

Perth and Kinross Council
Development Management Committee – 18 February 2015
Report of Handling by Development Quality Manager

Formation of a river pontoon (in principle) on Land 60 Metres West Of Lairwell House, Kinfauns, Perth, PH2 7JU

Ref. No: 14/01675/IPL
Ward No: 1 – Carse of Gowrie

Summary

This report recommends approval of a planning in principle application for the formation of a river pontoon on the northern bank of the River Tay on a site west of Lairwell House, Kinfauns as the development 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 This planning application seeks to obtain a planning in principle consent for the formation of a river pontoon into the River Tay. The proposed pontoon would be accessed from the northern river bank, slightly down river from the existing Willowgate Café – which is located under the Friarton Bridge. In addition to the floating pontoon itself, some engineering works would also be required on the riverbank to provide a link between dry land to the floating pontoon.
- 2 As part of this submission an indicative elevation of a pontoon was submitted which shows a pontoon projecting approximately 30m from the river bank. It is the case that the final design of the pontoon would be subject to further discussions with the relevant stakeholders and consultees before the final design specification is agreed and indeed an application lodged for detailed consent. However, the projection of the pontoon at this particular location will be significantly less than the 30m shown on the indicative elevation due to operational issues associated with Perth Harbour.
- 3 The majority of movement to and from the pontoon will be via the water; however vehicular access to the pontoon would be available via the existing private vehicular access which crosses the railway line via the rail bridge. Pedestrian access would also be achievable by this same route, as well as from the riverside walk from Perth.
- 4 The pontoon subject of this application is part of a wider project that proposes to create three pontoons along the River Tay with the aim of promoting recreational river movement to and from Perth. Pontoons at the other locations, Fergusson Gallery in Perth City Centre and Elcho Castle further down river have already been granted planning permission by the Council under delegated powers.

NATIONAL POLICY AND GUIDANCE

- 5 The Scottish Government expresses its planning policies through The National Planning Frameworks, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Creating Places, Designing Streets, National Roads Development Guide and a series of Circulars. Whilst the principle of new tourist attractions and new economic ventures are supported at national level, there are no specific national policies or guidance which are directly relevant to this proposal.

DEVELOPMENT PLAN

- 6 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2012-2032 and the Perth and Kinross Council Local Development Plan 2014.

TAYplan Strategic Development Plan 2012

- 7 Whilst there are no specific strategies or policies directly relevant to this proposal the overall vision of the TAYplan 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.”*

Perth and Kinross Local Development Plan 2014

- 8 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.
- 9 Within the Local Development Plan, the site lies on the banks of the environmentally sensitive River Tay and within an area designated as the Green Belt where the following policies are directly applicable,

Policy PM1A - Placemaking

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

Policy PM3 - Infrastructure Contributions and the Developer Contributions Supplementary Guidance

- 11 Seeks to ensure Developer Contributions in certain circumstances.

Policy NE1 – Environmental & Conservation Policies

- 12 Seeks to protect international, national and local environmental designations from inappropriate developments.

Policy NE5 – Green Belt

- 13 This policy states that there is a presumption against new development, unless it's related to (amongst other things) recreational activities and its use is compatible with the functionality of the Green Belt.

OTHER COUNCIL POLICIES

Developer Contributions, Transport Infrastructure 2014

- 14 This Supplementary Guidance is about facilitating development. It sets out the basis on which the Council will seek contributions from developments in and around Perth towards the cost of delivering the transport infrastructure improvements which are required for the release of all development sites and to support the growth of Perth and Kinross. This Supplementary Guidance should be read in conjunction with Local Development Plan Policy PM3: Infrastructure Contributions and the Developer Contributions Supplementary Guidance.

SITE HISTORY

- 15 Detailed planning consent exists on the site for the erection of a new boathouse with associated ancillary holiday accommodation. As part of that proposal, a small floating pontoon (unattached to the land) was also proposed. Due to that pontoon's floating nature, it did not require the benefit of formal planning permission however it was nevertheless shown on the approved plans.

CONSULTATIONS

EXTERNAL

- 16 **Perth And Kinross Area Archaeologist** -no comment to make.
- 17 **Scottish Environment Protection Agency** - no objection raised on flooding matters.
- 18 **Scottish Natural Heritage** - no objection on the potential impact on European Protected Species has been raised.
- 19 **Transport Scotland** – objection raised on the increase usage of the junction with the M90.
- 20 **Network Rail** - commented in terms of the movement of vehicles crossing the railway bridge and subject to additional information being submitted at the detailed planning stage, they have raised no objection to the proposal.
- 21 **Marine Scotland** - whilst they have no specific comment on the proposal itself, they have confirmed that the proposal would require a licence from Marine Scotland.
- 22 **Maritime & Coastguard Agency (MCGA)** -have chosen not to make specific comment in terms of navigation matters.

23 **Northern Lighthouse Board** - no objection to the proposal in terms of navigation matters.

INTERNAL

24 **Transport Planning** – no objection to the proposed vehicular access arrangements.

25 **Local Flood Prevention Authority** - no objections to the proposal on flooding matters.

26 **Environmental Health** - no objections to the proposal in terms of noise related matters.

27 **Harbour Master** - has commented on the planning application in terms of the impact on Perth Harbour and indicated that in principle he has no objection to a pontoon in this location. The Harbour Master has however suggested that the projection of the pontoon must be subject to further discussions with the relevant navigation authorities to ensure that it does not affect the navigation channel.

REPRESENTATIONS

28 Fifteen letters of representation have been received, all of which are objecting to the proposal. Included in those fifteen representations are objections from Perth Sailing Club and the Royal Yacht Club of Scotland.

29 The main issues raised within the representations are,

- impact on recreational sailing in the area
- impact on the functionality of Perth Harbour
- increase in traffic and the effect on the railway bridge
- impact on visual amenity
- impact on residential amenity
- impact on wildlife

30 These issues are addressed 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 (<i>The River Tay is a SAC, however the siting of the pontoon itself will not cause an impact on the integrity of the SAC, subject to an appropriate CMS being approved</i>)
Design Statement / Design and Access Statement	Not required
Report on Impact or Potential Impact	Otter Survey Submitted

APPRAISAL

- 32 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) require the determination of the application to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise.
- 33 The Development Plan for the area comprises the approved TAYPlan 2012 and the adopted Perth and Kinross Local Development Plan 2014 (LDP).

Policy

- 34 In terms of policy issues, the key land use policies are contained within the LDP. Within that plan, the site lies within the Green Belt where *Policy NE5* is directly applicable. This policy states that there is a presumption against new development unless it is related to (amongst other things) recreational activities and its use is compatible with the functionality of the Green Belt.
- 35 In addition to this, *Policy PM1A* of the LDP seeks to ensure that all new developments do not have an adverse impact on the existing environment, whilst *Policy NE1* of the LDP seeks to ensure that the conservation interests attached to environmentally sensitive sites (such as the River Tay) are not adversely affected by inappropriate new developments.
- 36 For reasons stated below, I consider the proposal to be consistent with all the aforementioned policies.

Land Use

- 37 In terms of land use issues, as the site is located within the Green Belt which surrounds the city of Perth, the key land use issue is whether or not the proposal complies with the requirements of *Policy NE5* of the LDP, which relates to new development within the Green Belt. *Policy NE5* states that there is a presumption against new development, unless it is specifically related to (amongst other things) recreational activities and its use is compatible with the functionality of the Green Belt. This proposal, in combination with the other two pontoons at the Fergusson Gallery and Elcho Castle are part of an exciting project which aims to promote the Inner Tay Estuary as a tourist attraction by introducing connectivity to and from Perth via the River Tay. I therefore consider the proposal to be perfectly compatible with the land use requirements of *Policy NE5* of the Local Development Plan 2014.

Design and Visual Amenity

- 38 Whilst the final design of the pontoon has yet to be confirmed, the pontoon will be extremely simple and modest in scale, and in a riverside location such as this does not raise any specific issues in terms of visual amenity issues. Precise details of the pontoon and its associated fixing to the riverbank will be subject to further consideration, however I am satisfied that a pontoon structure and its associated engineering works on the river bank can be achieved without having an adverse impact on the visual amenity of the area.

Impact on Perth Harbour / Recreational Sailing

- 39 Within the representations it is clear that there is considerable anxiety within the local sailing community regarding a pontoon in this location. However, it is my understanding that a number of the representations were made based on the indicative pontoon which showed a projection of 30m. As stated previously, to ensure that the functionality of Perth Harbour is not hindered, the projection of the pontoon will be significantly shorter than the 30m suggested in the indicative elevation to ensure that the pontoon does not cross the established navigation channel so that the movement of commercial traffic entering the harbour and recreational activities are not adversely affected by the pontoon. I therefore consider the issues regarding the functionality of the harbour and recreational sailing are matters which can be adequately addressed via a suitable design of pontoon.

Impact on Residential Amenity

- 40 As a result of the location of the proposed pontoon, the proposal raises no direct residential amenity issues. I note that a neighbouring resident has raised an objection to the proposal on the grounds that the proposal would adversely affect their existing residential amenity in terms of noise nuisance, however subject to suitable controls relating to the general operation of the pontoon the proposal is unlikely to result in an unacceptable noise nuisance.

Roads and Access Issues

- 41 The proposal raises no issues in terms of road or access related matters. The nature of the proposal is such that it will not be generating a significant level of new vehicular traffic movements as the majority of movements to and from the pontoon would be via the River Tay. Both Transport Scotland and Network Rail have commented on the proposal and raised no objections (at this in principle stage) in terms of additional traffic using both the junction at the M90 trunk road and the rail bridge. Network Rail have however maintained their longstanding position regarding the existing bridge (which they own) and indicated that the applicant should be made aware that an upgrade to the existing bridge may be necessary if the proposal were to result in an increase in vehicular traffic movements over the bridge.

Flooding

- 42 In terms of the functionality of the pontoon in times of high tides and high floods, both SEPA and the Council's Flooding Prevention Team have commented on the proposal and raised no objection to the proposal.

Impact on Protected Species

- 43 There are no known protected species within the area proposed for the pontoon and its associated engineering works. However, as the riverbank location would be a potentially suitable habitat for otters, an otter survey was carried out prior to the submission of this planning application and that survey found no evidence of the presence of otters and / or their holts.

Developer Contributions (Transport Infrastructure)

- 44 As the proposal is not creating any actual floor space, the Developer Contributions Guidance in respect of Transport Infrastructure is not applicable to this proposal and therefore no contributions are required in this instance.

ECOMONIC IMPACT

- 45 The proposal will have a positive impact on the local economy due to its tourist related nature.

LEGAL AGREEMENTS

- 46 None required.

DIRECTION BY SCOTTISH MINISTERS

- 47 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, 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

- 48 The proposal is in accordance with the relevant land use policies contained in the Local Development Plan 2014 and raises no policy issues which justifies refusal of the application. This proposal, in combination with the other pontoon proposals at Elcho Castle and the Fergusson Gallery would create an exciting river taxi facility that will promote tourism in Perth and the surrounding areas without comprising the character of the Green Belt, the visual amenity of the area or the residential amenity of any existing properties and therefore should be supported.

RECOMMENDATION

A Approve the application subject to the following conditions:

- 1 The development shall not commence until the following matters have been approved by the Council as Planning Authority: the siting, design and external appearance of the development.

Reason - In accordance with the terms of Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended by Section 21 of the Planning etc (Scotland) Act 2006.

- 2 Notwithstanding the terms of Condition 1, prior to the commencement of any works on site a detailed Construction Management Scheme (CMS) shall be submitted for the approval in writing by the Council as Planning Authority. The CMS must take into account the impact that the proposal may have on European Protected Species and shall be implemented in full, to the satisfaction of the Council as Planning Authority in consultation with SNH.

Reason – In order to ensure that the environmentally sensitive nature of the River Tay is fully considered during the construction phase.

- 3 The indicative details as shown on plan 14/01675/2 are for illustrative purposes only and are not hereby approved.

Reason – This is a planning in principle application only.

- 4 Notwithstanding the terms of Condition 1, an application for the approval of matters specified by condition must include a traffic study identifying the existing vehicle movements over the existing rail bridge and those to be generated by the proposed pontoon.

Reason – In the interest of public safety.

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 applicable

D INFORMATIVES

- 1 Application for the approval of matters specified in conditions shall be made before the expiration of 3 years from the date of the grant of planning permission in principle, unless an earlier application for such approval has been refused or an appeal against such refusal has been dismissed, in which case application for the approval of all outstanding matters specified in conditions must be made within 6 months of the date of such refusal or dismissal.
- 2 The approved development shall be commenced not later than the expiration of 3 years from the date of grant of planning permission in principle or 2 years from the final approval of matters specified in conditions, whichever is later.
- 3 The applicant is strongly advised to contact SNH to agree the scope of the information required in connection with Condition 2, prior to the formal submission of an application for approval of matters specified.
- 4 The applicant should be aware that a licence will be required from Marine Scotland prior to any works commencing.
- 5 The applicant should be fully aware of Network Rail's long standing safety concerns over the intensification of vehicular or other use of the private occupation bridge. Network Rail own and maintain that bridge and have a statutory responsibility for rail safety. There is no obligation on Network Rail to permit additional use of the bridge to give access to other lands which were not previously served by the bridge. The advice from Network Rail is that works to the bridge and approach may be required to address their safety concerns. The

applicant must contact Network Rail to discuss these issues and no intensification of use and/or permitted activities under this planning permission should commence until safety concerns have been addressed and any works fully implemented.

Nick Brian
Development Quality Manager

Background Papers: 15 letters of representation

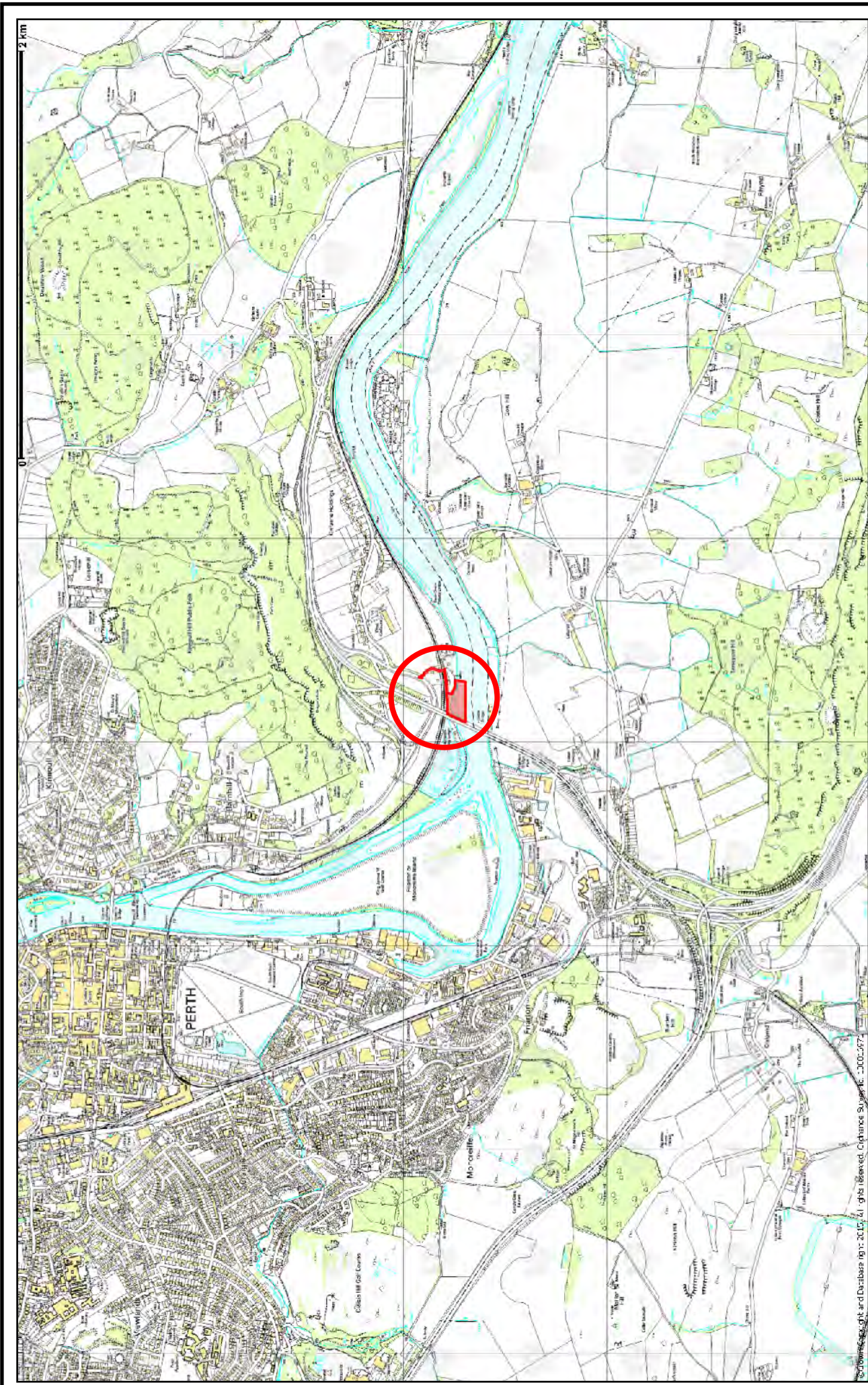
Contact Officer: Andy Baxter – Ext 5339

Date: 4 February 2015

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14/01675/PL
 Formation of river pontoon at land 60m west of Lairwell House,
 perth



Development
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 Scale 1:25000

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