

Perth and Kinross Council
Development Management Committee – 10 June 2015
Report of Handling by Development Quality Manager

Erection of 5 flats and ancillary works, 2 - 12 Wester Loan Milnathort

Ref. No: 15/00503/FLL
 Ward No: 8 - Kinross-shire

Summary

This report recommends approval of the application as the development is considered to comply with the relevant provisions of the Development Plan and there are no material considerations apparent which outweigh the Development Plan.

BACKGROUND AND DESCRIPTION

- 1 This planning application seeks to obtain detailed planning permission for the erection of five flats and ancillary works at 2-12 Wester Loan, Milnathort.
- 2 The site is located on Wester Loan in the centre of Milnathort. It measures approximately 500 metres square in area and is currently occupied by a disused commercial garage which operated more recently as a car wash facility. The site is bounded by housing on its northern and eastern boundaries, with Hollyhock Cottage (3 Back Loan) and 5-9 Back Loan to the east, being Category C listed. A public road (Back Loan) lies to the south with the rear of the Town Hall (Category B listed) at the other side of this. To the west is the public road of Wester Loan with further housing across the road. The Back Burn is close by and runs through a culvert beneath the Town Hall. A partly dismantled fence exists along part of the front site boundary. A more substantial fence bounds the Back Loan boundary.

NATIONAL POLICY AND GUIDANCE

- 3 The Scottish Government expresses its planning policies through the National Planning Frameworks, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Creating Places, Designing Streets, National Roads Development Guide and a series of Circulars. Of specific relevance to this planning application are,

The Scottish Planning Policy 2014

- 4 The Scottish Planning Policy (SPP) was published in June 2014 and 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.

DEVELOPMENT PLAN

- 5 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

- 6 Whilst there are no specific strategies directly relevant to this proposal the overall vision of the Tay Plan should be noted. The vision states *“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.”*

Perth and Kinross Local Development Plan 2014

- 7 The Local Development Plan (LDP) 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. The site is located within the settlement boundary of Milnathort within an area identified as being residential with compatible uses.
- 8 To this end, the following LDP policies are directly applicable to this proposal,

Policy PM1A - Placemaking

- 9 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 adaption.

Policy RD1 - Residential Areas

- 10 In identified areas, residential amenity will be protected and, where possible, improved. Small areas of private and public open space will be retained where of recreational or amenity value. Changes of use away from ancillary uses such as local shops will be resisted unless supported by market evidence that the existing use is non-viable. Proposals will be encouraged where they satisfy the criteria set out and are compatible with the amenity and character of an area.

Policy PM3 - Infrastructure Contributions

- 11 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 HE2 - Listed Buildings

- 12 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 EP7A - Drainage within the Loch Leven Catchment

- 13 Total phosphorus from development must not exceed the current level permitted by the discharge consents for Kinross and Milnathort waste water treatment works together with the current contribution from built development within the rural area of the catchment.

Policy EP7B - Drainage within the Loch Leven Catchment

- 14 Developments within the Loch Leven Catchment Area will be required to connect to a publicly maintained drainage system incorporating phosphorus reduction measures. Exceptions will only be permitted where they are in accordance with criteria set out.

- 15 **Perth and Kinross Supplementary Guidance:**

Affordable Housing Developer Contributions – August 2014
Primary Education and A9 Junction Guidance – August 2014

SITE HISTORY

- 16 Planning permission was previously approved on this site by the Development Control Committee on 27 February 2007 for the demolition of the existing garage and erection of a retail unit and 2 flats (ref. 07/01037/FUL, decision dated 7 March 2008). Subsequent to that, permission was approved under delegated powers for the erection of two dwellinghouses (12/01869/FLL, 27 February 2013).
- 17 This planning application relates to the same area which previously benefited from these planning approvals.
- 18 A similar proposal to that being considered was submitted but withdrawn due to concerns with the height of the building (14/02083/FLL).

CONSULTATIONS

External

- 19 **Scottish Water** - Have not responded to the consultation.
- 20 **Milnathort Community Council** – Objection to the size and density of the proposal, potential impact on residential amenity, lack of car parking and design. Suggest that the site is in a potential Conservation Area and the development would be out of keeping with the surrounding housing.

Internal

- 21 **Education and Children's Services** - The development falls within the Milnathort Primary School catchment area. Based on current information this school will reach the 80% capacity threshold. Request that the Finalised Primary Education and New Housing Contributions Policy be applied to this application.
- 22 **Contributions Officer** - This proposal is for affordable housing and meets the requirements of the supplementary guidance. However a condition should be attached to any permission stating the requirement for the application to comply with the Affordable Housing Policy and Developer Contributions Supplementary Guidance as the site is not currently owned by a Registered Social Landlord (RSL).
- 23 **Environmental Health** - The comments made previously on this development site in application ref PK06/01434/FUL, PK12/01869/FLL and PK14/02083/FLL still stand. A condition is requested to ensure that any ground contamination is appropriately addressed.
- 24 **Conservation Planner** - Previous concerns regarding the massing and scale of the development have been addressed. No objection to this revised design. Any proposed alteration to the east wall of the existing stone lean-to building will require listed building consent as this wall is part of the curtilage 3 Back Loan.
- 25 **Community Waste Advisor** - Residents of the development should present waste and recycling bins to the kerbside on Westerloan for uplift.
- 26 **Transport Planning** - No adverse comments to make in terms of parking provision and vehicular access details.
- 27 **Flooding Officer** - Site is within the medium probability river flood map. No objection. A Flood Risk Assessment has been provided.

REPRESENTATIONS

- 28 10 letters of representations including an objection from Milnathort Community Council have been received.
- 29 The main issues raised within the objections are,
- Design – density, height, materials not in keeping, out of character, timber fence
 - Lack of/loss of parking
 - Road safety – speed of traffic, size of vehicles, narrow road, unsafe access, congestion, reversing into Back Loan
 - Impact on wall
 - Impact on residential amenity – privacy, overlooking, overshadowing, loss of sunlight/daylight
 - Flooding – impact on drainage
 - Inappropriate use – loss of employment land, land should be used for parking, loss of open space
 - Disruption during construction
 - Contamination – has not been addressed
 - Photos on submission are out of date
 - Noise
 - The proposal is contrary to the Local Development Plan 2014 – policy RD1
 - Impact on setting of listed buildings
 - Public transport inadequate
- 30 These issues are addressed in the appraisal section of this report.

ADDITIONAL STATEMENTS

31

Environment Statement	Not required
Screening Opinion	Not required
Environmental Impact Assessment	Not required
Appropriate Assessment	Not required
Design Statement / Design and Access Statement	Design Statement submitted
Report on Impact or Potential Impact	Flood Risk Assessment submitted

APPRAISAL

- 32 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) requires the determination of the application to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise.

- 33 The Development Plan for the area comprises the approved Tay Plan 2012 and the adopted Perth and Kinross Local Development Plan 2014 (LDP).

Policy Appraisal

- 34 In terms of land use policy issues, the key land use policies are contained within the LDP. Within that plan, the site lies within the settlement boundary of Milnathort within an area which has been identified under policy RD1 as being for residential and compatible uses. This policy states that in identified areas, residential amenity will be protected and, where possible, improved.
- 35 The site is close or adjacent to other residential uses and it is considered that the principle of such a use on this land is acceptable. The principle of residential use has also been established through an earlier planning permission for two dwellinghouses on the site (12/01869/FLL). Policy PM1A of the LDP is also applicable. This and RD1 seek to ensure that all new developments do not have an adverse impact on the existing environment, which includes the impact on existing residential and visual amenity.
- 36 For reasons stated below, subject to appropriate details being finalised and conditions being attached to any formal consent, I consider the proposal to be consistent with all the Development Plan.

Design and Layout

- 37 The proposal is for the erection of a single block of five residential units over two stories. Unit 1 is a two bed unit spread over two floors. Units 2 and 3 are one and two bed units on the ground floor. Units 4 and 5 are one and two bed units at first floor level. The block is slightly set back from the front on Wester Loan and will be bounded by a low stone wall. The southern half of the block is a full two storey in height, the northern section is slightly lower in height but still with accommodation over two levels.
- 38 Parking is provided for three cars to the side on Back Loan with cycle parking to the rear. Some landscaping is proposed notably on the corner between Wester Loan and Back Loan with some private garden ground to the rear of the flats
- 39 The flats would be finished in a combination of off white and buff render with concrete tiled roof. There is some weatherboard cladding proposed on the central section at the hall/stairwell. Windows proposed are grey UPVc double glazed.
- 40 The flats have been designed to fit in with the existing street pattern which is primarily high density residential, terraced properties.
- 41 There have been a number of representations, including from the Community Council concerned that the density, height and materials are inappropriate in this setting. A previous approval for two houses on this height were of a similar height and also used similar finishing materials in terms of an off-white render. Whilst the massing is slightly greater than two houses approved on the site the

general height and materials are similar and would not have a significantly different impact on the surrounding street scene.

Landscape

- 42 The proposals show some landscaping to the front and rear of the property. Full details will be requested by condition on any approval.

Residential Amenity

- 43 There have been a number of representations, including from the Community Council, concerned with the potential impact on residential amenity in terms of overlooking, loss of sunlight/daylight, overshadowing and privacy. Concern has been expressed in relation to properties on the opposite side of Wester Loan and to the rear.
- 44 In terms of overlooking the site is within an established residential area where many of the properties are in close proximity to each other. Overlooking to the rear is minimised from the ground floor by the presence of the boundary wall to No. 3 Back Loan. On the first floor there are no rear windows in unit 5. Units 1 and 4 have a bedroom and small kitchen window on the first floor which could potentially look into the rear garden of No. 3 Back Loan. The kitchen window in no. 4 is relatively small and I do not consider that this will have any significant impact. The window in Unit 1 serves a bedroom and although larger than in unit 4 it is sited so that it does not face directly onto the neighbouring property but over a small part of the rear garden. As such it is not considered to have a significant impact on neighbouring privacy.
- 45 In terms of overshadowing the highest part of the new building is on the southern part of the site and positioned partly in line with neighbouring 3 Back Loan. A small section is to front of the building line of this property but will be far enough away to not have any adverse impact in terms of overshadowing. There will already be some impact from the existing stone wall and buildings on the site. The new development will not make this situation any worse.
- 46 The site fronts an existing road where the pattern of development locates residential properties opposite each other across a public road. It is considered that the height of the proposal is appropriate in this context and that the scale and massing of the proposed new development will not have an adverse impact on existing residential amenity in terms of overlooking or overshadowing.

Contamination

- 47 There has been a representation concerned that requirements for dealing with contamination on the site have not been undertaken. Environmental Health has requested that a condition to identify and deal with any contamination be attached to any consent due to the site's previous use as a garage.
- 48 The proposed application site is currently occupied by a building that has previously been used as a garage/workshop. Such premises may involve use

of a number of substances that are both potentially contaminative and environmentally persistent. It is not uncommon to find that areas of ground associated with such a use require some form of remedial action during redevelopment.

- 49 In view of the sensitivity of the proposed redevelopment, concerns due to potential contamination caused by the previous use and the likely presence of made ground a condition is recommended to be applied to any planning permission given.

Visual Amenity

- 50 The existing site is currently a disused garage with partly dismantled fencing to the front. There have been a number of objections concerned that the proposal is not in keeping with the character of the area. Whilst the predominant building material in the area is stone, some frontages have also been painted. In general I consider the development to be an improvement on the existing site and that visual amenity will be improved by the development of the site. Representations have referred to the potential of the area to be identified as a Conservation Area but there is currently no proposal to consider such designation. However, other policies such as PM1 (Placemaking) are sufficient to promote appropriately designed development.

Impact on Listed Buildings

- 51 The property to the rear of the site, Hollyhock Cottage, is Category C listed. The Town Hall to the south is Category B Listed. The Council's Conservation Planner considers that the development is appropriate for this site and will not have an adverse impact on the settings of the listed buildings.
- 52 There has also been concern through the representations that the listed wall adjacent to Hollyhock Cottage would be adversely affected by the proposals. A previous proposal for a similar development, which was subsequently withdrawn, showed that the wall was being partly lowered where it met Back Lane (14/02083/FLL). These revised proposals show that the wall will be retained intact. In any event, should any works be required to the wall a Listed Building Consent application would need to be submitted.

Roads and Access Issues

- 53 Letters of representation, including from the Community Council, raise concerns that the level of parking proposed is insufficient and the development will have a knock on effect on the availability of on street parking. Road safety concerns in terms of additional traffic and congestion, size and speed of vehicles using the area have also been raised.
- 54 It is proposed to provide three parking spaces and five cycle parking stands for the five flats. The site is within a town centre location close to public transport and local facilities. The parking provision is to the side of the property and will be landscaped so that it does not have an adverse visual impact. The

Transport Planner considers that the proposed parking provision is adequate for such a location with good public transport links to other main towns and does not object to the proposals. It is also highlighted that a road is a public right of way and not a parking area. There is no automatic entitlement to park on any road, and this should only be done where it will not cause an obstruction to other road traffic. The presence of double yellow lines only serves to indicate that parking is not permitted in this area and it is noted that on street parking is a civil enforcement matter and not a planning concern.

- 55 No details have been provided as to the design of the cycle parking and whether this will be under cover. Conditions regarding details of this are recommended.
- 56 There have been some representations suggesting that the site should be used as a car park. In my view the site is better utilised as a site for affordable housing. However, should an alternative proposal for a car park be submitted then this could then be assessed against the relevant LDP policies.
- 57 Representations submitted express concern over road safety in terms of additional traffic and congestion. Concerns with regard to size and speed of vehicles using the area have also been raised. The Transport Planner considers that the five flats would have a minimal impact in terms of traffic generation and would not have a detrimental impact on the local transport network. The size and speed of vehicles should similarly not be affected by five additional residential units. The proposed angled parking off Back Loan would help reinforce the existing one way system and would ensure that access was not taken directly off Wester Loan which would breach the no entry restrictions in place.

Drainage and Flooding

- 58 There have been a number of representations expressing concern that the site is in a flood risk area and will impact on drainage and the potential for flooding of surrounding properties.
- 59 A Flood Risk Assessment has been submitted. The Flood Officer is satisfied with the contents of this and does not object.
- 60 The site is within the Loch Leven catchment and subject to LDP policies EP7A and B relating to potential impact of new development on Loch Leven. The site will be served by mains drainage that is already controlled in terms of phosphorous mitigation. The proposal therefore accords with the adopted Development Plan in terms of drainage and flooding.

Developer Contributions

- 61 No developer contributions are required as the units proposed are to be affordable. However contributions will be required as set out below if the units are sold on the open market as mainstream housing. A condition on any approval is recommended to ensure that development does not commence on

the site without evidence of the affordability status of the development or the payment of appropriate developer contributions.

Affordable Housing

- 62 The Council's Affordable Housing Supplementary Guidance requires that 25% of the total number of houses, for developments of 5 units or more, for which planning consent is being sought is to be in the form of affordable housing.

Although there is an extant consent on this site the policy was in force at the time but the site was below the 5 unit threshold. This application is for 5 units and the guidance would be applicable for all units on the site.

Primary Education

- 63 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. This proposal is within the catchment of Milnathort Primary School.
- 64 The proposal is for affordable housing and meets the requirements of the supplementary guidance. However a condition will be attached to any permission requiring compliance with the Affordable Housing Policy and Developer Contributions Supplementary Guidance as the site is not currently owned by a Registered Social Landlord (RSL).
- 65 Should the development not proceed as affordable housing contributions to both Affordable Housing and Education would be required as outlined below:
- 66 Affordable Housing: £18,750 (1.25 x £15,000)
Education: £14,389 ((3-25% = 2.25) x £6,395)

Total: £33,139

Economic Impact

- 67 The proposal will bring a vacant site back into use. There will be some positive economic impact whilst the flats are being constructed and then once the building is occupied in terms of impact on local shops and facilities.

LEGAL AGREEMENTS

- 68 No legal agreement is required. However should the development proceed as open market rather than affordable housing developer contributions would be required. These could be secured through a Section 75 legal agreement.

DIRECTION BY SCOTTISH MINISTERS

- 69 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, 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

- 70 In conclusion, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, the proposal is considered to comply with the approved TAYplan 2012 and the adopted Local Development Plan 2014. Whilst I note the proposal has attracted a number of representations from local residents objecting to the proposal, nevertheless, the proposal represents an opportunity to provide affordable housing in a town centre location and is considered to be compatible with surrounding uses. I have taken account of material considerations and find none that would justify overriding the adopted Development Plan. On that basis the application is recommended for approval subject to conditions.

RECOMMENDATION

A Approve the application subject to the following conditions:

- 1 The proposed development must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed on the planning permission.

Reason - To ensure that the development is carried out in accordance with the plans approved.

- 2 Details of the specification and colour of the proposed external finishing materials to be used shall be submitted for the approval of the Planning Authority prior to the commencement of the development. The scheme as approved shall be implemented prior to the occupation and or use of the development.

Reason - In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.

- 3 Prior to commencement of work on site full details of the proposed boundary treatment including coping detail and external finish of the proposed stone wall shall be submitted for the approval of the Planning Authority.

Reason - In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.

- 4 Prior to the commencement of works on site, an evaluation for the potential of the site to be affected by contamination by a previous use should be

undertaken and as a minimum, a Preliminary Risk Assessment (Phase 1 Desk Study) will be submitted for consideration by the Council as Planning Authority. If after the preliminary risk assessment identifies the need for further assessment, an intrusive investigation should be undertaken to identify;

- I. the nature, extent and type(s) of contamination on the site
- II. measures to treat/remove contamination to ensure the site is fit for the use proposed
- III. measures to deal with contamination during construction works
- IV. condition of the site on completion of decontamination measures.

- 5 Prior to the commencement of the development hereby approved, a detailed landscaping, and planting scheme for the site shall be submitted for the further written approval of the Council as Planning Authority. The scheme shall include full details of the species, height, size and density of trees and shrubs to be planted. The scheme as subsequently approved shall be carried out and completed within the first available planting season (October to March) after the completion or bringing into use of the development and the date of Practical Completion of the landscaping scheme shall be supplied in writing to the Council as Planning Authority within 7 days of that date. The scheme as agreed and implemented shall thereafter be maintained to the satisfaction of the Council as Planning Authority.

Reason - In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.

- 6 Any planting failing to become established within five years shall be replaced in the following planting season with others of similar size and species to the satisfaction of the Planning Authority.

Reason - In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.

- 7 No development shall commence on site until sufficient evidence has been submitted to demonstrate that the development will be for affordable housing. The development shall be in accordance with the requirements of the Council's Developer Contributions Supplementary Guidance in line with Policy PM 3: Infrastructure Contributions of the Perth and Kinross Council Local Development Plan 2014 (or any subsequent approved Policy), to the satisfaction of the Council as Planning Authority.

Reason - To ensure compliance with Council policy.

- 8 Prior to commencement of development full details of the proposed cycle parking facility shall be provided for the approval of the Council as Planning Authority. The scheme as agreed shall be implemented, prior to occupation or use of the development, to the satisfaction of the Council as Planning Authority.

Reason - To encourage the use of sustainable modes of transport.

B JUSTIFICATION

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

C PROCEDURAL NOTES

This proposal is for affordable housing and meets the requirements of the supplementary guidance. However should the development not proceed as affordable housing contributions to both Affordable Housing and Education would be required, either as an up-front payment or through the negotiation of a section 75 legal agreement.

D INFORMATIVES

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See Section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
- 2 Under Section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the Planning Authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under Section 123(1) of that Act, which may result in enforcement action being taken.
- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.
- 4 No work shall be commenced until an application for building warrant has been submitted and approved.
- 5 Any alterations to the east wall of the existing stone lean-to building will require listed building consent as this wall is part of the curtilage of 3 Back Loan.

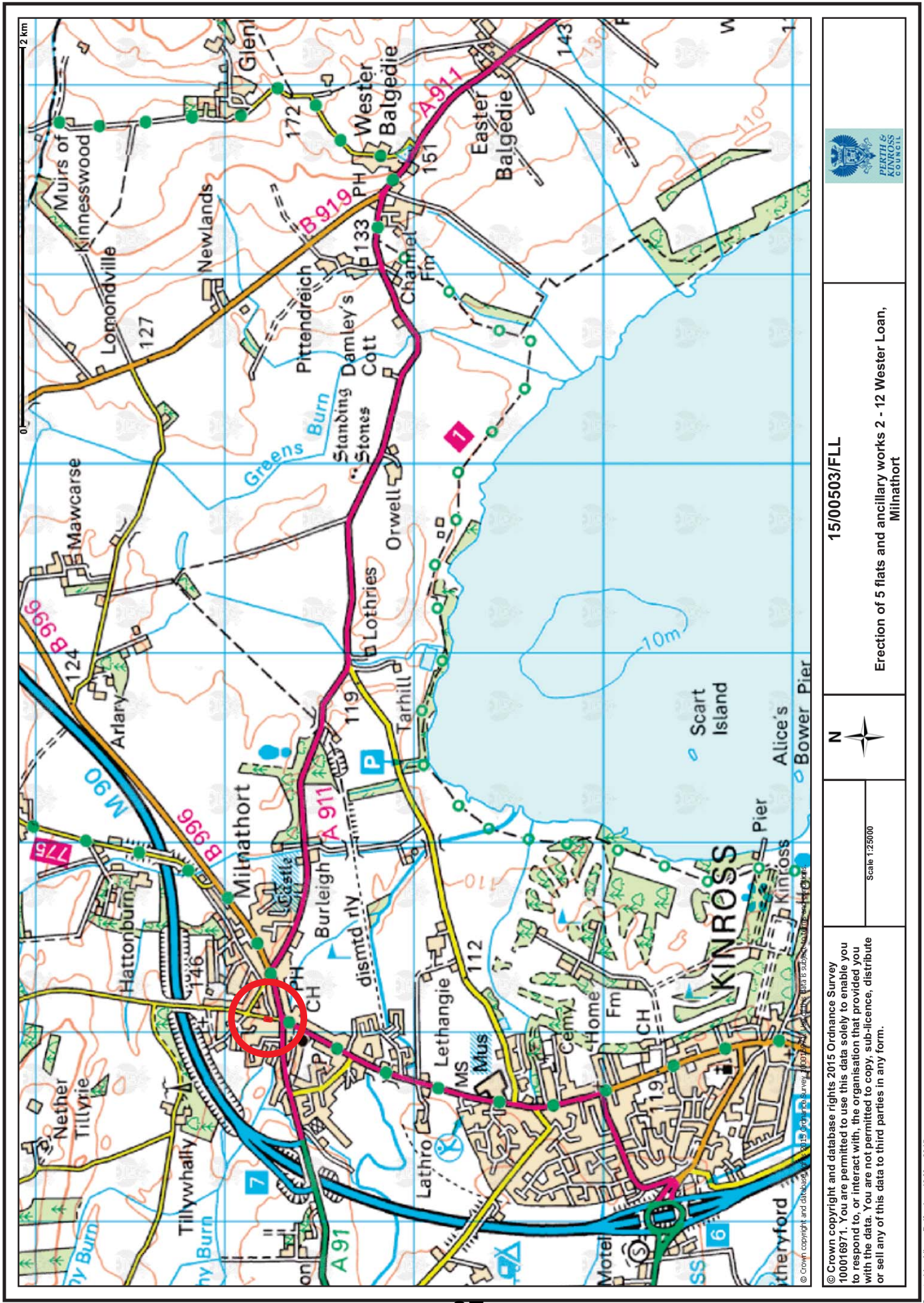
Background Papers:	10 letters of representations
Contact Officer:	Persephone Beer – Ext 75354
Date:	25 May 2015

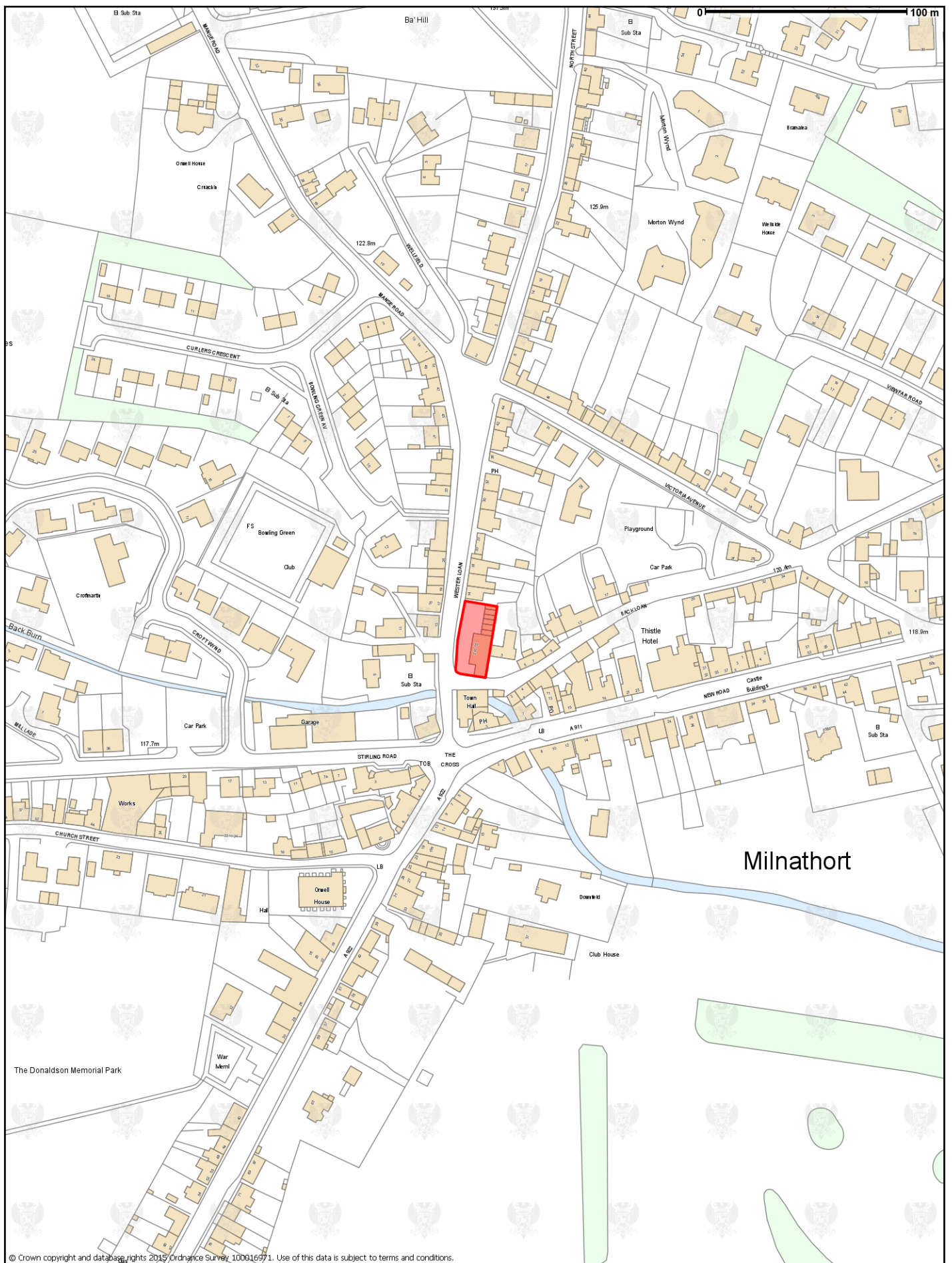
Nick Brian
Development Quality Manager

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Scale 1:2500

15/00503/FLL

Erection of 5 flats and ancillary works 2 - 12
Wester Loan, Milnathort

