on the site.

INTERNAL CONSULTATIONS

Environmental Health

62 While future occupiers of the development site may be subjected to odour and noise at various times of the year associated with neighbouring farming operation nevertheless Environmental Health are of the view that this would be

unlikely to adversely affect the amenity of residences within the development site.

Transport Planning

63 No objection subject to conditions.

Perth and Kinross Heritage Trust

64 No objection subject to conditions.

REPRESENTATIONS

65 Eleven letters of representation which object to the application have been received. The content of the letters can be summarised as follows:-

- The Environmental Statement is invalid and does not meet the requirements of PAN 58.
- The development is contrary to the Rural Business and Diversification Policy and the Housing in the Countryside policy therefore contrary to the local plan.
- The development will adversely affect farming forestry and country pursuits surrounding the site.
- Loss of privacy.
- Noise disturbance.
- There is no public transport within walking distance of the site.
- Traffic impact and traffic safety implications.
- Visual impact.
- Landscape impact.
- Overdevelopment and out of character with area.
- Impact on private water supplies.
- No provision for affordable housing within the site.
- Existing landowner appears to be in breach of forestry regulation as restocking following felling has not been undertaken

ADDITIONAL STATEMENTS

66

Environment Statement	Submitted
Screening Opinion	Undertaken
Environmental Impact Assessment	Yes
Appropriate Assessment	Undertaken
Design Statement / Design and Access Statement	Submitted
Report on Impact or Potential Impact	Incorporated into Environmental Statement.

APPRAISAL

- 67 Section 25 of the Town and Country Planning (Scotland) Act 1997, as amended by section 2 of the Planning etc (Scotland) Act 2006, decrees that planning decisions are required to be made in accordance with the development plan unless material considerations indicate otherwise. Thus it is necessary to establish whether the proposal accords with the Development Plan and whether any material consideration indicates that the decision should not accord with the plan. The Development Plan for the area within which the application site lies consists of TAYplan 2012 and the Perth and Kinross Local Plan 2014.
- 68 Policy 1 of the Tayplan advocates the developing of land within the principal settlements rather than developing land outside of them. It does however acknowledge the need to sustain rural economies while protecting the countryside by allowing the development in smaller settlements.
- 69 The implementation of this principle has been translated into the LDP with Policy PM4 - Settlement Boundaries stipulating that for settlements which are defined by a settlement boundary in the Plan, development will not be permitted, except within the defined settlement boundary.
- 70 Although the proposal is not located within the settlement boundary and therefore fails to comply with Policy 1 of Tayplan and Policy PM4 of the Local Plan there are exceptions that can be made to this presumption against development outwith a settlement boundary through Policy RD3: Housing in the Countryside and Policy ED3: Rural Business Diversification. These policies are assessed under the next two headings.

The proposals relationship with the Housing in the Countryside policy.

- 71 The applicant has highlighted that 10 executive dwellings units are necessary to generate sufficient capital to cross subsidise the delivery of the leisure/lodge development. The applicant has highlighted the applicable policy framework and has concluded that their scheme is acceptable and complies with the framework, a statement which officers cannot agree with.
- 72 Scottish Government's Scottish Planning Policy (SPP) promotes rural development that supports prosperous and sustainable communities and businesses whilst protecting and enhancing environmental quality. At paragraph 76 of SPP it notes that, *'In the pressurised areas easily accessible from Scotland's cities and main towns, where ongoing development pressures are likely to continue, it is important to protect against an unsustainable growth in car-based commuting and the suburbanisation of the countryside, particularly where there are environmental assets such as sensitive landscapes or good quality agricultural land. Plans should make provision for most new urban development to take place within, or in planned extensions to, existing settlements'*. This is effectively encompassed in Local Plan Policy RD3.
- 73 Policy RD3: Housing in the Countryside is the most applicable policy in the Local Development Plan in the assessment of the 10 executive dwellings

proposed by the application. This supports the erection or creation through conversion, of single houses and groups of houses in the countryside where they fall within certain categories. In this case the proposed executive dwellings are, a) not within a building group, b) they are not infill, c) they are not new houses in the open countryside as set out in section 3 of the supplementary planning Guidance, d) are not renovation or replacement houses, e) are not conversion or replacement of redundant non-domestic buildings and f) are not development on rural brownfield land.

- 74 Accordingly the proposed residential element of the proposal fails to fit into a category within the Housing in the Countryside Policy therefore it is contrary to Policy RD3.
- 75 At this point it is worth highlighting that there is further detailed criterion contained within the housing in the countryside supplementary planning guidance (SPG) which seeks to safeguard the character of the countryside; support the viability of communities; meet development needs in appropriate locations; and ensure that high standards of siting and design are achieved.
- 76 It is particularly hard to assess this application 'in principle' against the detailed criterion within the SPG as no detailed elevation plans are provided. However having had the opportunity to assess the layout of the housing depicted on the masterplan and topographical plan it is apparent that the layout which is suburban in nature has been imposed on the landscape, it does not illustrate a high standard of siting and design consequently it fails to safeguard the character of the countryside. The delivery of the housing on this site does not support the viability of a surrounding community and it is not considered to be an appropriate location to meet development need which will be explored further under the Natural Heritage heading.

The relationship between the Lodges (25-30 Units), reception building, woodland centre and viewing tower with the Economic Development policies.

- 77 Rural Business Diversification Policy ED3 in the Local Development Plan provides favourable consideration to the expansion of existing rural businesses and the creation of new ones in rural areas subject to meeting the entire detailed criterion set out within the policy.
- 78 The policy confirms that proposals where viability requires some main stream residential development (which is applicable to this proposal) will only be supported where this fits with the Plan's housing policy. The main stream housing has already been assessed as contrary to the local plan accordingly this jeopardises the applicant's mechanism in the delivery of the lodges, reception building, woodland centre and viewing tower.
- 79 The proposed development is required to be compatible with surrounding landuses and not detrimentally impact on the amenity of residential properties within or adjacent to the site (criterion a). Letters of representation have highlighted concern that the development will not be compatible with surrounding land uses.

- 80 Environmental Health is of the view that noise and odour between the land uses would not be significant to preclude granting consent. Concern is expressed that the private water supply for Gellybanks and Tophead Farm steadings may be affected as the source originates from within the proposed application site. The Council's Water Standards Co-ordinator notes that the water supply to these properties is not considered in the report prepared by Goodson Associates in support of the application (Chapter 11 Water Resources). Accordingly it cannot be ascertained that the supply to residential properties and farming operations can be maintained.
- 81 While the application seeks to obtain a connection from the Scottish Water network should this not be forthcoming a groundwater abstraction would likely be required to serve the development. This could have further implications on existing private water supplies. While the Council's Water Standard Co-ordinator advises that these impacts can be considered under the Water Scotland Act 1980 (Section 63) and the Private Water Supplies (Scotland) Regulations 2006 I consider that these issue should have been bottomed out through the Environmental Statement to provide certainty on this issue. In light of this the precautionary principle should be applied as it has not been shown that the proposal is compatible with surrounding landuses.
- 82 Loss of privacy is a further matter that has been raised by representation. In most instances the intervening distances and landscape screening between the proposed housing and lodge components and neighbouring residential properties will avoid any impact on privacy. However the viewing tower, which is set on a ridgeline at the eastern extremity of the site and located above the treetops to afford views out of the site onto the surrounding landscape will have an adverse impact on the privacy of residents. While I note that there is an intervening distance of 200 metres between the tower and the properties at Gellybanks Farm Steading I am of the view that the towers viewing platform located above the treetops, when viewed from the lower ground where residential properties are located as well as the driveway this element of the proposal will have an overbearing impact. It's presence would appear unduly intrusive and oppressive to an extent that would interfere with the enjoyment of residential properties that could be reasonably be expected. Accordingly the development fails to satisfy criterion a.
- 83 The development has to be satisfactorily accommodated into the landscape capacity of any particular location (criterion b). Due to the location of the development zones within the site the visibility of the development will be predominantly screened and contained by the existing forestry. Notwithstanding this it is considered that the works to form the area where the lodge and reception building would be located will require a significant extent of engineering works to create the lagoon setting for this element of the development as detailed in the master plan and associated cross sections. The profiling of this man made feature, which is effectively a bund, is considered to have an adverse impact as it does not reflect the rural nature of the site, while this could be resolved and a more natural method of landscaping deployed this would be considerably different to what is currently being proposed and considered would have ramifications on the layout and potential land take for

development. There are also other issues with the bund that will be explored further under the Flooding section of this report.

- 84 The proposal is required to meet a specific need by virtue of its quality or location in relation to an existing business or tourist facility (criterion c). As there is no existing business and no existing tourist facility at the site the proposal fails to meet criterion c.
- 85 Criterion d relates to scale, quality and design of buildings. I have already highlighted in the housing in the countryside appraisal that due to the 'in principle' nature of the proposal full details of building designs have not been submitted, accordingly the proposal cannot be assessed against all the benchmarks contained within this criterion and this would have to be assessed at a later date should the 'in principle' application be successful.
- 86 Criterion e requires the impact on the road network to be taken into account. Policy TA1B is relevant as this seeks development sites to be easily accessible by all modes of transport in particular walking, cycling and public transport. Representations raise concerns with the local road network and the ability to accommodate the development. Consultation with Transport Planning has confirmed that they offer no objection on traffic grounds if the application is made subject to conditions. However, despite the provision for walking and cycling routes within the development site it is not well connected to nearby communities except by road. While the design statement confirms 'that linkage will be established so that visitors can arrive by car, cycle or foot', there is no detail showing these cycle and pedestrian links. The most obvious link would be to corepath LUNC/125 passing through Gellybanks to the east of the site however it is not clear how this connection can be made or whether the neighbouring landowner would be agreeable, especially as they have objected to the application. While the unclassified road to the west of the site forms part of the national cycle network there is no pedestrian access to site other than walking along the unclassified road and there is no public transport in the vicinity of the site. It therefore fails to meet criterion e or comply with Policy TA1B.
- 87 Criterion f is not applicable as there is no retailing proposed.
- 88 There is no requirement for a staff travel plan as required by criterion g as the employment at the site will be below 25 people.
- 89 In light of this and taking account of the entire criterion it can be concluded that the proposal fails to comply with Rural Business and Diversification Policy ED3. I acknowledge that the formation of the woodland knowledge centre (although divorced from the main components of the site) would improve the recreational offering within the site along with the woodland trails however the weight that can be attached to this offering is minimal.
- 90 The development can also be considered in the context of Policy ED4C – Chalets, Timeshare and Fractional Ownership. However as it does not (a) involve the expansion of an existing hotel, guest house, chalet park, caravan park or timeshare or fractional ownership development, (b) replace static

caravans with more permanent structures or (c) meet a specific need by virtue of its quality or location in relation to an existing tourism facility it fails to comply with the terms of this policy.

- 91 Furthermore the scheme does not benefit from the encouragement to improve and expand under Policy ED5 as it does not relate to an existing major tourism resort which plays a significant role in the local, national and international tourism economy.

Flooding

- 92 Since SEPA's earlier objection to this application, further information has been submitted, this has enabled their objection to be withdrawn if the development is made subject to conditions stipulating the finished floor levels for the lodges and clarification on the levels of the dwelling houses at the detailed application stage.
- 93 SEPA have raised concern that the bund to be formed to create the lochan does not form part of a formal flood defence scheme and the construction of this type of structure to allow development to proceed is contrary to Scottish Planning Policy (SPP). They specify that the bund may not provide protection from high water levels if there is no mechanism to stop water seeping under (and potentially through) the bund. Due to the nature of the hydrology of the proposed lochan, there is also a risk of prolonged inundation should the structure fail and if there is no method of pumping the water from behind the bund. They do note that it may be possible for the ground to be landscaped in such a manner to accommodate the finished floor levels and should this occur they would be satisfied with this part of the proposal. While the use of more natural landscaping techniques may alleviate SEPA's concern (and the Planning Authority's landscape concern expressed above) this is not before the Planning Authority and the consequences of deploying this strategy and potential knock on consequences on other determining factors has not been taken into account in the Environmental Statement.

Development relationship with Natural Heritage

- 94 The Development Plan framework contains a number of policies that seek to protect important species and sites designated for their natural heritage interest and to ensure that proposals that may affect them are properly assessed. Policy 3: Managing TAYplan's Assets seeks to respect the regional distinctiveness and scenic value and presumes against development which would adversely affect environmental assets. NE1A relates to International Nature Conservation Sites, NE1C covers Local Designations, NE2 relates to Forestry, Woodland and Trees, while NE3 Biodiversity confirms that protection should apply to all wildlife and wildlife habitats, whether formally designated or not.

International Nature Conservation Sites

- 95 Development which could have a significant effect on an international nature conservation designated site or proposed site will only be permitted where an

Appropriate Assessment shows that the integrity of the site will not be adversely affected, that there are no alternative solutions and there are imperative reasons of overriding public interest. In this particular case the site is connected via watercourses to the River Tay Special Area of Conservation (SAC).

- 96 The SAC is classified for Atlantic salmon, otter, river, brook and sea lampreys, and clear-water lakes or lochs with aquatic vegetation and poor to moderate nutrient levels. The main impact on the qualifying features that are present is the potential release of sediments and other pollutants into the sites water courses that are connected to the SAC.
- 97 SNH has confirmed that the proposal is likely to have a significant effect on the qualifying interests of the site. However should the applicant include their proposed mitigation measures into a standalone Construction Method Statement, which could be secured by Perth and Kinross Council via a planning condition, then the potential significant effect on the qualifying interests of this designation can be avoided.
- 98 An Appropriate Assessment has been undertaken by the Planning Authority in line with regulation 48 of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended, (the "Habitats Regulations"). This has ascertained that if the proposal is done strictly in accordance with mitigation measures which can be secured by condition, as discussed above, then this will avoid significant impacts on the River Tay SAC.
- 99 In light of this the proposal would adhere with policy NE1A of the adopted local development plan.

Local Designations and Biodiversity

- 100 Policy NE1C confirms that development which would affect an area designated as being of local nature conservation or geological interest will only be permitted where the integrity of the area or the qualities for which it has been designated are not adversely affected. While Policy NE3 stipulates that all wildlife and wildlife habitats, whether formally designated or not should be protected and enhanced in accordance with the set out criterion.
- 101 There is no adverse effect on local nature conservation or geological interest designations. Similarly the proposal is not considered to impact on wildlife and wildlife habitats if the development is undertaken in accordance with the construction method statement.

Forestry

- 102 The applicant highlights that the application proposes to significantly increase the tree coverage across the development site and minimise overall tree loss to adhere to the requirements of Policy NE2A - Forestry, Woodland and Trees and Policy NE2B - Forestry, Woodland and Trees. However the applicant fails to highlight that the areas that have been felled are subject to a restocking notice. Accordingly the proper status of the woodland is not borne out in the

Environmental Statement. Overall due to the formation of site infrastructure there will be an overall net loss of woodland contrary to the local plan policies.

- 103 FCS has highlighted that in support of proposals for the removal of woodland the applicant should provide strong evidence that doing so will achieve significant and clearly defined additional public benefit, as is outlined in the Control of Woodland Removal policy. The FCS also expect the detail in any submitted Environmental Statement to include all woodland issues associated with the proposed planning site including: a clear tie to the evidence relating to the policy as stated above, the proposed management of the remaining woodland area, any proposed further felling that may be required, and any new planting within the development area or mitigation planting proposed out with the site including specifications.
- 104 As no clear evidence has been provided to justify the removal and no clearly defined mitigation via compensatory planting is provided the development fails to adhere to the Control of Woodland Removal policy.

Affordable Housing and Developer Contributions

Affordable Housing

- 105 The Affordable Housing Supplementary Guidance 2014 is applicable to all developments of 5 or more units. However as this application is only seeking to establish the principle of residential use on the site it is not possible to apply this guidance at this stage. A condition could be applied to any consent requiring compliance with this guidance note.

Primary Education

- 106 With reference to the above planning application the Council Developer Contributions Supplementary Guidance requires a financial contribution towards increased primary school capacity in areas where a primary school capacity constraint has been identified. A capacity constraint is defined as where a primary school is operating, or likely to be operating following completion of the proposed development and extant planning permissions, at or above 80% of total capacity.
- 107 As this application is only "in principle" it is not possible to provide a definitive answer at this stage however a condition could be applied to ensure that any future detailed development complies with the requirements of the Education Developer Contributions Guide

Legal Agreements

- 108 None required

Direction by Scottish Ministers

- 109 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

- 110 Section 25 of the Act requires the determination of the proposal to be made in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.
- 111 The assessment above has taken account of the Development Plan and where necessary provided weight to material considerations. It is acknowledged that while there will be improvements to the recreational and educational offering on the site, when taking account of the development as a whole the proposal does not adhere to the overarching thrust of the Development Plan. The executive dwellings are contrary to the housing in the countryside policy and the holiday lodges also fail to adhere to criterion contained within the economic development policies of the local plan. The development is considered to contravene criterion within the natural environment Development Plan policies specifically the woodland and forestry policies. It is worth noting that the status of the woodland in the Environmental Statement as degraded is misleading and the Forestry Commission have confirmed that the proposal also fails to meet their 'Control of Woodland Policy'.
- 112 Taking all these factors into account the application is recommended for refusal and there are no material considerations of weight that would lead to a different conclusion.

Recommendation

A REFUSE THE APPLICATION FOR THE FOLLOWING REASONS:

- 1 As the proposed housing is not part of an existing group of buildings, does not involve the replacement of a traditional, non-domestic existing building and is not considered to be an acceptable 'Brownfield Site', the proposal is contrary to the Council's Housing in the Countryside Guide 2012 and Policy RD3 of the Local Development Plan 2014, both of which seek to ensure that all new proposals for housing in the open countryside meet with specific criteria.
- 2 The proposed method of cross funding the lodges and recreational facilities from the dwellings which are contrary to the housing in the countryside policy also means that the development is contrary to Policy ED3 of the Local Development Plan.
- 3 The proposed development is contrary to criterion (a) of Policy ED3 of the Local Development Plan as it is not compatible with surrounding land uses due to privacy issues associated with the viewing tower. The proposal also fails to confirm that private water supplies for neighbouring landuses (private dwellings and farms) will be safeguarded.
- 4 The proposed development is contrary to criterion (b) of Policy ED3 of the Local Development Plan as the extent of engineering works as well as cut and

fill to form the lochan and lodge area will introduce a significant manmade bund features which cannot be accepted which as a consequence will have a detrimental impact on the landscape within the immediate vicinity of this part of the site.

- 5 The proposed development does not meet a specific need by virtue of its quality or location in relation to an existing business or tourist related facility. As a consequence it is contrary to criterion (c) of Policy ED3 of the Local Development Plan.
- 6 The proposed development is not considered to easily accessible by all modes of transport in particular walking, cycling and public transport, accordingly it fails to comply with Policy TA1B of the Local Development Plan. Failure to provide walking and cycling links has potential to increase use of the local road network which will access the site to the detriment of road safety which results in the development failing to comply with criterion (e) of Policy ED3 of the Local Development Plan.
- 7 The development would preclude the replanting of the site which is required by the felling licence issued by the Forestry Commission. As a consequence there would be an overall net loss of woodland which would not protect existing woodland cover or expand woodland cover which is required by criterion b and c of Policy NE2A of the Local Development Plan.
- 8 The development would contravene the Scottish Government's Policy on the Control of Woodland Removal as there is no clearly defined additional public benefit associated with the removal and reduction in woodland cover .There is also no mitigation measures in the form of offsite compensatory planting which would make up the shortfall associated with the development zones of the site. Accordingly the proposal fails to adhere to Local Plan Policy NE2B which requires compliance with the Scottish Government's Control of Woodland Removal Policy.

B JUSTIFICATION

The proposal is not considered to comply with the Development Plan and there are no other material considerations that would justify a departure there from.

C PROCEDURAL NOTES

None.

D INFORMATIVES

None.

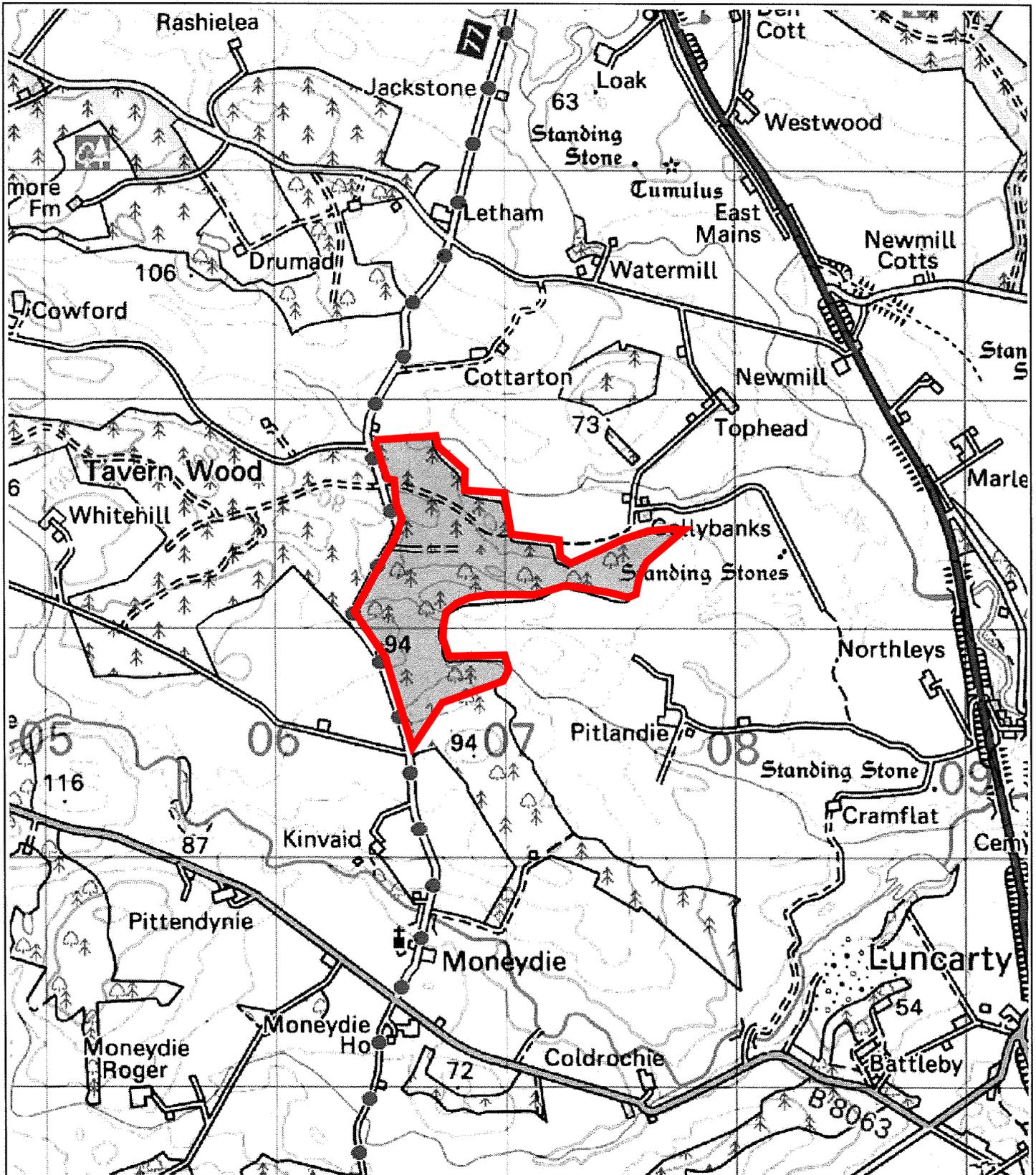
**NICK BRIAN
DEVELOPMENT QUALITY MANAGER**

Background Papers: 11 representations
Contact Officer: John Russell – Ext 75346
Date: 31 October 2014

If you or someone you know would like a copy of this document in another language or format, (on occasion, only a summary of the document will be provided in translation), this can be arranged by contacting the Customer Service Centre on 01738 475000.

You can also send us a text message on 07824 498145.

All Council Services can offer a telephone translation facility.



This map is for reference only and must not be reproduced or used for any other purpose



