

Perth and Kinross Council  
Development Management Committee – 22 May 2013  
Report of Handling by Development Quality Manager

**Erection of dwellinghouse (in principle), land 70 Metres North East  
Of Cleish Mains Steading, Cleish**

Ref. No: 13/00322/IPL  
Ward No: 8 – Kinross-shire

**Summary**

This report recommends refusal of the application for the erection of a dwellinghouse (in principle) as the development is considered to be contrary to the Development Plan.

**BACKGROUND AND DESCRIPTION**

- 1 The site is located in a rural location 1.3km west of Cleish on the north side of the C493 public road. Cleish Castle is a Category A Listed Building which sits in well wooded grounds to the south east of the site. Until recently the site contained a fenced area that was previously a horse riding arena. The site has recently been cleared and is now a relatively flat open area with no defined boundaries separating it from agricultural land to the north. It is bounded by a wall and beech hedge to the south, a mature tree bank to the east and buildings to the west which sit in an elevated position above the site.
- 2 Outline planning permission was granted in 2007 (06/00663/OUT) for the erection of two houses on the site which included part of the area of this current application and land to the east. This was granted by Committee against the planning officer's recommendation at that time which was for refusal of the application. A full planning application for the erection of one house on the eastern part of the site was approved in 2009 (ref: 08/00636/FUL). The consent granted was for a large 5 bedroom property. The majority of the site fell within ground that was granted outline consent but additionally included land to the north of the original site boundary to be used as garden ground.
- 3 Concern was expressed at the time of this original outline application by the Council's Conservation Officer over the cumulative impact of this development if the neighbouring plot was also developed.
- 4 This current proposal is for outline planning consent for a plot to the west of the consented house plot. Part of this land formed part of the original outline consent although additional ground has been included to the north to align it with the consented plot.

## **NATIONAL POLICY AND GUIDANCE**

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

- 5 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.
- 6 Of relevance to this application are:
- Paragraphs 92 – 97: Rural Development
  - Paragraphs 110 – 124: Historic Environment
  - Paragraph 122: Gardens & Designed Landscapes
  - Paragraphs 125 - 148: Landscape & Natural Heritage
  - Paragraphs 134 - 136: International Designations (SPA's & SAC's)
  - Paragraphs 196 - 211: Flooding and Drainage

### **Scottish Historic Environment Policy December 2011 (SHEP)**

- 7 This document sets out Scottish Ministers' policies for the historic environment, provides greater policy direction for Historic Scotland and provides a framework that informs the day-to-day work of a range of organisations that have a role and interest in managing the historic environment.

## **DEVELOPMENT PLAN**

- 8 The Development Plan for the area consists of the Approved Tayplan Strategic Development Plan and the Adopted Kinross Area Local Plan 2004. The Council's Proposed Local Development Plan 2012 is a relevant material consideration.

### **Tayplan: Strategic Development Plan 2012-2032**

- 9 The principal relevant policy is in summary: -

#### **Policy 3: Managing TAYplan's Assets**

- 10 This recognises the importance of historic buildings and townscapes and identifies the importance of only allowing development where it does not adversely impact upon or preferably enhances these assets.

## **Kinross Area Local Plan 2004**

11 The site lies within the landward area as identified in the Kinross Area Local Plan 2004.

12 The principal relevant policies are in summary:

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

13 Sets out a development strategy based on sustainable principles. The policy identifies that key considerations include the maintenance and improvement of the quality of the natural environment and the conservation of biodiversity.

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

14 Identifies detailed criteria against which development proposals will be assessed. This includes landscape framework; satisfactory vehicular access and road capacity.

### **Policy 4: Flood Risk**

15 Identifies that development in areas liable to flood or where remedial measures would adversely affect flood risk elsewhere will not normally be permitted.

### **Policy 5: Landscape**

16 Indicates that the Council will assess development proposals that may have a significant landscape impact against the principles of the Kinross-shire Landscape Character Assessment.

### **Policy 6: Design and Landscaping**

17 Identifies that the Council will require high standards of design for all developments and encouragement will be given to ensuring that new development fits its location.

### **Policies 10-13: Drainage within Loch Leven Catchment Area**

18 Set out the criteria for drainage within the Loch Leven Catchment Area. New development is required to secure a sustainable net reduction of phosphorus within the Loch Leven catchment area.

### **Policy 14: Surface Water Drainage**

19 Identifies that surface water drainage should accord with the management practices set out in SEPA's Sustainable Urban Drainage Systems Manual.

**Policy 19: International Nature Conservation Sites, Policy 20 Protected species and Habitats, Policy 21 National Nature Reserves and Sites of Special Scientific Interest:**

- 20 Developments which would adversely affect the Loch Leven Special Protection Area will not normally be permitted under these policies.

**Policy 31: Listed Buildings**

- 21 Policy seeks to resist proposals that would be detrimental to the essential character of Listed Buildings and also to safeguard the setting of Listed Buildings.

**Policy 33: Historic Gardens and Designed Landscape**

- 22 Council will seek to protect and enhance Historic Gardens and Designed Landscapes.

**Policy 50: Agricultural**

- 23 Protect best quality agricultural land from irreversible development.

**Policy 64 Housing in the Countryside**

- 24 Stipulates the criteria for new houses within the landward area.

**PERTH AND KINROSS PROPOSED LOCAL DEVELOPMENT PLAN 2012**

- 25 On 30 January 2012 the Proposed Plan was published. The adopted Local Plan will eventually be replaced by the Proposed Local Development Plan. The Council's Development Plan Scheme sets out the timescale and stages leading up to adoption. It has recently undergone a period of representation; the Proposed Local Development Plan may be modified and will be subject to examination prior to adoption. This means that it is not expected that the Council will be in a position to adopt the Local Development Plan before December 2014. It is therefore a material consideration in the determination of this application, reflecting a more up to date view of the Council.

- 26 The principal relevant policies are in summary:

**Policy PM1: Placemaking**

- 27 Development must contribute successfully to the quality of the surrounding built and natural environment.

**Policy PM2: Design Statement**

- 28 A design statement is required where a proposed development affects the character or appearance of a historic Garden, Designed Landscape or setting of a Listed Building or Scheduled Ancient Monument.

### **RD3 : Housing in the Countryside**

- 29 The Council will support proposals for the erection, or creation through conversion, of single houses and groups of houses in the countryside which fall into at least one of the following categories:
- a) Building Groups
  - b) Infill sites
  - c) New houses in the open countryside on defined categories of sites as set out in section 3 of the Supplementary Guidance.
  - d) Renovation or replacement of houses.
  - e) Conversion or replacement of redundant non-domestic buildings.
  - f) Development on rural brownfield land.

This policy does not apply in the Green Belt and its application is limited within the Lunan Valley Catchment Area to economic need, conversions or replacement buildings.

### **Policy HE2: Listed Buildings**

- 30 The layout, design, materials, scale, setting and use of any development which would affect a listed building or its setting should be appropriate to the buildings character, appearance and setting.

### **Policy HE4: Gardens and Designed Landscapes**

- 31 Council will seek to protect and enhance the integrity of these sites included on the current Inventory of Gardens and Designed Landscapes.

### **Policy NE1: Environment and Conservation Policies**

- 32 Protects sites and species of importance to nature conservation.

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

- 33 Development should be compatible to distinctive characteristics and features of Perth and Kinross's landscapes.

### **Policy EP2: New Development and Flooding**

- 34 Sets out development appropriate in areas at risk of flooding. In particular development in rural areas should be outwith the functional 0.5% (1:200) flood plain.

### **Policy EP3C: Surface Water Drainage**

- 35 All development should employ Sustainable Urban Drainage Systems.

### **Policy EP3D: Reinstatement of Natural Watercourses**

- 36 The Council will not support the culverting of watercourses as part of a new development unless there is no practical alternative.

### **OTHER POLICIES**

- 37 None.

### **OTHER PLANNING GUIDANCE**

#### **Tayside Landscape Character Assessment (TLCA)**

- 38 The Tayside Landscape Character Assessment (TLCA) is published by Scottish Natural Heritage. The TLCA will be used for assessing development proposals. The site lies on the edge of northern edge of the Dolerite Hills landscape character area close to the Lowland Lochs Basin area.

#### **Housing in the Countryside Guide (2012)**

- 39 The overall policy aims are to provide for improved opportunity for rural housing but in a way which safeguards the character of the countryside; supports the viability of communities; meets development needs in appropriate locations and secures high standards of siting and design.
- 40 Proposals must be seen as consistent with the one of six categories.  
1) Building groups; 2) infill sites; 3) New houses in the open countryside;  
4) Renovation or Replacement of Houses; 5) Conversion or replacement of redundant non-domestic buildings; 6) Rural Brownfield Land.

#### **Development Contributions 2012 – Primary Education and New Housing Development**

- 41 This guidance sets out the basis on which Perth and Kinross Council will seek to secure contributions from developers of new homes towards the cost of meeting primary education infrastructure improvements necessary as a consequence of development. All new housing from the date of adoption including those on sites identified in adopted Local Plans will have the policy applied.

#### **42 Site History**

- 06/00663/OUT Erection of 2 dwellinghouses (in outline) 6 June 2007  
Application Permitted
- 07/02297/FUL Erection of a dwellinghouse and garage 19 January 2008  
Application Withdrawn
- 08/00636/FUL Erection of new house and garage 19 June 2009 Application Permitted

## CONSULTATIONS/COMMENTS

- |    |   |   |
|----|---|---|
| 43 | <b>Scottish Water</b>                         | No objection.   |
| 44 | <b>Education And Children's Services</b>      | This development falls within the Cleish Primary School catchment area. As this application is only "in principle" it is not possible to provide a definitive answer at this stage however it should be noted that the Developer Contributions Policy would apply to all new residential units with the exception of those outlined in the policy. The determination of appropriate contribution, if required, will be based on the status of the school when the full application is received. |
| 45 | <b>The Coal Authority</b>                     | Within Coal Authority low risk area. No requirement for Coal Mining Risk Assessment.  |
| 46 | <b>Local Flood Prevention Authority</b>       | Objects to the proposed development due to the lack of information regarding flood risk and an FRA is required.   |
| 47 | <b>Environmental Health</b>                   | A search of the historic records did not raise any concerns regarding ground contamination. No adverse comments to make on the application.   |
| 48 | <b>Cleish and Blairadam Community Council</b> | Objects to the application.   |

### Representations

- 49 Cleish and Blair Adam Community Council and the Kinross-Shire Civic Trust have objected to the application. There have been two other letters of objection and one letter in support of the proposals.
- 50 The representations have raised the following relevant issues: -
- The adverse effects on the Grade A listed Cleish Castle and also on Registered Garden and Designed Landscape around the Castle which is in close proximity to the site.
  - The site is not part of an existing building group;
  - The site will form a linear/ribbon development, which would adversely affect the amenity and character of the area' and Impact of cumulative development in other areas along C493 public road and would exacerbate the perception of linear, or ribbon development;
  - The development would be visually prominent and detract from the visual amenity of the area;
  - One large house has received consent the remaining part of the site is limited in scale and attempting to squeeze an additional property in this area would be out of keeping with the size and scale of the surrounding buildings;
  - Road safety – concerns with access;
  - Detrimental to residential amenity of surrounding properties;

51 These issues are all raised in the Appraisal section of this report.

## ADDITIONAL STATEMENTS

Environment Statement	Not required
Screening Opinion	Not required
Environmental Impact Assessment	Not required
Appropriate Assessment	Not required
Design Statement / Design and Access Statement	None
Report on Impact or Potential Impact	None submitted

## APPRAISAL

### Policy

52 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) requires the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The determining issues here are whether the proposals comply with Development Plan policy or if there are other material considerations, which justify a departure from policy. The most relevant policies of the Development Plan are outlined in the policy section above.

### Principle

53 Whilst part of the site received outline consent as part of a larger site for the erection of two dwellinghouses this consent has lapsed. The permission on the adjacent site for one plot is now separate from this site and the application site has to be considered afresh and assessed against current policy. Of particular relevance is whether the proposal complies with the Housing in the Countryside Policy, specifically the section of the policy that considers “building groups”.

54 The site is set below an existing building, ancillary to but detached from Cleish Mains Steading. To the west of this there are a number of buildings but this group does not satisfy the policy in terms of having a compact, nucleated shape and creating an identifiable “sense of place”. I would also consider that extending the group into this site would not comply with the requirements of the policy for extension of building groups into definable sites created by topography, landscape features or field boundaries to constrain the spread of the group. In addition it would not constitute an infill site as the site immediately to the east does not contain any buildings. Further, in the event that the consent for the adjacent site to the east is fully implemented then the current application site would not be of comparable size in terms of its plot width, to meet the policy. The site is currently considerably exposed, particularly to the north with no delineated boundary between it and the surrounding agricultural land. I therefore consider that this proposal would be contrary to Policy 64, Housing in the Countryside, of the adopted Local Plan.



## **Drainage and Flooding**

- 55 The Council's Flood Prevention Team objects to the application in terms of lack of information. The applicant has agreed to undertake a flood study. At the time of writing this report the required information had not been received.
- 56 The new house would be served by a private sewage treatment plant. As the site lies within the Loch Leven Catchment Area any development has to ensure that the impact of increased phosphorous loading on Loch Leven can be mitigated. Previous consents on the site have been subject to a section 75 agreement to ensure this. The agent has submitted information with respect to calculations from the previously approved full application relating to phosphorous mitigation where the consented house, the existing steading and any proposed new house on this application site connected to a bio-disc wastewater treatment plant which would meet the 125% mitigation guidelines. I contacted the Council's legal department and it was their opinion that a new Section 75 Agreement would be required for this development. This would need to be negotiated prior to any consent being issued.

## **Impact on Listed Building and Designed Landscape**

- 57 The site is across the public road from the Cleish Castle Garden and Designed Landscape which contains the Category A listed Cleish Castle. At this point the garden is well wooded and the Castle itself is not visible. The potential adverse impact on this site has been the subject of two representations on this application. Historic Scotland were consulted on the 2008 application and recommended that any new building be finished in traditional natural materials – slate, painted timber windows, doors, fascias and wet dash harl of a muted natural colour – to reflect the traditional character of its setting and minimise its impact. Landscaping materials should be appropriate to the rural setting, and not introduce a suburban character. I consider that the setting of Cleish Castle and its designed garden is unlikely to be adversely affected subject to the appropriate design of any development. However I do have concerns that the landscape framework is not currently capable of absorbing the development, particularly with regard to the lack of defined boundaries to the north and within the site.

## **Traffic**

- 58 Vehicular access to the site is proposed from the existing access to the west. The Council's Transport Planner does not object to the proposals subject to conditions to improve this access. Representations have been made with regard to road safety although I consider that this could be addressed if required should a further detailed application be submitted.

## **Education**

- 59 As this is an outline application no education contribution is required at this stage. The capacity of the school would only be assessed should a detailed planning application be submitted.

### **Residential Amenity**

- 60 Whilst objectors have sited that existing residential amenity would be adversely affected should the application be approved I do not consider that this is likely to be a problem but any potential issues would be addressed at the detailed design stage and any development would be appropriately designed in terms of orientation, height etc in order to minimise over looking and not create privacy issues.

### **Contaminated Land**

- 61 The Council's Environmental Health Officer does not have any concerns with the development and has found no record of any contamination of the site.

### **Design and Layout**

- 62 No details of any proposed dwellinghouse have been submitted although this is not required with this in principle application. However objectors have raised concerns about the size of the house plot in comparison to its surroundings. The plot is substantially smaller than the adjacent consented plot although there is nothing on the ground to identify the location of either site.
- 63 There is currently no development on the adjacent site to the east. Policy 2 of the adopted local plan requires sites to have an established landscape framework and be compatible with its surroundings. Whilst there is a hedge to the south there is no boundary to the north or east and the site relates more to the agricultural north than to the buildings to the west. I therefore consider it to be contrary to policy 2 of the adopted local plan which requires developments to have regard to the scale, form, colour and density of development within the locality.

### **LEGAL AGREEMENTS**

- 64 A section 75 Agreement would be required to mitigate any affect on the Loch Leven Catchment if consent were to be granted

### **Direction by Scottish Ministers**

- 65 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**

- 66 Planning consent for residential development has lapsed on the site. The proposal has been considered in terms of the current adopted Housing in the Countryside Policy and guidance. It is not considered to fall within any of the categories contained within the policy and is therefore considered to be contrary to the adopted development plan.

## RECOMMENDATION

### A REFUSE FOR THE FOLLOWING REASONS:

- 1 The proposal is contrary to Policy 64 of the Kinross Area Local Plan 2004 as it does not meet any of the criteria to justify a new dwellinghouse in the landward area.
- 2 The proposal is contrary to the Policy RD3 contained within the Proposed Local Development Plan 2012 and associated Housing in the Countryside Guide 2012 in that it does not meet any of the stated criteria.
- 3 The proposal would be contrary to Policies 2 and 5 of the Kinross Area Local Plan in that it does not have a landscape framework capable of absorbing the development and the plot size is not comparable to surrounding developments.

### B JUSTIFICATION

The proposal is contrary to the Development Plan and there are no material considerations to justify a departure therefrom.

### C PROCEDURAL NOTES

67 None.

### D INFORMATIVES

68 None.

Background Papers: Five letters of representation.

Contact Officer: Persephone Beer – Ext : 76354

Date: 1<sup>st</sup> May 2013

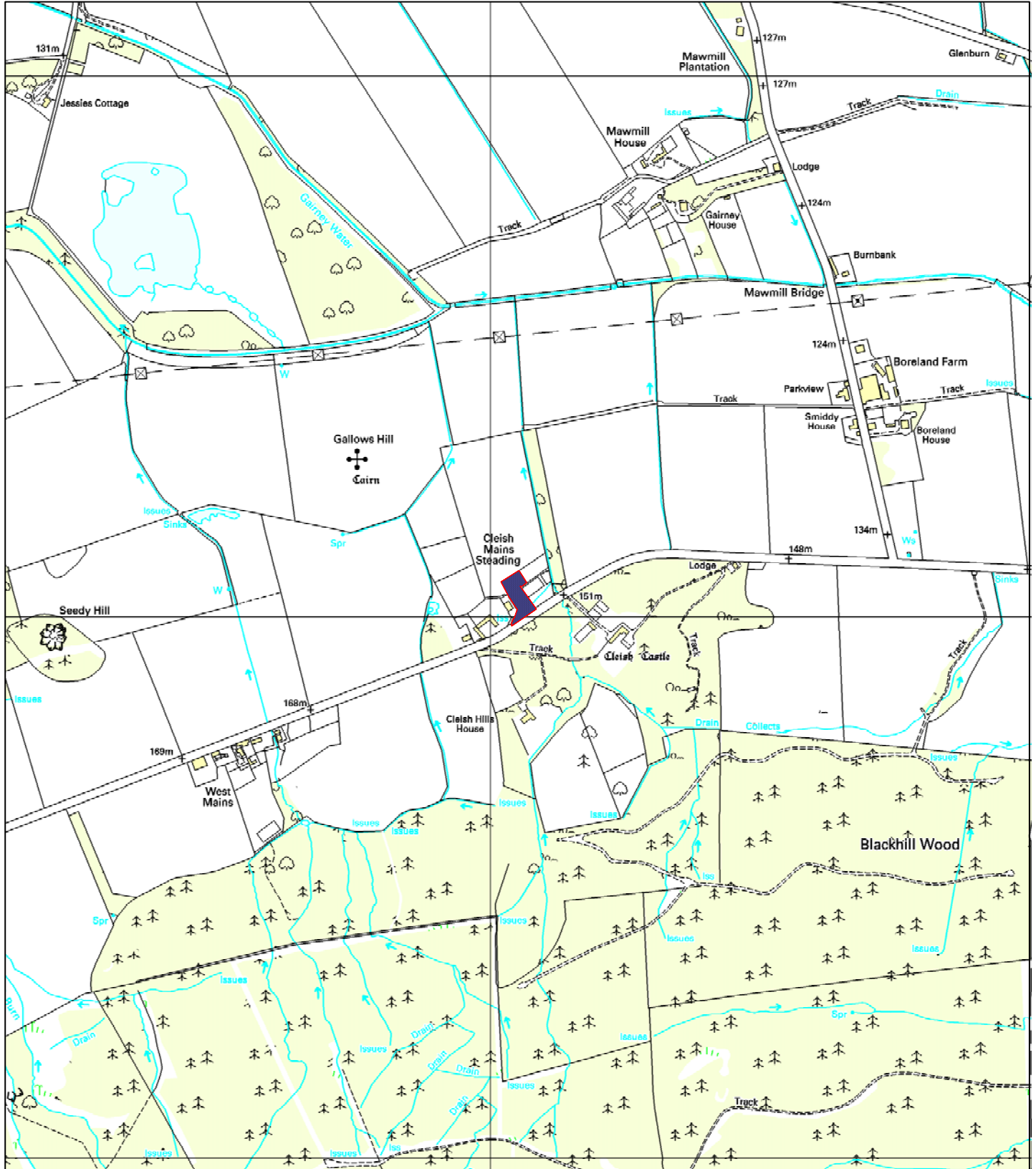
**Nick Brian**  
**Development Quality Manager**

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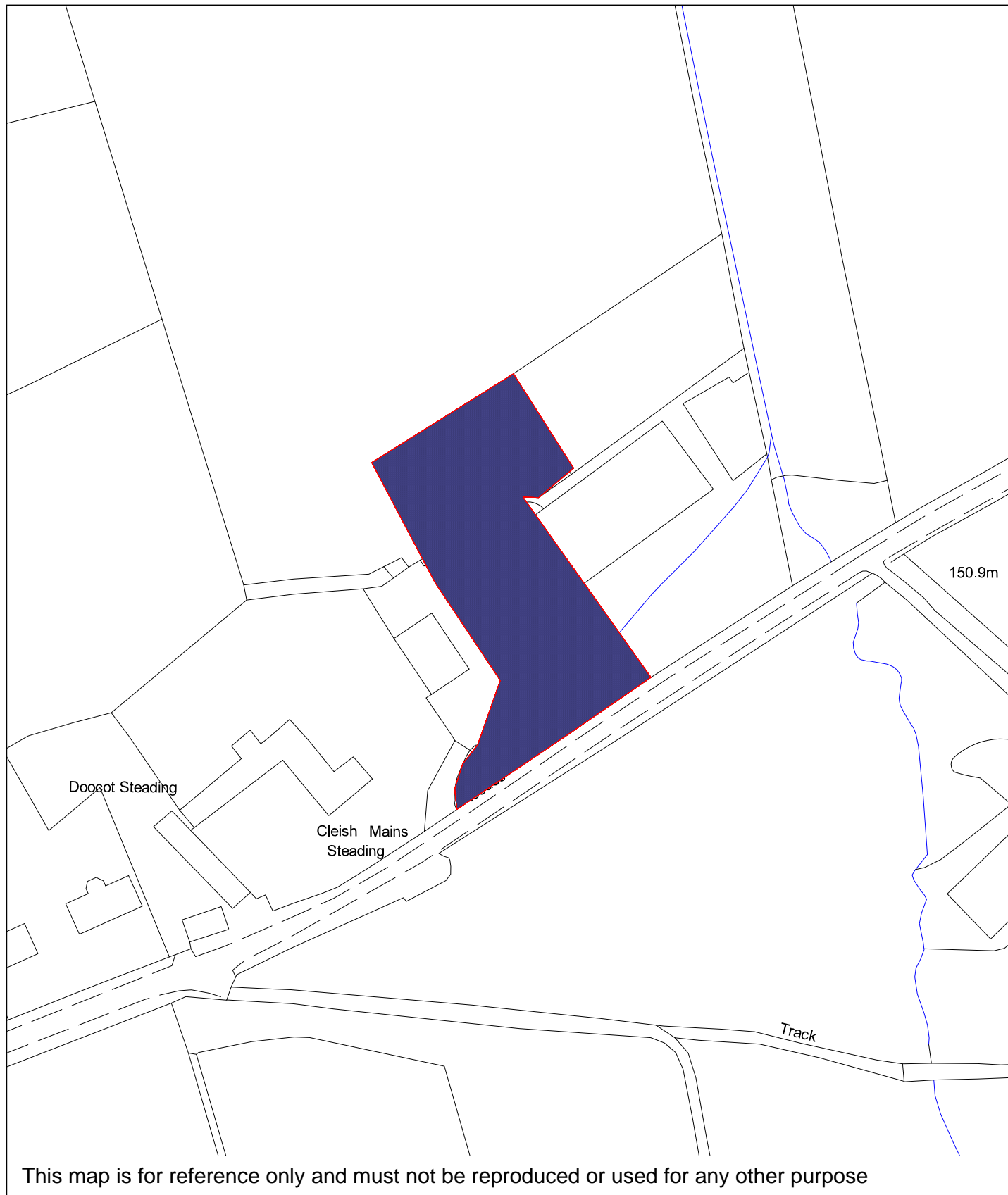
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