

## Review Decision Notice

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Decision by Perth and Kinross Local Review Body (the PKLRB)

Site Address: Land 140 metres north east of The Bungalow, Benarty Road, Kelty

Description: Residential development (in principle)

Application for Review by Mrs B Constable against decision by an appointed officer of Perth and Kinross Council.

Application Ref: 24/00703/IPL

Application Drawings: 24/00703/1 - 24/00703/10

**Date of Review Decision Notice – 5 August 2025**

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### Decision

The PKLRB upholds the decision to refuse planning permission for the reasons given below and dismisses the review.

#### 1. Introduction

1.1 The above application for review was considered by the PKLRB at a meeting held on 26 May 2025. The Review Body comprised Councillor B Brawn, Councillor K Harvey and Councillor R Watters.

1.2 The following persons were also present at the meeting:  
C MacLeod, Legal Adviser; L Tierney, Planning Adviser; and A Brown, Democratic Support Officer.

Also attending:  
M Pasternak and R Ramsay (both Legal and Governance).

#### 2. Proposal

2.1 The proposal is for a residential development (in principle), land 140 metres north east of The Bungalow, Benarty Road, Kelty. The application was refused consent in terms of a decision letter dated 16 January 2025.

#### 3. Preliminaries

3.1 The PKLRB was provided with copies of the following documents:

- (i) the drawings specified above;
- (ii) the Appointed Officer's Report of Handling;
- (iii) the refusal notice dated 16 January 2025;
- (iv) the Notice of Review and supporting documents;

- (v) consultation responses and representations to the planning application.
- 3.2 The Planning Adviser described the proposals, the locality of the site, explained the reasons for refusal, and the grounds for the Notice of Review.
- 3.3 The PKLRB was shown projected photographs taken by the Planning Adviser, who had visited the site. These showed the application site from various angles.
- 3.4 Having regard to the material before them, the PKLRB resolved that the review of the decision to refuse could be determined without further procedure.

#### **4. Findings and Conclusions**

- 4.1 Having regard to the Development Plan and other material considerations set out in the Report of Handling and other papers before it, the PKLRB concluded by unanimous decision that the review application be refused.
- 4.2 The PKLRB considered that the proposal is contrary to Policy 17a) of National Planning Framework 4 (2023) as it has not been demonstrated that the ground is brownfield as the land has returned to a natural state without intervention. The PKLRB considered that the proposal does not consider the impact of the development on local living and does not consider local housing needs, economic considerations and the transport needs of the development, contrary to Policy 17b) of National Planning Framework 4 (2023). The PKLRB further considered that the proposal does not demonstrate that the land is, or can be made, safe and suitable for the proposed new use, contrary to Policy 9c) of National Planning Framework 4 (2023) and Policy 58B of the Perth and Kinross Local Development Plan 2 (2019).
- 4.3 Accordingly, the PKLRB refused the review application for the following reasons:
  - (1) The proposal is contrary to Policy 17a), Rural Homes of National Planning Framework 4 (2023). The site is in the open countryside detached from other residential property and residential development of the site would not be in keeping with the character of the area. It has not been demonstrated that the ground is brownfield as the land has returned to a natural state without intervention under the terms of Policy 17a) of National Planning Framework 4 (2023).
  - (2) The proposal is contrary to 17b) of National Planning Framework 4 (2023) as the proposal has not considered how the development will contribute towards local living and take into account identified local housing needs (including affordable housing), economic considerations and the transport needs of the development as appropriate for the rural location.

- (3) The proposal is contrary to Policy 9c) of National Planning Framework 4 (2023) in that the applicant has not demonstrated that the land is, or can be made, safe and suitable for the proposed new use.
- (4) The proposal is contrary to Policy 23, Health and Safety National Planning Framework 4 (2023) in that insufficient evidence has been presented to demonstrate that development of the site for housing would be achievable and would not have a significant adverse effect on the health of future residents and existing local residents.
- (5) The proposal is contrary to Policy 19: Housing in the Countryside of the Perth and Kinross Local Development Plan 2 (2019) and the associated Housing in the Countryside Supplementary Guidance (2020). Insufficient evidence has been presented to assess the extent and severity of any contamination present on the site and whether this requires to be remediated. It has also not been demonstrated that if remediation is required that housing is the only viable option for remediating the site. In addition, no consideration has been given to alternative uses for the site as required by Policy 19 of Perth and Kinross Local Development Plan 2 (2019).
- (6) The proposal is contrary to Policy 58B: Unstable Land of the Perth and Kinross Local Development Plan 2 (2019) as it has not been demonstrated that the site and adjacent land, is or can be made, safe and stable for the proposed development.

### **Justification**

The proposal is not in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

- 4.4 The Review Application was accordingly dismissed.



**Lisa Simpson**  
**Clerk to the Local Review Body**

## **Town and Country Planning (Scotland) Act 1997**

**Notification to be sent to applicant on determination by the Planning Authority of an application following a review conducted under Section 43A(8)**

**Notice Under Regulation 22 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.**

- 1 If the applicant is aggrieved by the decision of the planning authority to refuse permission or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision notice.
- 2 If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland ) Act 1997.