

Perth and Kinross Council
Development Management Committee – 14 May 2014
Report of Handling by Development Quality Manager

**Erection of 2 dwellinghouses at land 50 metres north west of 9 Burnside Road,
Invergowrie**

Ref. No: 13/02259/FLL
Ward No: 1– Carse of Gowrie

Summary

This report recommends approval of a detailed planning application for the erection of two dwellings as the application is considered to comply with the relevant provisions of the Development Plan and there are no material considerations apparent which would outweigh the Development Plan.

BACKGROUND AND DESCRIPTION

- 1 The application site relates to an awkward shaped, infill area of land which is located in the centre of Invergowrie. The 0.4ha site is sandwiched between the Invergowrie Burn which runs along the site's western boundary and existing residential properties to the east. To the south, the site is bounded by Burnside Road, whilst to the north it's defined by Main Street.
- 2 The site is currently overgrown with grass and appears to have been informally used as a paddock. The site slopes gently down to the Invergowrie Burn to the west, and sits slightly higher than the residential property to the south, and lower than the properties to the east and Main Road to the north.
- 3 This planning application seeks to obtain detailed planning consent for the erection of two detached dwellings. One of the dwellings (Plot 1) will be located in the southern 'gap' between No11 and No9 Burnside Road, whilst the 2nd dwelling (Plot 2) will be located at the north eastern part of the site adjacent to Main Street. Both the dwellings will share a new private access which will be taken directly from Burnside Road.
- 4 Plot 1 is a modest sized dwelling, which will provide living accommodation over two levels with the upper level contained in the roof space via the use of front and back dormers. Plot 2 is a far larger dwelling of a slightly more contemporary design, which will offer living accommodation over two levels with the upper level contained within the wall heads.
- 5 It should be noted that only a small section of the site is proposed to be developed (the eastern part), with the remainder of the site proposed to be retained as a private paddock area associated with Plot 2.

NATIONAL POLICY AND GUIDANCE

- 6 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 relevance to this application is,

Scottish Planning Policy 2010

- 7 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.
- 8 The most relevant paragraphs are,
- Paragraphs 66-91: New housing
 - paragraphs 196-211: Flooding and drainage and
 - paragraphs 113-114: Listed Buildings.

Scottish Historic Environment Policy

- 9 This document, produced by Historic Scotland provides guidance to Planning Authorities on how to deal with planning applications which affect Listed Buildings and their settings.

DEVELOPMENT PLAN

- 10 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 – 2032 - Approved June 2012

- 11 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.”*

- 12 In addition to this, **Policy 3 (Managing Tay Plan's Assets)** of the Tay Plan seeks to ensure that the settings of Listed Buildings are not adversely affected by inappropriate developments.

Perth and Kinross Local Development Plan 2014 – Adopted February 2014

- 13 The Local Development Plan 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.
- 14 Within the Local Development Plan, the site lies within the settlement boundary of Invergowrie within an area identified as being residential with compatible uses, where the following policies are directly applicable.

Policy RD1 - Residential Areas

- 15 In identified areas, residential amenity will be protected and, where possible, improved. Small areas of private open space to be retained 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 HE2 - Listed Buildings

- 16 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 PM1A - Placemaking

- 17 Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place.

Policy NE3 -Biodiversity

- 18 All wildlife and wildlife habitats, whether formally designated or not should be protected and enhanced in accordance with the criteria set out.

Policy EP2 - New Development and Flooding

- 19 There is a general presumption against proposals for built development or land raising on a functional flood plain and in areas where there is a significant probability of flooding from any source, or where the proposal would increase the probability of flooding elsewhere.

OTHER COUNCIL POLICIES

Developer Contributions 2012

- 20 This document sets out the Council's policy towards obtaining developer contributions in relation to Primary Education and A9 junction upgrades.

RELEVANT LEGISLATION

Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

- 21 Section 59 of this Act requires the Council to have special regard (when determining planning applications) to the desirability of preserving the settings of listed buildings.

SITE HISTORY

- 22 A previous detailed planning application was submitted by the same applicant last year for the erection of five dwellings (13/01180/FLL). That application was withdrawn prior to its determination. The principal reasons why that application was withdrawn related to access and flooding issues.

CONSULTATIONS

- 23 **SEPA** have commented on the planning application and although they originally objected to the proposal, their objection was later withdrawn following discussions with the applicant and further consideration of the applicant's submitted Flood Risk Assessment.
- 24 **Scottish Water** have commented on the planning application and raised no concerns.
- 25 **Environmental Health Manager** has commented on the planning application and raised no concerns, subject to a standard condition relating to contaminated land.

REPRESENTATIONS

- 26 Seven letters of representations have been received from local residents, all objecting to the proposal. The main issues raised within the representations are,
- Proposal is contrary to the Local Development Plan 2014
 - Road safety issues
 - Flooding Issues
 - Loss of open space
 - Impact on existing wildlife
 - Impact on the setting of a listed building
 - Impact on existing visual amenity
 - Impact on existing residential amenity

- Unstable ground conditions along the sites boundaries
- Loss of Trees

27 These issues are addressed in the appraisal section of this report.

ADDITIONAL STATEMENTS

28

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	A detailed Flood risk assessment has been submitted by the applicant.

APPRAISAL

Policy

- 29 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.
- 30 The key test of the acceptability of this proposal is whether or not the proposed is consistent with the requirements of Policies RD1 and PM1A of the Local Development Plan which both seek to ensure that all new proposals in residential areas are compatible with existing land uses and that the character and amenity of the existing area is not adversely affected by inappropriate developments. For reasons stated elsewhere, I consider the proposal to be consistent with the aforementioned policies.

Land Use

- 31 Within the adopted Local Development Plan, the site lies within the settlement boundary of Invergowrie within an area identified as being residential with compatible uses. When new sites within settlement boundaries become available for development, their most obvious use will normally be for a residential use, unless otherwise identified for an alternative use. However, new developments within settlements should only be supported when the development proposed would not adversely affect the character or amenity of the area concerned. To this end, I consider the key test of the acceptability (or otherwise) of this proposal in land use terms to be whether or not the erection of two dwellings on the site would have an adverse impact on the character or amenity (visual and residential) of the area.

- 32 In terms of the impact on the character of the area, as the site is surrounded by existing housing, the general character of the surrounding area is clearly a residential one. There is no clear housing type or design in the area and whilst I accept that the larger of the two plots (Plot 2) is perhaps more contemporary in its appearance than both Plot 1 and other houses in the area, I'm nevertheless of the opinion that the two dwellings work relatively well with the existing house types, are comparable in their densities, and would in my view, be in keeping with the general character of the area.
- 33 However, I note that within the representations concerns have been raised regarding the potential impact that the proposal will have on the visual amenity 'value' which is associated with the existing openness of the site - which is considered by some objectors to be a key characteristic of the local area and that its part removal would be to the detriment to the general amenity of the area.
- 34 Although I appreciate the concerns of the local residents, it is a matter of fact that the site is within private ownership and is not operating as (or likely to be) a functional area of open space for the community, or even one which is readily available for public use. Whilst the historic openness and 'green' appearance of the site does undoubtedly have a degree of visual amenity 'value' for the local neighbouring residents who perhaps overlook it, the lack of a functional recreational purposes makes it extremely difficult to make a valid argument for its retention as a private area of open space, particularly bearing in mind that the site has not been identified in the Local Development Plan as an area of open space which should be retained and / or protected. It should be noted that the Local Development Plan does identify a number of areas of both private and public open space within settlements which have a high amenity value that should be protected, however this site is not one of them.
- 35 In terms of the impact on both existing residential amenity, and those of the future occupiers of the dwelling, I consider the proposal acceptable for the reasons stated below.
- 36 To this end, I consider the proposed land use of the site (for two dwellings) to be acceptable.

Residential amenity

- 37 In terms of the impact on the existing residential amenity of the area, I note that concerns have been raised within the representations in relation to the potential for overlooking to occur, and the potential for a loss of privacy as a direct result of this development. The dwelling proposed on Plot 1, this has been sited, and designed in such a way that I do not consider there to be any direct conflict with existing residential amenity in terms of overlooking or loss of privacy.
- 38 In terms of the dwelling on Plot 2, the dwelling has three windows at first floor level which are all located within 9m of a boundary with an existing residential property – two of these windows serve bathrooms whilst the other window serves a bedroom. Other ground floor windows are also located on the ground

floor within a 9m distance to the boundary, however due to the change in levels and existing boundary treatments; these are unlikely to result in any significant degree of overlooking or a result in a loss of privacy. Several rooflights are also proposed, however rooflights are typically for a source of light only, and are extremely difficult to obtain a view out at a straight or downward angle.

- 39 Nevertheless, a bedroom window at first floor level which is approx. 6m from a mutual boundary does have the potential to result in an unacceptable level of overlooking and affect privacy. However, looking at the floor plan of the first floor, there is clear scope to slightly alter the internal layout of the affected bedroom (No 5) and its associated adjacent en-suite bathroom, which in turn would negate the need for a bedroom window to face directly towards the neighbour to the east. To this end, and to ensure that the residential property to the east is not adversely affected by the proposal, I recommend a restrictive condition be attached to the consent which requires a slight modification of the internal layout, which in turn will address the overlooking issue.
- 40 Concerns have also been raised within the representation regarding the potential adverse impact that the proposal will have on existing residential amenity by creating noise and light pollution via vehicles entering and leaving the site. The access point may result in vehicle headlights shining towards the pair of semi-detached directly opposite the site, however in a built up, urban area this would not be considered an unacceptable position, particularly bearing in mind the level of vehicle movements per day, which is likely to be small.
- 41 In terms of the residential amenity which will be available to the occupiers of both dwellings, there is a sufficient level of amenity available to both plots. Clarification will be sought with regards to the exact extent of the domestic curtilage associated with Plot 2 in relation to how much of the paddock area will be used as private amenity space.

Visual Amenity

- 42 In addition to the concerns from local residential about the impact that the proposal will have on the visual amenity of the area in terms of the loss of the 'green' space, concerns have also been raised that the proposal will have an unacceptable impact on the local street scene and that the proposed house types are inappropriate for the area. The proposal will have little adverse impact either from Burnside Road to the south or from Main Street to the north. The local area is a mix of house types ranging from full three storey terraces to detached dwellings with accommodation in the roof space. To this end, I do not consider the proposal to have an adverse impact on the existing street scene along either Main Street or Burnside Road.

Traffic Safety/Access

- 43 Within the representations concerns have been raised regarding the proposed vehicular access arrangements, and also the increase in traffic that this development will generate. In terms of the new access arrangements, both the

plots will be served by one new private access which will be formed in accordance with the Council standards in terms of its visibility lines and physical geometrics.

- 44 I note that concerns have been specifically raised within the representations regarding the turning arrangements proposed for Plot 1 where vehicles entering and leaving Plot 1 will have to use the private access (shared with Plot 2) to enable them to leave and enter in a forward gear. Whilst this arrangement is perhaps not ideal, in this circumstance, the arrangement is considered acceptable by Transport Planning and I have no reason to offer a different view.
- 45 In terms of the potential increase in traffic on the local road network, the proposal may increase the number of vehicles on the local roads, however any increase will be minimal and the local road network is capable of absorbing any increases.

Flooding

- 46 Within the representations it has been raised that the site is an operational flood plain associated with the Invergowrie burn which runs adjacent to the site's western boundary. A flood risk assessment provided by the applicant has confirmed that the western part of the site, which is proposed to be used as a paddock associated with one of the plots, is subject to flood risk and this has been confirmed by SEPA. However, the areas of the site which are subject to be developed have been confirmed by SEPA to be outwith the flood risk area and are not potentially affected by flood risk. To this end, I have no concerns regarding flooding risk.

Bio-Diversity

- 47 Within the representations, concerns have been raised regarding the impact that this proposal will have on the local wildlife. There are no known protected species within the site, or within the immediate area. The riverbank habitat adjacent to the watercourse to the eastern part of the paddock may be suitable for otters, however no physical works are proposed to the riverbank. In terms of wildlife within the existing trees, the applicant will be made aware of their obligations in terms of the habitat regulations. The Council's Biodiversity Officer has raised no objection to the proposals.

Drainage

- 48 Within the representations concerns have been raised regarding the proposed drainage of the site, and the implications that the development will have on existing private drainage systems which may be located within the site. The site lies within a publicly sewered area and therefore the site would be connected to the public system. With regard to the existing infrastructure which may be located on the site, this is a civil matter between the parties involved which would be resolvable through a suitable technical solution.

Contaminated Land

- 49 The site is on an area of land that has been identified as being potentially filled ground, with the nature and volume of the infill material unknown. To this end, there is therefore the potential for localised ground gas production which could possibly impact on any residential properties being built close by. There is also the possibility of contaminants being present in the fill; therefore it is recommended that a full ground risk assessment should be carried out prior to building commencing. To this end, a standard condition will be attached to any consent requiring any contamination to be adequately dealt with.

Impact on the setting of Listed Buildings

- 50 This site is adjacent to the Road Bridge over the Invergowrie Burn, which has category B listed building status. The site is also in close proximity to the Old Toll House (1A Main Street) which is category C listed.
- 51 The northern most of the two plots (Plot 2) will have a degree of visual impact on the listed bridge; however due to the ground level of the site being lower than that of the road any impact on the setting of the bridge will not be significant. Additional landscaping to complement the existing landscape framework on the western edge of the site will further reduce any negative impact.

Loss of Trees

- 52 It is proposed to remove several trees as part of the proposals. None of the trees proposed to be removed are of any particularly visual merit, and to this end I have no concerns regarding their removal. As part of the detailed landscaping proposals, new planting will be proposed within the site to compensate for the tree loss.

Unstable ground along the site boundaries

- 53 Within the representations concerns have been raised regarding the unstable nature of some of the site's boundaries, which may be affected further by the development proposed, and particularly the new vehicular access. Whilst no information has been submitted by the applicant to rebut these claims, this is a civil matter between the applicant and the affected parties with the onus firmly on the applicant (or future developer) to ensure that the works which they carry on their land does not affect land owned by owners.

Maintenance of existing fences

- 54 Within the representation concerns have been raised regarding the long term maintenance of existing fences which bound the site. The upkeep of any existing fences will be an issue for the owners of the fences, and the Council would only ordinarily become involved in the matter if the condition of the fences became such that they were having a significant adverse impact on the visual amenity of the area.

Developer Contributions (Education)

- 55 The local primary school (Invergowrie) is not currently operating at over 80% capacity, and to this end there is no requirement for an education contribution.

LEGAL AGREEMENTS

- 56 None required.

DIRECTION BY SCOTTISH MINISTERS

- 57 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

- 58 The proposal, subject to conditions complies with the Development Plan and there are no reasons to recommend the application for refusal.

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 consent.
- 2 Unless otherwise agreed in writing by the Council as Planning Authority, development should not begin until a scheme to deal with the contamination on the site has been submitted to and approved in writing by the Council as planning authority. The scheme shall contain proposals to deal with the contamination to include:
 - 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

Before any residential unit is occupied the measures to decontaminate the site shall be fully implemented as approved by the Council as planning authority. Verification that the schemes proposals have been fully implemented must also be submitted to the Council as Planning Authority.

- 3 Prior to the commencement of any works on site, precise details of the proposed immediate domestic curtilage of Plot 2 shall be submitted to the Council as Planning Authority. The remainder of the site shall form a 'paddock' area, to the satisfaction of the Council as Planning Authority.

- 4 Prior to the commencement of any works on site, an amended internal arrangement for bedroom 5 and its associated en-suite shall be submitted for the approval in writing by the Council as Planning Authority. The amended arrangement shall adequately address the potential for overlooking to the residential property to the east and include an amended elevation and floorplan. The approved details shall be implemented in full, to the satisfaction of the Council as Planning Authority.
- 5 Prior to the commencement of any works on site, precise details of bin stances and recycling storage facilities shall be submitted for the approval in writing by the Council as Planning Authority. The approved details shall be implemented in full, to the satisfaction of the Council as Planning Authority.
- 6 Prior to the occupation of either dwelling, the vehicular access shall be formed in accordance with specification Type B, Fig 5.6 access detail to the satisfaction of the Council as Planning Authority.
- 7 Unless otherwise agreed in writing by the Council as Planning Authority, visibility splays of 2.4m x 43m measured from the centre line of the new access shall be provided in both directions along the nearside channel of Burnside Road prior to the commencement of the development and thereafter maintained free from any obstruction of a height exceeding 1.05 metres above the adjacent road channel level, all to the satisfaction of the Council as Planning Authority.
- 8 Prior to the commencement of any works on site, a detailed landscaping and boundary treatment plan shall be submitted for the approval in writing by the Council as Planning Authority. The approved details shall be implemented in full to the satisfaction of the Council as Planning Authority.
- 9 No physical development or earth movements shall take place within the paddock area to the west of Plot 2, unless otherwise agreed in writing by the Council as Planning Authority.
- 10 Prior to the commencement of any works on site, precise details of the proposed external finishes shall be submitted for the approval in writing by the Council as Planning Authority. The approved details shall be implemented in full, to the satisfaction of the Council as Planning Authority.

Reasons

- 1 To ensure that the development is carried out in accordance with the plans approved.
- 2 In the interest of protecting residential amenity.
- 3 In the interest of proper site management.
- 4 In the interest of protecting residential amenity.

- 5 In the interest of proper site management and in the interest of protecting existing visual amenity.
- 6-7 In the interest of protecting road and pedestrian safety.
- 8 In the interest of proper site management and in the interest of protecting existing visual amenity.
- 9 In the interest of proper site management.
- 10 In the interest of protecting existing visual 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 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 The applicant is advised that in terms of Sections 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 Environmental Protection Agency.
- 5 No work shall be commenced until an application for building warrant has been submitted and approved.

- 6 The applicant is advised to take full account (and action as necessary) of The Wildlife and Countryside Act 1981, Conservation (Natural Habitats, &c.) Regulations 1994, and Nature Conservation (Scotland) Act 2004 in relation to protected species and their associated habitats, which may be present within the site. As a result, if there is any subsequent knowledge of protected species at the site (in particular bats and red squirrels), it is recommended to consult Scottish Natural Heritage in the first instance. The applicant is further advised that there may be a requirement to employ a suitably qualified consultant to undertake a survey to both ascertain if a license is required and ensure protected species are suitably protected.

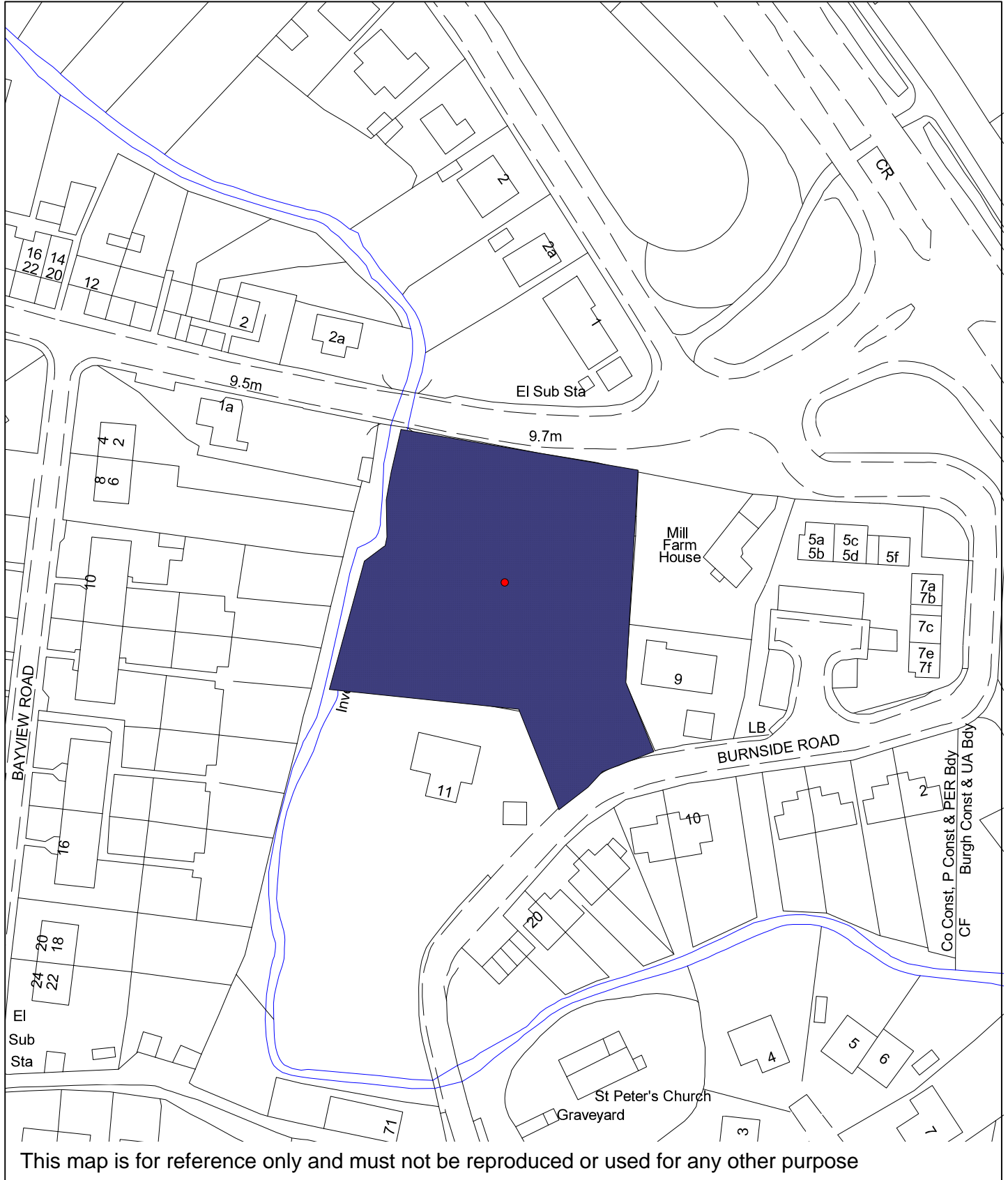
Nick Brian
Development Quality Manager

Background Papers: Seven letters of representation
Contact Officer: Andy Baxter – Ext 5339
Date: 25 April 2014

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