

Perth and Kinross Council  
Development Management Committee – 27 March 2013  
Report by Development Quality Manager

**Formation of earth bund, landscaping and acoustic fence for residential development (approval of matters specified by conditions (10/01363/IPM) on land to the South of Millhill Drive, Greenloaning**

Ref No: 12/00736/AMM  
Ward No: 7 – Strathallan

**Summary**

This report recommends approval of matters specified by condition in a planning in principle consent (10/01363/IPM) for residential development and associated landscaping provision on the grounds that the proposal accords with the provisions of the Development Plan.

**SITE DESCRIPTION AND PROPOSAL**

- 1 This application site relates to an area of land located on the southern edge of Greenloaning, between the recent housing development on Millhill Drive and the main A9 trunk road. The site is an area of rough open greenfield land that extends to approximately 2.6 hectares.
- 2 Planning permission in principle for residential development and associated landscaping/noise mitigation measure was granted at the Development Control Committee on the 10<sup>th</sup> November 2010 (Planning Ref: 10/01363/IPM). This application included detailed plans relating to the proposed landscaping and noise mitigation measures.
- 3 The applicant is now proposing to develop the site in two separate phases:
  - Phase 1 – Ground remodelling and landscaping
  - Phase 2 – Residential development
- 4 This application for approval of matters specified in conditions relates to Phase 1 of the proposed development. The applicant is proposing to form the earth bund and acoustic barrier combination, comprising of a 2.3 metre high bund with a 1.2 metre high acoustic fence. In addition the applicant is also proposing to establish the landscaping in advance of the residential development. For the avoidance of doubt, a further separate application will be required for the second phase of the development relating to the residential development.
- 5 The works to Phase 1 include the formation of a site access via the existing field gate on Millhill Drive. In order to form the bund described above the works include the stripping of topsoil, the importing of inert material to form a contoured bund with the bund finished with a topsoil covering. The fence is then proposed on top of the bund. Some works have been undertaken by the applicant in respect of the earth bunds and as this was considered to be unauthorised works, both the case officer and enforcement officer have undertaken a site visit and been in discussion with the applicant's Agent.

## **NATIONAL POLICY AND GUIDANCE**

### **Scottish Planning Policy (February 2010)**

- 6 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.

Of relevance to this application are:

- Paragraphs 66 – 85: Housing
- Paragraphs 92 – 94: Rural Development

## **DEVELOPMENT PLAN**

- 7 The Development Plan for the area comprises the Approved TAYplan June 2012 and the Adopted Perth Area Local Plan 1995.

### **TAYplan June 2012**

- 8 There are no strategic issues of relevance raised by TAYplan.

## **STRATHEARN AREA LOCAL PLAN 2001**

- 9 Under the Local Plan the site lies within the settlement boundary of Greenloaning where the following policies are applicable:

### **Policy 1: Sustainable Development**

- 10 The Council will seek to ensure, where possible, that development within the Plan area is carried out in a manner in keeping with the goal of sustainable development. Where development is considered to be incompatible with the pursuit of sustainable development, but has other benefits to the area which outweigh this issue, the developer will be required to take whatever mitigation measures are deemed both practical and necessary to minimise any adverse impact. A series of principles will be used as guidelines in assessing whether projects pursue a commitment to sustainable development.

### **Policy 2: Development Criteria**

- 11 All developments will be judged against a series of criteria, including, a landscape framework, the scale, form, colour, and density of existing

development within the locality; should be compatible with its surroundings in land use terms and should not result in a significant loss of amenity to the local community, the road network should be capable of absorbing the additional traffic generated by the development and a satisfactory access onto that network provided, there should be sufficient spare capacity in drainage, water and education services to cater for the new development; the site should be large enough to accommodate the development satisfactorily in site planning terms, buildings and layouts of new developments should be designed so as to be energy efficient and, built developments should, where possible, be built within those settlements that are the subject of inset maps.

**Policy 3: Strathearn Landscape**

- 12 Development proposals should seek to conserve landscape features and sense of local identity, and strengthen and enhance landscape character. The Council will assess development that is viewed as having a significant landscape impact against the principles of the Tayside Landscape Character Assessment produced by Scottish Natural Heritage.

**Policy 4: Strathearn Landscape**

- 13 Details of landscape treatment should be submitted with development proposals including, where appropriate, boundary treatment, treatment of settlement edge and impact on key views. Developers will be required to demonstrate that satisfactory arrangements will be made, in perpetuity, for the maintenance of areas of landscaping.

**Policy 44: General Land Uses**

- 14 Built development should not be located adjoining and outwith those settlements that are the subject of Inset Maps.

**Policy 79: Landscape Improvements**

- 15 Inset Maps 5, 6 and 11 identify areas of land that would benefit from landscape improvements. The use of native species will be encouraged.

**PERTH AND KINROSS COUNCIL LOCAL DEVELOPMENT PLAN - PROPOSED PLAN JANUARY 2012**

- 16 Members will be aware that on the 30 January 2012 the Proposed Local Development Plan was published. The adopted Local Plan will eventually be replaced by the Proposed Local Development Plan (LDP). The LDP has recently undergone a period of public consultation. The Proposed Local Development Plan may be modified and will be subject to examination prior to adoption. It is not expected that the Council will be in a position to adopt the Local Development Plan before December 2014. The Plan may be regarded as a material consideration in the determination of this application, reflecting a more up to date view of the Council.
- 17 The principal relevant policy is in summary:

## **Policy ER6: Managing Future Landscape Change to Conserve and Enhance the Diversity and Quality of the Area's Landscapes**

- 18 Development and land use change should be compatible with the distinctive characteristics and features of Perth and Kinross's landscapes. Accordingly, development proposals will be required to conserve and enhance the landscape qualities of Perth and Kinross. They will need to demonstrate that either in the case of individual developments, or when cumulatively considered alongside other existing or proposed developments:
- (a) they do not erode local distinctiveness, diversity and quality of Perth and Kinross's landscape character areas, the historic and cultural dimension of the area's landscapes, visual and scenic qualities of the landscape, or the quality of landscape experience;
  - (b) they safeguard views, viewpoints and landmarks from development that would detract from their visual integrity, identity or scenic quality;
  - (c) they safeguard the tranquil qualities of the area's landscapes;
  - (d) they safeguard the relative wildness of the area's landscapes;
  - (e) they provide high quality standards in landscape design, including landscape enhancement and mitigation schemes when there is an associated impact on a landscape's qualities;
  - (f) they incorporate measures for protecting and enhancing the ecological, geological, geomorphological, archaeological, historic, cultural and visual amenity elements of the landscape; and
  - (g) they conserve the experience of the night sky in less developed areas of Perth and Kinross through design solutions with low light impact.

### **SITE HISTORY**

- 19 Consent was granted in 2001 (01/01005/FUL) for the erection of a single storey unit on land to the east of the applicant's property at Craigouall. A renewal of this consent was approved in 2006 (06/01996/FUL).
- 20 In 2008 the applicant submitted an application for planning permission for a housing development on a larger site that also included the site subject to this current application (08/00358/IPM). This application was withdrawn by the applicant as the proposed noise mitigation measures along the boundary with the A9 would have resulted in an unacceptable visual impact.
- 21 Consent in principle for residential development and associated landscape provision was granted in 2010 (10/01363/IPM).

## **CONSULTATIONS**

### **Environmental Health**

- 22 No objections to the proposals subject to the erection of the acoustic bund/fence in accordance with the plans.

### **Trunk Roads Authority**

- 23 Advise that they have no objection to the proposed development.

### **Flooding Team**

- 24 Indicated initial concerns over the potential of flooding caused by the works undertaken in terms of the earth bunds. However, after further submissions and dialogue the Team are now satisfied with the proposal.

## **REPRESENTATIONS**

- 25 No letters of representation have been received.

## **APPRAISAL**

### **Policy**

- 26 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.
- 27 As this planning application is for approval of matters specified by conditions of the planning in principle consent, it is not considered necessary to revisit the principle of residential development on this site. The key test of the acceptability of this application is therefore whether or not the proposals accord with the terms of the planning in principle consent. In this instance, as this application relates only to the formation of the earth bund, the erection of the acoustic fence and the landscaping proposals, only Conditions 3, 6 and 7 are relevant.

### **Earth Bund/Noise Mitigation**

- 28 The applicant is proposing to form an earth bund and acoustic barrier combination, comprising of a 2.3 metre high bund with a 1.2 metre high acoustic fence. The site will be gradually re-contoured to create a gradual rise from Millhill Drive towards the southern boundary with the A9.
- 29 The proposed earth bund and acoustic barrier are the same as illustrated on the plans previously submitted and are also in accordance with the requirements of Condition 6 of the in principle consent. However the applicant has not provided specific detail in relation to the construction of the proposed

acoustic barrier as per the requirements of Condition 7. Nevertheless it is considered that this matter can be suitably controlled by applying the same condition again.

### **Landscaping**

- 30 The applicant has submitted a detailed landscaping plan and a maintenance schedule as per the requirements of Condition 3. This plan has been assessed by the Council's Tree and Woodland Officer and he has advised that the proposed landscaping plan is acceptable subject to minor changes to the planting specification.
- 31 It is therefore considered that the proposed landscaping plan is acceptable subject to a condition regarding the further approval of the planting specification.

### **Surface Water Drainage**

- 32 The applicant is proposing to form the earth bund and landscaping in advance of the housing development. This will result in the ground conditions on the site being substantially altered with the top soiling stripped and ground levels altered to form the earth bund. Whilst it is accepted that a detailed surface water drainage scheme will ultimately be designed to service the site, the applicant did not submit any details in regards to the interim site drainage measures and no assessment has been undertaken to investigate whether or not the proposed earth works would impact on existing surface water drainage.
- 33 The applicant was made aware of this concern and initially they advised that in their opinion the proposed works would have no impact on the site drainage and that there was no need to assess the site drainage until such times as the proposed housing development is to be constructed. However the Council's Flood Engineer advised that at the very least, the applicant needed to undertake an assessment of the site to ascertain whether interim mitigation measures are required to deal with site drainage. It is considered by the Flood Officer that as a result of the works undertaken by the applicant in starting to form the bunds, the runoff characteristics for the site have been altered and consequently there is a requirement for attenuation.
- 34 As a consequence further discussions have been ongoing between the agent and the Flood Officer. The applicant is now proposing to form three shallow settlement ponds within the site, each having a depth of no more than 300mm. The outlet from the final pond will be discharged via the naturally vegetated area through which any overflowing water will pass prior to leaving the site via an existing culvert under the road on the northwest corner of the site which will be cleared out to facilitate easier egress of water from the site. In addition, upon completion of these works the applicant will monitor the run off from the site and, if necessary, install an attenuation device aimed at throttling the flow from the site to a release rate agreeable with the Council. As the applicant owns the site, and his mother's property abuts it, clearing the culvert entrance and subsequent monitoring can be easily achieved.

- 35 The bund which has been formed to date is now re-establishing vegetation and as such, runoff is not as much of an issue as if the site was not vegetated. The Flood Officer has advised that he is in agreement with the applicant's proposal of clearing the culvert and installing settlement ponds.
- 36 An agreement has now been reached with the Council's Flood Officer in respect of the acceptable method of dealing with the initial ground remodelling works at Greenloaning. The solution appears to be quite straightforward, with the introduction of the previously assessed settlement ponds, clearing of the outlet to the existing culvert and subsequent monitoring of the condition as the initial works are carried out. I am therefore content to support the proposal for the approval of matters required by conditions on a planning application in principle.

### **LEGAL AGREEMENT REQUIRED**

- 36 None Required.

### **DIRECTION BY SCOTTISH MINISTERS**

- 37 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 REASON FOR RECOMMENDATION**

- 38 In conclusion, the application must be determined in accordance with the adopted Development Plans unless material considerations indicate otherwise. In this respect, the proposal is considered to comply with the adopted Strathearn Area Local Plan and Tayplan 2012. I have taken account of material considerations, including the Proposed Local Development Plan 2012 and find none that would justify overriding the adopted Development Plan. On that basis the application is recommended for approval.

### **RECOMMENDATIONS**

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

- 1 The proposed development must be carried out in accordance with the accompanying approved plans unless provided for by conditions imposed on the planning consent.
- 2 Within 28 days of the date of this consent, details of the planting specification shall be submitted and agreed in writing by the Council as Planning Authority. Within the first planting season following the erection of the acoustic fence all planting works shall be undertaken to the satisfaction of the Council as Planning Authority.
- 3 The acoustic barrier must have a minimum mass per unit area of 15 Kg/m<sup>2</sup>; there must be no holes or gaps in the fabric of the barriers, and there must be

no gaps between the lower edge of the barriers and the ground. The barrier shall be permanently maintained in this condition to the satisfaction of the Council as Planning Authority.

- 4 During the first 6 months following the completion of the initial phase of development the developer shall monitor the surface water run off from the site and submit a report in writing to the Planning Authority. If necessary, any drainage improvements to ensure surface water from the site is adequately controlled shall be agreed in writing with the Planning Authority.

**Reasons:**

- 1 To ensure the development is carried out in accordance with the plans approved.
- 2 In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality and to reserve the rights of the Planning Authority.
- 3 In order to ensure that noise from the road traffic on the A9 does not result in a significant loss of residential amenity.

**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 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.
- 2 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.
- 3 This development will require the 'Display of notice while development is carried out', under Section 27C (1) of the Town and Country Planning Act 1997, as amended, and Regulation 38 of the Development Management Procedure (Scotland) Regulations 2008. The form of the notice is set out in Schedule 7 of



the Regulations and a draft notice is included for your guidance. According to Regulation 38 the notice must be:

- Displayed in a prominent place at or in the vicinity of the site of the development
  - Readily visible to the public
  - Printed on durable material.
- 4 The applicant should be advised that in terms of Section 21 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to construct a new road prior to the commencement of roadworks. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environment Protection Agency.
  - 5 The applicant should be advised that in terms of Section 56 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environment Protection Agency.
  - 6 The current planning application refers to conditions 3, 6 & 7 of the application in principle (10/1363/IPM). The remaining conditions 1, 2, 4, 5, 8, 9 & 10 require to be adhered to in the further submission of a formal application for the approval of matters required by condition on a planning permission in principle.
  - 7 The applicant is advised to undertake further monitoring of surface water run off from the site and, if necessary, undertake further drainage improvements to ensure surface water from the site is adequately attenuated.

Background Papers: No letters of representation have been received.  
Planning Officer: David Niven  
Date: 8 March 2013

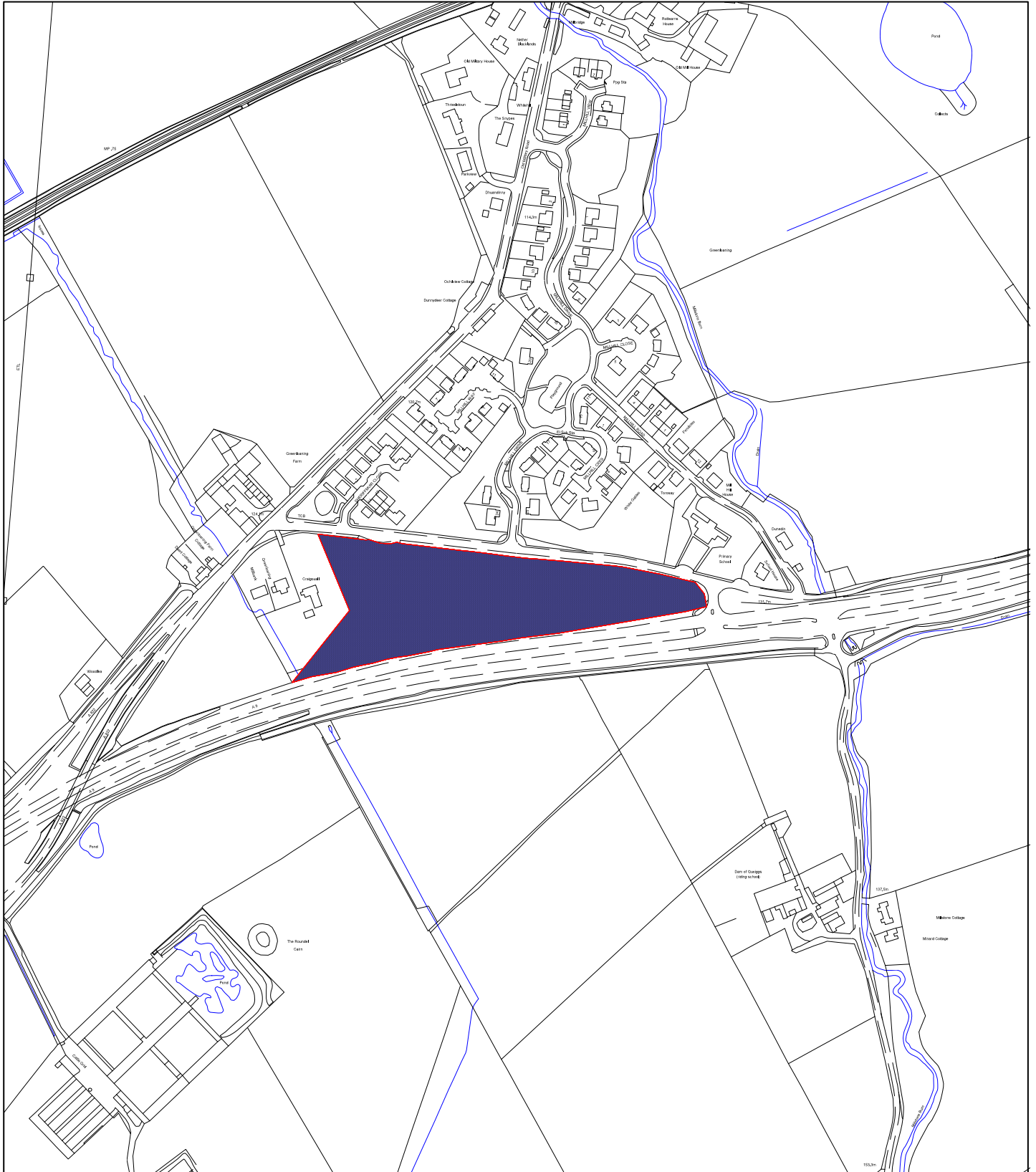
**Nick Brian**  
**Development Quality Manager**

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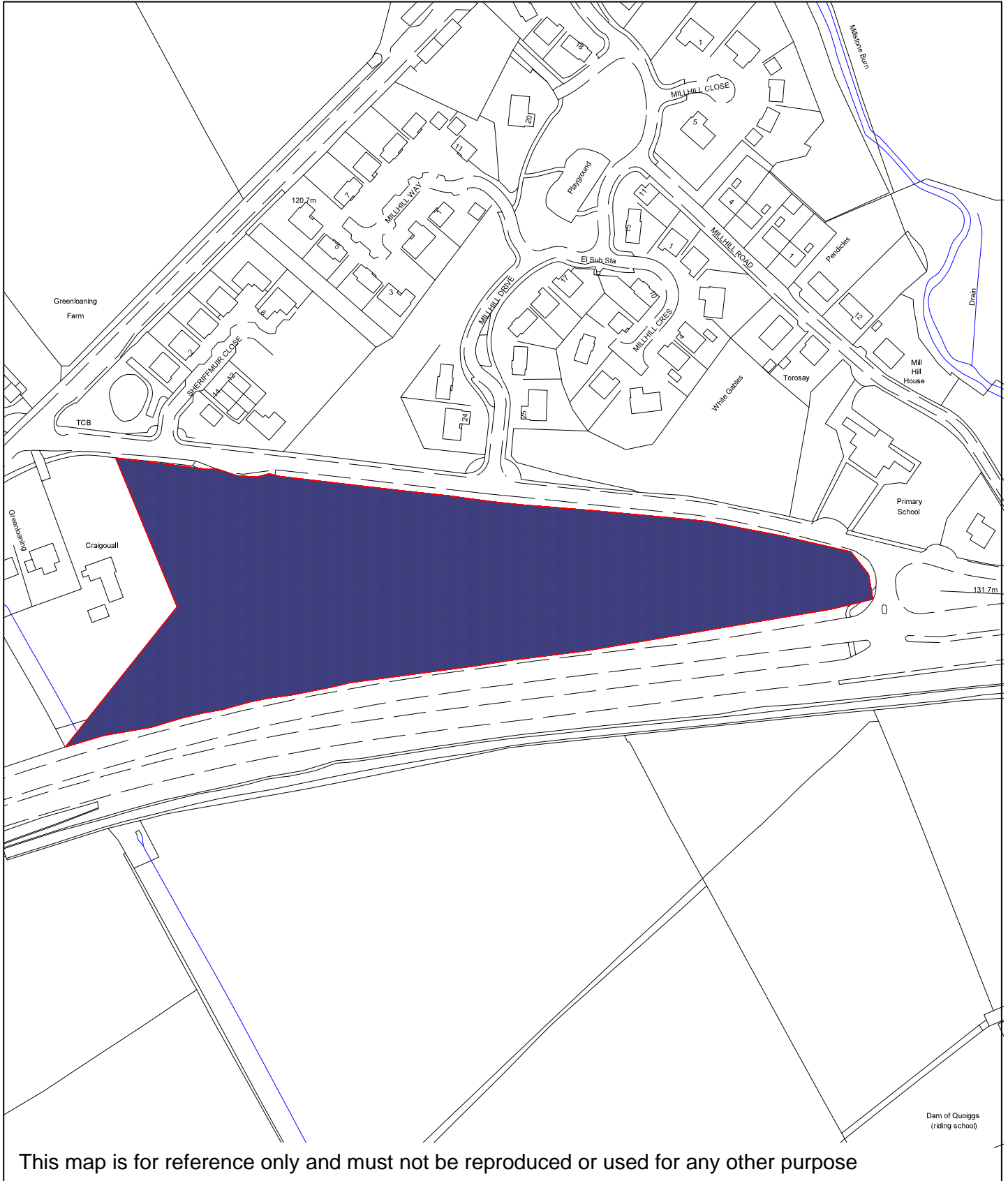
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↑ Scale  
1:5000



↑ Scale  
1:2500