

Perth and Kinross Council
Development Management Committee – 17 July 2013
Report of Handling by Development Quality Manager

Formation of private potable water supply for residential development and erection of infrastructure building, Site Of Former Ochil Hills Hospital, Milnathort

Ref. No12/01959/FLL
Ward No: 8 – Kinross-shire

Summary

This report recommends approval of the application for the formation of a private potable water supply for residential development and the erection of an infrastructure building as the development is considered to comply with the relevant policies of the Development Plan.

BACKGROUND AND DESCRIPTION

- 1 The application site comprises the landscaped grounds and site of the former Ochil Hills hospital (demolished in 2003) and is located on the upper Ochil slopes above Tillyrie near Milnathort.
- 2 The site is accessed by way of the minor road from Tillywhally to Tillyrie which culminates in the private lane serving the former hospital. A Core Path follows this access route through the site.
- 3 A settlement boundary for Ochil Hills Hospital has been defined through the adopted Kinross Area Local Plan (Map 28) and this brownfield site is identified as a development opportunity in both the adopted plan and Proposed Local Development Plan 2012.
- 4 An outline planning approval was granted in 2007 for 35 dwellings. The matters reserved for future approval by that outline consent were approved in 2011 (10/02159/AMM). A modification of this consent was granted in 2012 (12/00247/FLM) in relation to landscaping, tree protection and the Core Path. This application seeks permission for the formation of a private potable water supply for the residential development and the erection of an infrastructure building.

NATIONAL POLICY AND GUIDANCE

- 5 The Scottish Government expresses its planning policies through the National Planning Framework 1& 2, the Scottish Planning Policy (SPP) and Planning Advice Notes (PAN). Of specific relevance to this application are:

The Scottish Planning Policy 2010

- 6 The 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
 - the Scottish Government's expectations of the intended outcomes of the planning system

Of specific relevance to this application are

- Paragraphs 22 – 23: Development Management
- Paragraphs 25 – 27 : Determining Planning Applications
- Paragraphs 34 – 39 : Sustainable Development

Development Plan

- 7 The Development Plan for the area consists of the Approved TAYplan 2012 and the Adopted Kinross Area Local Plan 2004.

TAYplan 2012

- 8 There are no policies of strategic importance of relevance to this application in TAYplan.

Kinross Area Local Plan 2004

- 9 The site lies within the small settlement boundary for Ochils Hills Hospital as identified in the Kinross Area Local Plan 2004 (Map 28) and redevelopment for housing is identified as a rural development opportunity (Opportunity 6).
- 10 The principal relevant policies are in summary:

Policy 1 Sustainable Development

- 11 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, conservation of biodiversity and that renewable resources should be used at rates that allow their natural replenishment.

Policy 5 Landscape

- 12 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

- 13 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.

Policy 54 Area of Great Landscape Value

- 14 Identifies that new developments will only be supported where they can be shown to enhance the natural and man made landscape assets of the area. In appropriate cases landscape enhancement measures may be required to be implemented in advance of development.

Opportunity 6

- 15 Sets out the developer requirements for the residential development of the former Ochil Hills Hospital site. This includes the provision of a publicly maintained drainage system, improved vehicular access from the A91, comprehensive development of the site and a comprehensive woodland management and enhancement scheme.

Perth and Kinross Proposed Local Development Plan (PLDP) 2012

- 16 On the 30 January 2012 the Proposed Plan was published. The adopted Local Plan will eventually be replaced by the Proposed Local Development Plan (PDLDP). 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.
- 17 Under the PLDP the site lies within the settlement boundary for Ochil Hills Hospital where the principal relevant policies are:-

Policy PM1 Placemaking

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

Policy RD1 Residential Areas

- 19 The plan identifies areas of residential and compatible uses where existing residential amenity and character will be protected and where possible improved.

Op 19 – Ochil Hills Hospital

- 20 Site is identified for residential, leisure or hotel use.

Other Policies

- 21 None relevant.

22 Site History

- 02/00017/OUT Demolition of existing buildings and erection of 25 dwellinghouses and associated landscaping at 19 December 2005. Application Withdrawn
- 89/02046/FUL Ochil Hills Convalescent Hospital, Milnathort. Mixed development for comprehensive care of the elderly 6 July 1995. Application Refused
- 05/02085/OUT Residential development comprising of 35 dwellinghouses (in outline) 17 December 2007. Application Permitted
- 08/00105/FUL Proposed variation of condition 12 of previous planning application (05/02085/OUT) 21 May 2008. Application Permitted
- 10/02159/AMM Erection of 35 dwellinghouses (approval of matters specified in conditions) 8 December 2011. Application Permitted
- 10/02160/FLM Change of use from agricultural land to recreational parkland 8 December 2011. Application Permitted
- 12/00247/FLM Modification of previous consent - (10/02159/AMM) - variation of conditions 3, 4 and 16 relating to landscaping and core paths 31 May 2012. Application Permitted
- 12/00759/FLL Erection of an infrastructure building, stables, equine area and entrance feature 13 August 2012. Application Withdrawn
- 12/00776/FLL Creation of private water supply 11 July 2012. Application Withdrawn

CONSULTATIONS

SEPA

- 23 SEPA initially objected to the application due to lack of information regarding impacts on groundwater. Following the submission of additional information following a constant rate pumping test SEPA withdrew their objection and is now satisfied that the proposed abstraction from the Athron Hill boreholes is unlikely to be significantly detrimental to Tillyrie private water supplies. SEPA recommend a period of long term monitoring and recommends that the applicant discusses monitoring requirements with SEPA.

Environmental Health - Private Water

- 24 Insufficient detail regarding the treatment necessary to ensure consistently potable water in the properties has been supplied by the developer.
- 25 It is recommended that an informative setting out the requirements for compliance with the Water Scotland Act 1980 be added to any consent.

Environmental Health – Noise

- 26 No objection subject to conditions.

Milnathort Community council

- 27 The Community Council objects to the proposal. There is concern that the capacity of the springs are not sufficient to serve 35 houses plus the existing households already dependent on spring water.

Access Officer

- 28 No objection subject to a condition required to protect Core Path.

Representations

- 29 There have been fifteen letters of representation received, including Milnathort Community Council, raising the following:
- Contrary to local plan - development is not in an appropriate location within or adjacent to existing settlements.
 - Object to change from use of mains water to borehole. Development permitted previously because it would be linked to mains water.
 - Concern that use of borehole water not mains will have an adverse impact on the Tillyrie spring which will affect the water supply to existing properties in the area. An additional 35 houses using borehole water will adversely affect the water supply to existing properties. Tillyrie spring is already affected by periods of dry weather. Concern that extra abstraction would make this situation worse. Use precautionary principle and refuse.
 - Questions adequacy of borehole monitoring that shows existing supplies will not be affected. Suggests that further tests are required. Monitoring of boreholes in wet summers does not give a true picture of the situation.
 - Concern that development will lead to over abstraction of water, possible collapse of aquifer and no one will have any water. Water may also become unpotable as acidity levels may rise.
- 30 These issues are all raised 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	Information submitted.
Report on Impact or Potential Impact	Borehole abstraction monitoring report submitted.

APPRAISAL

Policy

- 32 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.
- 33 The principle of residential use on the site has already been established through the approval of previous applications. Importantly, the site is within an area identified for development in the Development Plan.
- 34 It was originally proposed to supply water to the development from a mains water supply. However, it is now intended to utilise a private supply principally from two boreholes located to the west of the housing area (BH1 and BH2). When the development is fully occupied, approximately 35m³/day of potable water will be required.
- 35 The issues to consider are set out below:

Protection of the water environment - Borehole Abstraction

- 36 The water supply for the development is proposed to come from two boreholes (BH 1 and BH 2) with a combined abstraction of 40m³/day. SEPA granted an authorisation for this abstraction under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended) (CAR) in January 2012.
- 37 Although the water abstraction had already been authorised by SEPA, concerns had been raised by nearby residents in Tillyrie and to the south, near Athron Hall regarding potential impacts to existing private water supplies in particular that the new borehole abstraction will, particularly during periods of dry weather, reduce the flow rate at existing private water sources. A further monitoring report was requested to demonstrate that the boreholes are capable of being used as the primary supply for the new housing development.

- 38 A constant rate pumping test was undertaken at the abstraction borehole. This test and its interpretation were aimed to remove any uncertainty about the likelihood of adverse impact caused by the two boreholes (when abstraction is 40m³/day) on the Tillyrie springs.
- 39 The report indicates that monitoring of the water levels in the two boreholes (BH1 and BH2) was undertaken for three days prior to the pumping test and for over 24 hours following the test. The flow rate from BH2 during the pumping was 93m³/day measured using a calibrated flow meter and water was piped and discharged to watercourse some 200m away.
- 40 SEPA concludes that the 24 hour pumping test and recovery does not provide clear information to definitively dismiss any likelihood of impact at Tillyrie springfield. However, it is considered unlikely that the proposed abstraction from BH1 and BH2 would be significantly detrimental to Tillyrie private water supplies. This is based on SEPA's professional judgement, the information presented and the fact that:
- The groundwater level at the springs is approximately 37-40 m above the level measured in the boreholes.
 - There is a considerable distance between the boreholes and the springs (approximately 1 km)
 - It is unlikely that a single fracture would hydraulically connect the boreholes to the springfield.
- 41 However, to ensure that there is no long term impact, SEPA recommend that a period of long term monitoring be implemented of the Tillyrie springfield flow rate, the rainfall in the area and the abstraction rate at BH1 and BH2. A review of the data collected should be undertaken at regular intervals. SEPA recommend that further monitoring be undertaken and that if a significant negative impact is ascertained, in the future, the abstraction authorisation (ref: CAR/R/1099475) could potentially be revoked.
- 42 It is proposed to add an informative note to any consent with regards to SEPA's recommendations.

Water quality

- 43 The application is for pumps and associated infrastructure necessary to move water from existing boreholes to 35 residential properties. It is known from tests carried out by the Council's Environment Service (Water Quality Team) that the water from these boreholes failed to meet current legal standards. Insufficient detail regarding the treatment necessary to ensure consistently potable water in the properties has been supplied by the developer. Previous objections from neighbouring properties have been concerned with water quantity and the developer has provided a hydrological report in this regard.
- 44 Due to the lack of information regarding the potential to supply an adequate and consistently wholesome supply of water to the development I had considered recommending refusal of this application. However, after further

consideration it was deemed inappropriate for the planning system to be used to enforce legislation set out in the Water Scotland Act 1980. It is therefore appropriate that the applicant's attention is drawn to this matter by way of the following informative which will be attached to any planning permission granted.

Visual impact

- 45 The boreholes are sited below the surface of the ground, the only visible sign being a concrete ring 1.25 metres in diameter with a height of 1.00 metre. Each concrete ring incorporates a control box for that supply, which is the approximate size of a shoe box. The bore holes are linked to the infrastructure building by underground pipes. The boreholes will have a minimal impact on the surrounding area.
- 46 The infrastructure building is rectangular in shape and measures some 8.4 metres by 3.9 metres with a mono-pitched roof with a height rising from 2.73 meters at the east (front) elevation to 3.18 metres at the rear. The building will be clad in timber upon a steel framed structure with a metal clad roof of a colour to be agreed. It is set within an area of woodland set back from the private lane. The siting is influenced by the location of the boreholes and is 60 metres from the nearest proposed dwelling. It will be accessed from a pull in area off the private lane which doubles as a passing place. It is not considered to have a detrimental visual impact and is considered to be acceptable in the location proposed.

Residential Amenity

- 47 There is potential noise from the pump situated within the infrastructure building. This building is divided into two sections. The northern section of the building will house an 'AquaTech Press main MC5' single pump cold water pressure booster set which will be used with a purpose built acoustic envelope with further noise attenuating acoustic insulation.
- 48 The southern area of the building is to be used for garaging and storage of equipment associated with the maintenance of the residential parkland, core path and woodland.
- 49 The AquaTech manufacturers information leaflet indicates that the pump would have a noise level of 66dB(A) at 1 metre. The nearest noise sensitive property to the proposed pump would be part of the residential development as described in 10/02159/AMM at 60 metres. This would give a noise level of 32dB(A) at the property which would be within acceptable levels.
- 50 This figure does not take into account the acoustic envelope or the infrastructure building that would house the pump which would reduce the noise level further.
- 51 It is considered unlikely that any nearby residential amenity will be adversely affected should the application be approved. However in order to offer a level of protection to neighbouring residential properties it is recommended that a noise condition be attached to any consent.

Public Access and Core Path

- 52 The Council's Access Officer has requested that a condition be attached to any consent to ensure that the Core Path is not obstructed during works or on completion. In this instance permission has been granted as part of application ref: 12/00247/FLM for a temporary diversion to the Core Path to facilitate site works approved as part of application 10/02159/AMM. I therefore consider that it would be appropriate to attach a related condition as part of this application. The Access Officer agrees with this approach and has suggested that an additional sentence be added to the condition to state that "No other works on site to be done until a gate is provided through the fence at the march with Tillyrie"

Traffic

- 53 There are no traffic concerns as part of this application.

Legal Agreements

- 54 None required

Direction by Scottish Ministers

- 55 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

- 56 The proposal will not have an adverse visual impact or impact on residential amenity. The principle of a private potable water supply is accepted and appropriate safeguards in terms of long term abstraction monitoring and potability can be controlled through mechanisms outwith the control of the planning system. I therefore consider that the development is in accordance with the Development Plan and recommend that it be approved subject to conditions.

Recommendation

A Approve 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 consent.
- 2 All plant or equipment including ventilation systems associated with the operation of the agricultural store be so enclosed, attenuated and/or maintained such that any noise there from shall not exceed Noise Rating 35 between 0700 and 2300 hours daily, or Noise rating 20 between 2300 and

0700 hours daily, within any neighbouring residential premises, with all windows slightly open, when measured and/ or calculated and plotted on a noise rating curve.

- 3 Prior to the commencement of site construction works the core path temporary diversion shall have been provided in accordance with the details included as part of application no. 12/00247/FLM, and following the route detailed in orange on plan 12/00247/2. The route shall be signed in accordance with details which previously shall have been submitted to and approved in writing by the Council as Planning Authority. No other works shall be done on site until a gate is provided through the fence at the march with Tillyrie. Notice shall be given to the Council as Planning Authority, prior to the commencement of site construction works, of the closure of the original core path. This path through the application site (core path MTHT/153/1) shall be closed for a period of no longer than 12 months unless otherwise agreed in writing by the Council as Planning Authority. Thereafter the route shall be re-opened and the surface restored to its original condition to the satisfaction of the Council as Planning Authority. Any further temporary restrictions to public access to facilitate any other works on site must be agreed in writing by the Council in advance of undertaking such works. Any damage done to the route during those works must be made good before the occupation of any new dwelling.

Reasons

- 1 To ensure that the development is carried out in accordance with the plans approved.
- 2 In the interests of residential amenity.
- 3 To provide continued public access and to safeguard a historic public footpath route.

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

None.

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 An application for Building Warrant may be required.
- 5 SEPA recommends that a period of long term monitoring be implemented of the Tillyrie springfield flow rate, the rainfall in the area and the abstraction rate at Borehole 1 and Borehole 2. A review of the data collected should be undertaken at regular intervals. The applicant is advised to SEPA's Fife Operations team (telephone 01592 776910) to discuss and agree any monitoring requirements which may now be required under CAR. The applicant should be aware that a variation of the CAR authorisation may now be required to incorporate any monitoring programme. In the eventuality that a significant negative impact is ascertained, in the future, the abstraction authorisation (ref: CAR/R/1099475) could potentially be revoked.
- 6 Details of regulatory requirements and good practice advice for the applicant can be found at www.sepa.org.uk/planning.aspx If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulatory team in your local SEPA office: Pentland Court, The Saltire Centre, Glenrothes, KY6 2DA (tel: 01592 776910).
- 7 The applicant shall ensure the private water supply for the development complies with the Water Scotland Act 1980 (Section 63) and the Private Water Supplies (Scotland) Regulations 2006. Detailed information regarding the private water supply, including the nature, location and adequacy of the source, any storage tanks / pipework and the filtration and disinfection treatment proposed to ensure provision of an adequate and consistently wholesome water supply shall be submitted to Perth and Kinross Council Environmental Health in line with the above act and regulations.

Background Papers: Fifteen letters of representation

Contact Officer: Persephone Beer – Ext 75354

Date: 25 June 2013

Nick Brian
Development Quality Manager

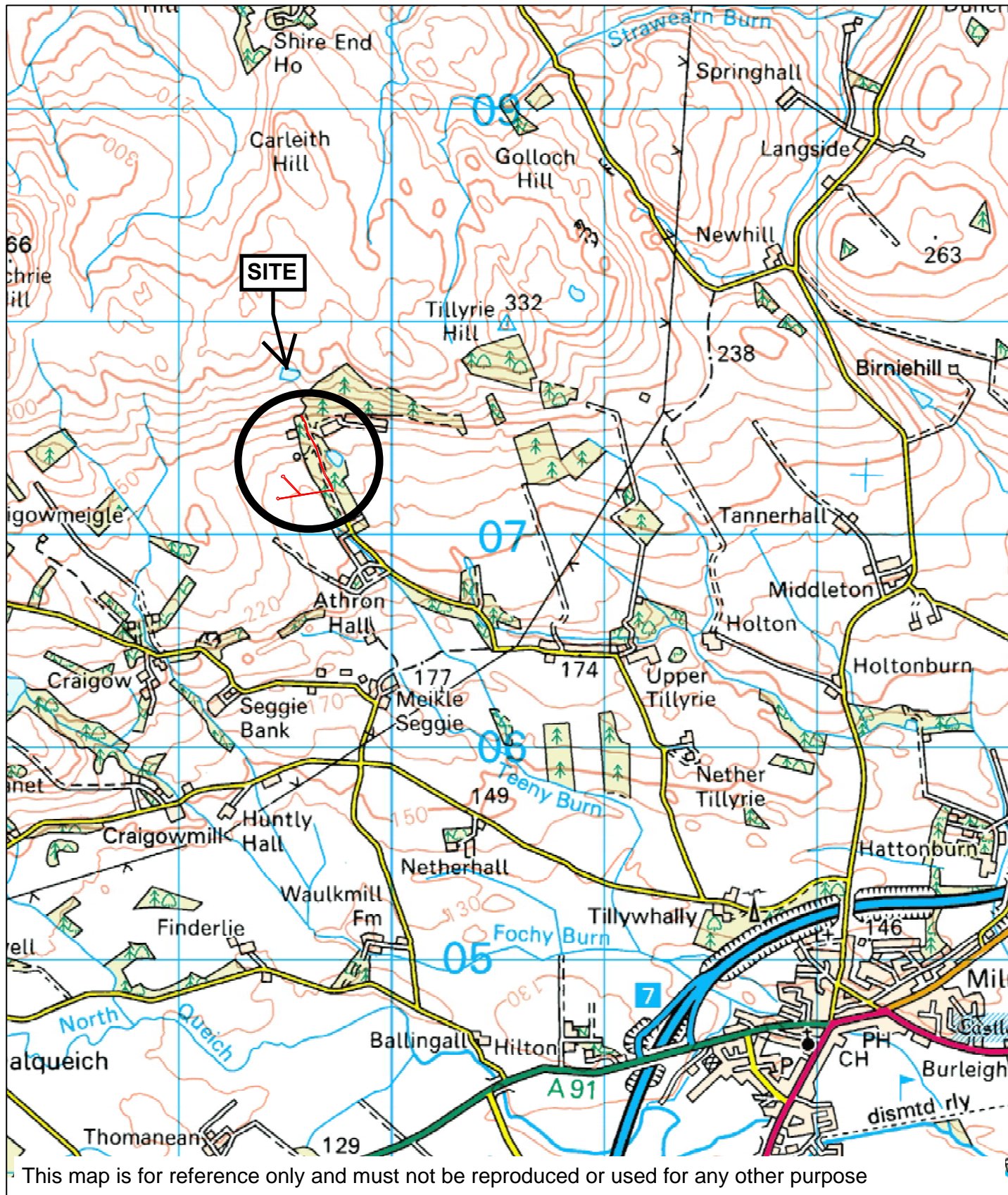
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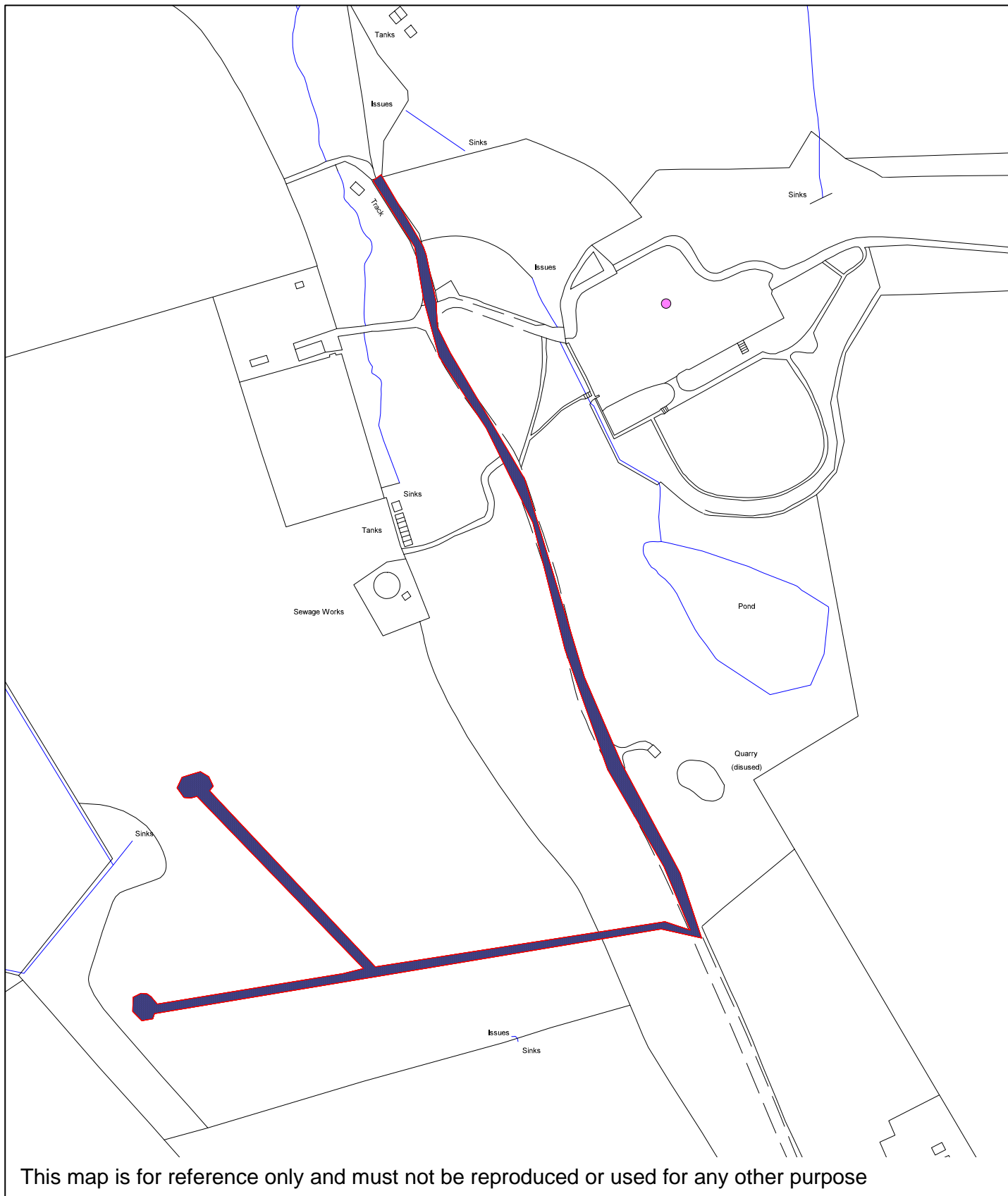
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Site of former Ochil Hills Hospital Milnathort

Formation of private potable water supply & erection of infrastructure building



↑ Scale
1:25000



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↑ Scale
1:2500