

Perth and Kinross Council  
Development Control Committee – 15 July 2015  
Report of Handling by Development Quality Manager

**Erection of eight dwellings with associated access road, parking bays, turning areas and drainage arrangements on Land 110 Metres South East Of Beaufield, Balado, Kinross**

Ref. No: 13/01379/FLL  
Ward No: 8 – Kinross - shire

**Summary**

The report recommends approval of the application for the erection of eight dwellings with associated access road, parking bays, turning areas and private drainage arrangements.

**BACKGROUND AND DESCRIPTION**

- 1 The application site is a 1.56 ha area of flat open land most recently used for a paddock / grazing for horses within the small settlement of Balado approximately 1.5 km to the west of Kinross and accessed off the A977. The application site is within the Loch Leven Catchment Area. The application site is bounded by residential properties to the east, north and west and open land to the south beyond the settlement boundary.
- 2 This is an amended proposal for the erection of 8 detached dwellinghouses along with associated infrastructure including an access road, parking and turning areas and drainage arrangements including phosphorus mitigation to Loch Leven. The amendments which were advertised on the 28 March 2014 included changing the garage position and elevational detailing on plots 3, 4 and 6 to reduce overshadowing and confirmation of the boundary treatments. Further amendments were made which were advertised on the 20 June 2014 with the provision of an access road between plots 1 and 2 to the drainage infrastructure and a revised drainage system was submitted incorporating treatment and discharge to the Killoch Burn to the south east of the site. Further amendments were made and the application re-advertised and neighbours notified on 8 May 2015 following protracted negotiations and concerns raised by SEPA on the private drainage arrangements and discharge to the Killoch Burn. The proposed drainage arrangements are now relocated to the north east of the site with a private waste water treatment plant and foul soakaway for the proposed 8 dwellinghouses.
- 3 The proposed dwellinghouses are detached and contemporary in style and a mixture of one and 2 storeys with accommodation in the roof space and single storey outshots. Materials proposed include white wet dash render, natural stone and treated larch to the external walls, natural slate to the roof and white painted timber windows and doors. Boundary treatment includes proposed new and existing hedging and post and wire fencing. Access to the public road will be achieved by linking into an existing access road to the west which serves 4

recently developed dwellings. A private waste water treatment plant is proposed capable of phosphorus mitigation to the Loch Leven Catchment Area.

## **NATIONAL POLICY AND GUIDANCE**

### **Scottish Planning Policy 2014**

- 4 The SPP is a statement of Scottish Government policy on how nationally important land use planning matters should be addressed across the country. It is non-statutory. However, Section 3D of the Town and Country Planning (Scotland) 1997 Act requires that functions relating to the preparation of the National Planning Framework by Scottish Ministers and development plans by planning authorities must be exercised with the objective of contributing to sustainable development. Under the Act, Scottish Ministers are able to issue guidance on this requirement to which planning authorities must have regard. The Principal Policy on Sustainability is guidance under section 3E of the Act.
- 5 The 1997 Act requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. As a statement of Ministers' priorities the content of the SPP is a material consideration that carries significant weight, though it is for the decision-maker to determine the appropriate weight in each case. Where development plans and proposals accord with this SPP, their progress through the planning system should be smoother.

Of relevance to this application are:

- Paragraphs 109 – 134: Enabling Delivery of New Homes

### **Designing Streets: A Policy Statement for Scotland 2010**

- 6 Streets have to fulfil a complex variety of functions in order to meet people's needs as places in which to live, to work and to move around. Their design requires a thoughtful approach that balances potential conflicts between different users and objectives.

### **Planning Advice Note 67 (Housing Quality)**

- 7 Designing Places, published November 2001, sets out the Scottish Governments aspirations for design and the role of the planning system in delivering them. This Planning Advice Note explains how Designing Places should be applied to new housing.

### **Planning Advice Note 76 (Designing new residential streets)**

- 8 This document has been produced in line with the Scottish Governments drive to promote the design agenda. It follows on from *Designing Places* and forms part of the design based series of PANs. In particular, it complements, and should be read in conjunction with, *PAN 67 Housing Quality*. The advice applies to everyone engaged in the planning, design and approval of streets in

new residential developments including planners, road engineers, architects and developers. In particular, it means that planners and engineers should work more closely together.

## **DEVELOPMENT PLAN**

- 9 The Development Plan for the area consists of TAYplan Strategic Development Plan 2012 – 2032 and the Perth and Kinross Local Development Plan 2014.

### **TAYplan Strategic Development Plan 2012 – 2032**

- 10 Under the TAYPlan the principal relevant policy is:-

#### **Policy 5: Housing**

- 11 Ensure that the mix of housing type, size and tenure meets the needs and aspirations of a range of different households throughout their lives, including the provision of an appropriate level of affordable housing based on defined local needs. Local Development Plans (where applicable) will need to set affordable housing requirements for or within each housing market area.

## **PERTH AND KINROSS LOCAL DEVELOPMENT PLAN 2014**

- 12 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. Under the LDP the site lies within the settlement boundary of Balado where the principal relevant policies are:-

#### **PM1: Placemaking**

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

#### **Policy RD1 Residential Areas**

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

#### **RD4: Affordable Housing**

- 15 Residential development consisting of 5 or more units should include provision of an affordable housing contribution amounting to 25% of the total number of units

#### **EP7: Drainage within the Loch Leven Catchment Area**

##### **EP7A**

- 16 Total phosphorus from development must not exceed the current level permitted by the discharge consents for Kinross and Milnathort waste water

treatment works together with the current contribution from built development within the rural area of the catchment.

**EP7B**

- 17 Developments within the Loch Leven catchment area will be required to connect to a publicly maintained drainage system incorporating phosphorus reduction measures. Exceptions will only be permitted where they are in accordance with criteria set out.

**EP7C**

- 18 Where EP7A and EP7B cannot be satisfied, proposals will be refused unless they are capable of removing 125% of the phosphorus likely to be generated by the development from the catchment.

**Policy PM3 – Contributions**

- 19 Where the cumulative impact of new developments will exacerbate a current or generate a future need for additional infrastructure provision or community facilities, planning permission will only be granted where contributions which are reasonably related to the scale and nature of the proposed development are secured.

**Other Policies**

**Affordable Housing Supplementary Guidance (2012)**

- 20 Sets out the Council's updated 2005 Affordable Housing Policy and supporting guidance for securing appropriate affordable housing requirements to all sites where the threshold has been met or exceeded.

**Developer Contributions (2012)**

- 21 Sets out the Council's Policy for securing contributions from developers of new homes towards the cost of meeting appropriate infrastructure improvements necessary as a consequence of development.

**SITE HISTORY**

- 22 None

**CONSULTATIONS**

- 23 **External**

**SEPA**

No objections subject to suitable mitigation measures being put in place for phosphorus mitigation and CAR licencing being secured.

<b>Scottish Natural Heritage</b>	No objections subject to mitigation measures being put in place for 125% phosphorus reduction to the Loch Leven Catchment Area by condition or legal agreement.
<b>Scottish Water</b>	No objections as the proposed development shall not connect to the public drainage network. A suitable SUDs scheme should be put in place for the development.
<b>Internal</b>	
<b>Education &amp; Children's Services</b>	No objections subject to a financial contribution to the local school.
<b>Transport Planning</b>	No objections to conditions for the roads and associated works being in accordance with the Council's specifications, suitable surface water treatment, and pick up and drop off areas for school children/bus passengers on both sides of the A977, and a 3 bay enclosed bus shelter.
<b>Kinross Community Council</b>	Objection on the grounds that the proposal is outwith the envelope for the last local plan and contravenes the proposed new Development Plan as the area is not zoned for housing. It will create increased traffic problems at A977 junction, overdevelopment of the site and concerns over drainage and flooding.
<b>Environmental Health</b>	No objections subject to a noise condition to control noise from the proposed waste water treatment plant.

## REPRESENTATIONS

24 16 letters of representation have been received raising the following issues:-

- Odour issues
- Increased traffic and road safety onto A977
- Flooding
- Overlooking and impact on privacy
- Properties too close to existing housing/overdevelopment
- No provision made for SUDs
- Inappropriate road layout

- Ridge heights proposed not appropriate
- No open space provision
- Boundary treatment unclear
- Impact on daylighting
- Impact on private water supplies

25 These issues are all addressed in the Appraisal section of this report.

## ADDITIONAL STATEMENTS

26	Environment Statement	Not required
	Screening Opinion	Not required
	Environmental Impact Assessment	Not required
	Appropriate Assessment	Not required
	Design Statement / Design and Access Statement	Not required
	Report on Impact or Potential Impact	Not required

## APPRAISAL

27 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise. The Development Plan consists of the TAYplan 2012 and the Perth and Kinross Local Development Plan 2014.

28 The determining issues in this case are whether; the proposal complies with development plan policy; or if there are any other material considerations which justify a departure from policy.

### Policy

29 The application site is within the small settlement of Balado where the principle of residential development is accepted. The detailing of the proposal and all other material planning considerations are considered below.

### Scale and Design

30 The scale and design of the proposed dwellinghouses is acceptable and reflects the character of the surrounding housing which is relatively modern in appearance. The external materials are of high quality, including natural slate and stone and timber boarding. The height of the dwellinghouses at 2 storeys is not excessive and is similar to the height of existing housing to the north and east. The proposal therefore will not have any detrimental impact on the character or appearance of neighbouring housing or on the wider area around Balado. The layout of the proposal is acceptable and dictated by the configuration of this infill site within the village boundary of Balado with a continuation of the existing access road to the east.

## **Residential Amenity**

- 31 The plot ratios and distances to boundaries are greater than 9 metres and therefore affords occupiers of the development with a suitable level of amenity in terms of garden size and does not pose any privacy or overshadowing/daylighting issues to existing neighbouring properties. Concerns were raised on the lack of open space provision within the development, however it is considered that the number of houses proposed on this site does not generate a requirement for the provision of communal open space provision for the wider community. A noise condition is recommended by Environmental Health on any consent to protect neighbouring residential amenity from any noise generated by the private waste water treatment plant to the north of the site. Concerns were raised by neighbours on odour issues from the treatment plant. Any operational issues arising from the treatment plant including odour will be dealt with through SEPA's CAR licencing regulations to ensure there is no amenity issues to neighbouring residential properties.

## **Landscaping and Visual Impact**

- 32 The application site configuration is an infill site and is contained within the village to the east, north and west by existing housing and garden ground. The southern boundary has an open aspect to the wider countryside similar to adjacent housing on the southern edge of the settlement boundary. The building line along this edge has been maintained by this infill proposal and it is considered that it will not create any additional adverse visual impact to the wider countryside at this location. Boundary treatment proposed is post and wire fencing and existing hedging to the north and east boundaries.

## **Roads and Access**

- 33 There are no objections to the proposal from the Council's Transport Planner subject to conditions to ensure that the roads and associated works are carried out in accordance with the Council's specifications and that prior to occupation of the development pick up/drop off areas for school children are provided on both sides of the A977. There were concerns raised by neighbours that there were issues of road safety and that the road layout was inappropriate, however the Transport Planner has no objection with regard to these issues and the proposal is considered acceptable in terms of access, parking and road layout subject to conditions.

## **Drainage and Flooding**

- 34 A private waste water treatment plant is proposed for foul drainage which will incorporate phosphorus stripping as required in the Loch Leven Catchment Area. The applicant has demonstrated satisfactorily that sufficient phosphorus mitigation can be achieved to accommodate the proposed development through the upgrade of 2 existing 5 and 3 bedroom dwellinghouses at Beaufield, Middle Balado and Gardeners Cottage, Turfhill, both being within the Loch Leven Catchment Area and this will be secured by condition. The

revised drainage scheme incorporating treatment and discharge to soakaway to the north of the site will require CAR authorisation, however SEPA accept the principle of the proposed drainage and mitigation scheme. The application site is not in an identified flood risk area and any surface water issues can be dealt with through a suitable SUD's scheme for the site. Any possible odour issues with regard to the foul treatment plant will be dealt with through SEPA's CAR licencing regulations.

### **Private Water Supplies**

- 35 There were concerns raised by SEPA who initially objected to the proposal with regard to possible impact of the foul drainage measures on private water supplies in the vicinity. This matter has been resolved and SEPA have withdrawn their objection. An informative is recommended on any consent to make the applicant aware that any works in the vicinity of private water supplies complies with the Water Scotland Act 1980 (Section 63) and the Private Water Supplies (Scotland) Regulations 2006.

### **Developer Contributions**

- 36 Affordable Housing

The Council's Affordable Housing Policy requires that 25% of the total number of houses, above a threshold of 5 units, for which planning consent is being sought is to be in the form of affordable housing.

As this application is for 8 units, the affordable housing requirement would therefore be for 2 units ( $8 \times 0.25 = 2$ ).

Under the current policy where sites are at, or under, the 10 unit threshold for on-site provision, and on-site provision is not appropriate, other methods of contribution are available. The preferred type of contribution in this case would be a commuted sum payment; this has been discussed and agreed with Housing & Community Care. The commuted sum stated in the Affordable Housing Supplementary Guidance (November 2012) for the Kinross HMA is £15,000 per unit, therefore the applicable figure is £30,000 ( $2 \times 15,000$ ).

- 37 Education

This development falls within the Kinross Primary School catchment area. Based on current information this school will reach the 80% capacity threshold. Therefore the Finalised Primary Education and New Housing Contributions Policy shall be applied to this application where there is a contribution required on 6 of the 8 units, i.e  $£6395 \times 6 = £38\ 370$ .

### **Economic Impact**

- 38 There will be economic benefits arising from the proposal through the construction phase of the development and added value through spending on goods and services in the local economy.



## **LEGAL AGREEMENTS**

39 A legal agreement may be required for the deferral of developer contributions.

## **DIRECTION BY SCOTTISH MINISTERS**

40 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**

41 The application site is an infill site within the settlement boundary of Balado where the principle of residential development is considered to be acceptable. The scale, design and density of the housing proposed is acceptable and will not have any detrimental impact on the character or appearance of the area, in accordance with local development plan policy. The road layout is acceptable in terms of access and road safety. Suitable foul and surface water drainage arrangements have been agreed and will be secured by condition on any consent to the benefit of the Loch Leven Catchment Area. For the reasons outlined above the proposal is recommended for approval.

## **RECOMMENDATION**

**A** Approve the application subject to the following conditions and reasons:

### **Conditions and Reasons for Recommendation**

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.

Reason - To ensure that the development is carried out in accordance with the plans approved.

2 Details of the specification and colour of the proposed external finishing materials to be used shall be submitted for the approval of the Planning Authority prior to the commencement of the development. The scheme as approved shall be implemented prior to the occupation and or use of the development.

Reason - In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.

3 Roads and associated works shall be constructed in conformity with the Council's specifications and to the satisfaction of the Council as Planning Authority prior to the occupation and use of the approved development.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 4 Prior to the occupation and use of the approved development all matters regarding access, car parking, road layout, design and specification, including the disposal of surface water, shall be in accordance with the standards required by the Council as Roads Authority and to the satisfaction of the Planning Authority.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 5 Prior to the occupation or use of the approved development 'Pick up and drop off' areas for school children / bus passengers shall be provided on both sides of the A977 road adjacent to the Balado junction. The areas shall be a minimum of 6m long by nominally 1.8m wide kerbed and surfaced to the requirements of the Council as Roads Authority to the satisfaction of the Planning Authority. The area on the north side of the A977 shall incorporate a 3 bay enclosed bus shelter to the standard required by the Council.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 6 Prior to commencement of work on site a fully detailed SUD's scheme incorporating best practise shall be submitted for the approval of the Planning Authority.

In the interests of flood risk and surface water treatment.

- 7 Prior to commencement of work a fully detailed hard and soft landscaping plan including boundary treatment and planting plan shall be submitted for the approval of the Planning Authority.

Reason - In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.

- 8 The foul drainage infrastructure capable of achieving not less than 125% phosphorus mitigation associated with this development shall be undertaken in a phased manner:-

a) No development shall commence on the approved development site until the mitigating foul drainage infrastructure at the remote properties at Beaufield Easter and Middle Baldo and Gardener's Cottage, Turfhill has been installed.

b) Following the installation of the foul drainage infrastructure at the remote property/properties the development site shall only be occupied once the foul drainage infrastructure for the development site has been installed to the reasonable satisfaction of the Planning Authority. For the

avoidance of doubt the installed drainage infrastructure at the development site as approved shall be retained all to the reasonable satisfaction of the Planning Authority.

Reason - To ensure appropriate drainage arrangements are installed and retained to remove phosphorus from the Loch Leven Catchment Area thereby ensuring compliance with policies EP7 of the Perth and Kinross Kinross Local Development Plan 2014 and Enterprise and Infrastructure Committee Resolution of 28 August 2013.

- 9 No development shall commence until the applicant has submitted approved CAR licence(s) under the Water Environment (Controlled Activities)(Scotland) Regulations 2011 for the drainage infrastructure associated with this project to the Planning Authority and the Planning Authority has confirmed receipt of the documentation in writing.

Reason - To ensure appropriate drainage arrangements are installed and retained to remove phosphorus from the Loch Leven Catchment Area thereby ensuring compliance with policies EP7 of the Perth and Kinross Kinross Local Development Plan 2014 and Enterprise and Infrastructure Committee Resolution of 28 August 2013.

- 10 All plant or equipment including any ventilation system shall be so enclosed, attenuated and/or maintained such that any noise therefrom shall not exceed Noise Rating 35 between 0700 and 2300 hours daily, or Noise Rating 25 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 rating curve chart.

Reason - In the interests of residential amenity.

## **B JUSTIFICATION**

The proposal is considered to generally comply with the Development Plan and the material considerations available add weight to a recommendation of approval.

## **C PROCEDURAL NOTES**

Prior to issue of consent the applicant shall provide a financial contribution of £30 000 towards affordable housing provision and a financial contribution of £38 370 towards improving educational capacity at Kinross Primary School. Deferral of these payments may be acceptable through the conclusion of a suitable legal agreement with the Council prior to issue of consent.

The formal planning consent shall not be issued until such time as the required Developer Contributions have been secured. In the event that the applicant does not a) make the required payment upfront within 14 days of

the date of the committee decision or b) complete a legal agreement for its delayed payment within a 4 month period, the application will be refused.

## **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 Aection 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 Section 21 of the Roads (Scotland) Act 1984 he/she/they must obtain from the Council as Roads Authority consent to construct a new road prior to the commencement of roadworks. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environment Protection Agency.
- 5 No work shall be commenced until an application for building warrant has been submitted and approved.
- 6 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.
- 7 The applicant should ensure that any existing wayleaves for maintenance or repair to existing private water supply or septic drainage infrastructure in the development area are honoured throughout and after completion of the development.

Background Papers: 16 letters of representation

Contact Officer: Mark Williamson – Ext 75355

Date: 30 June 2015

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

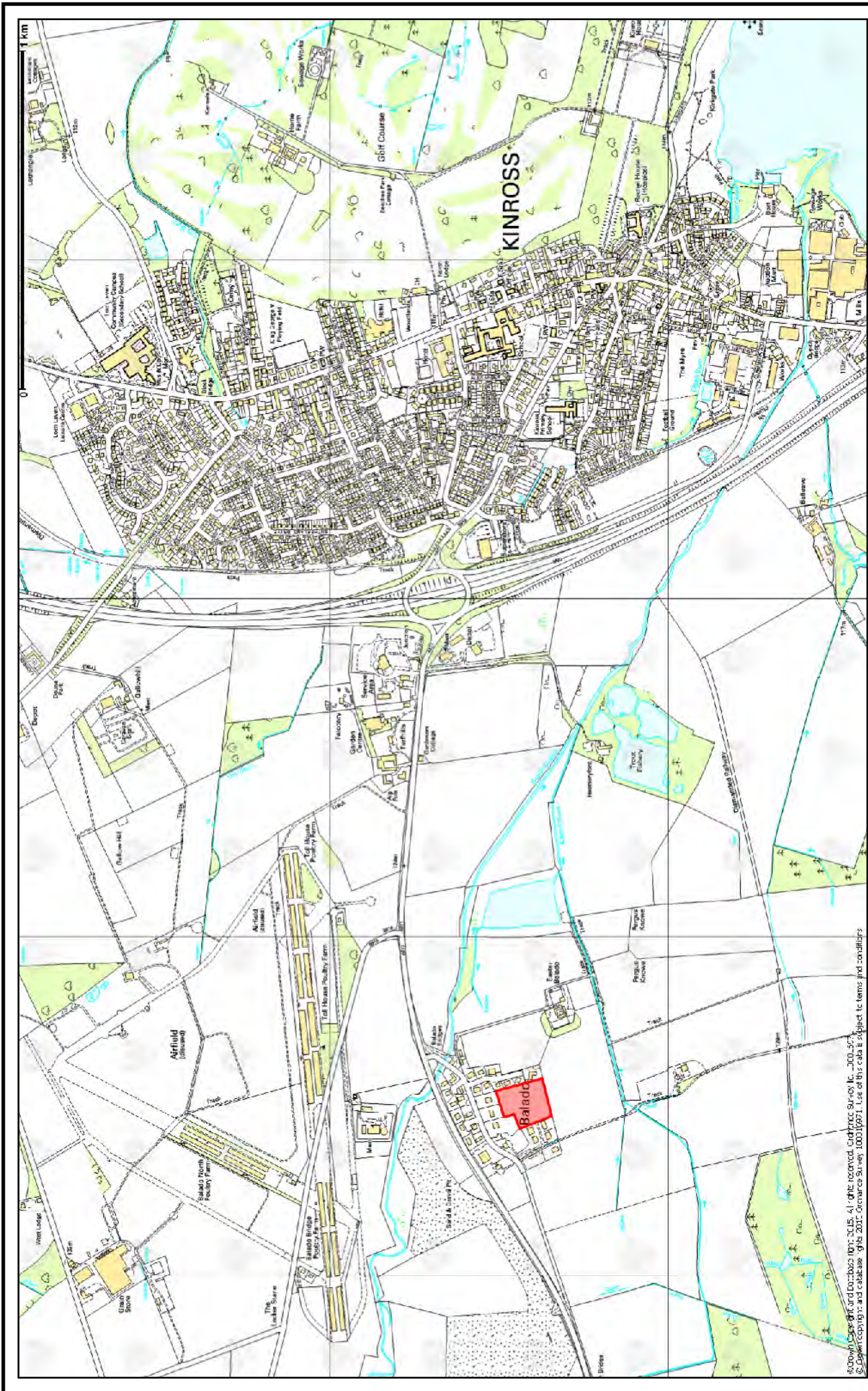
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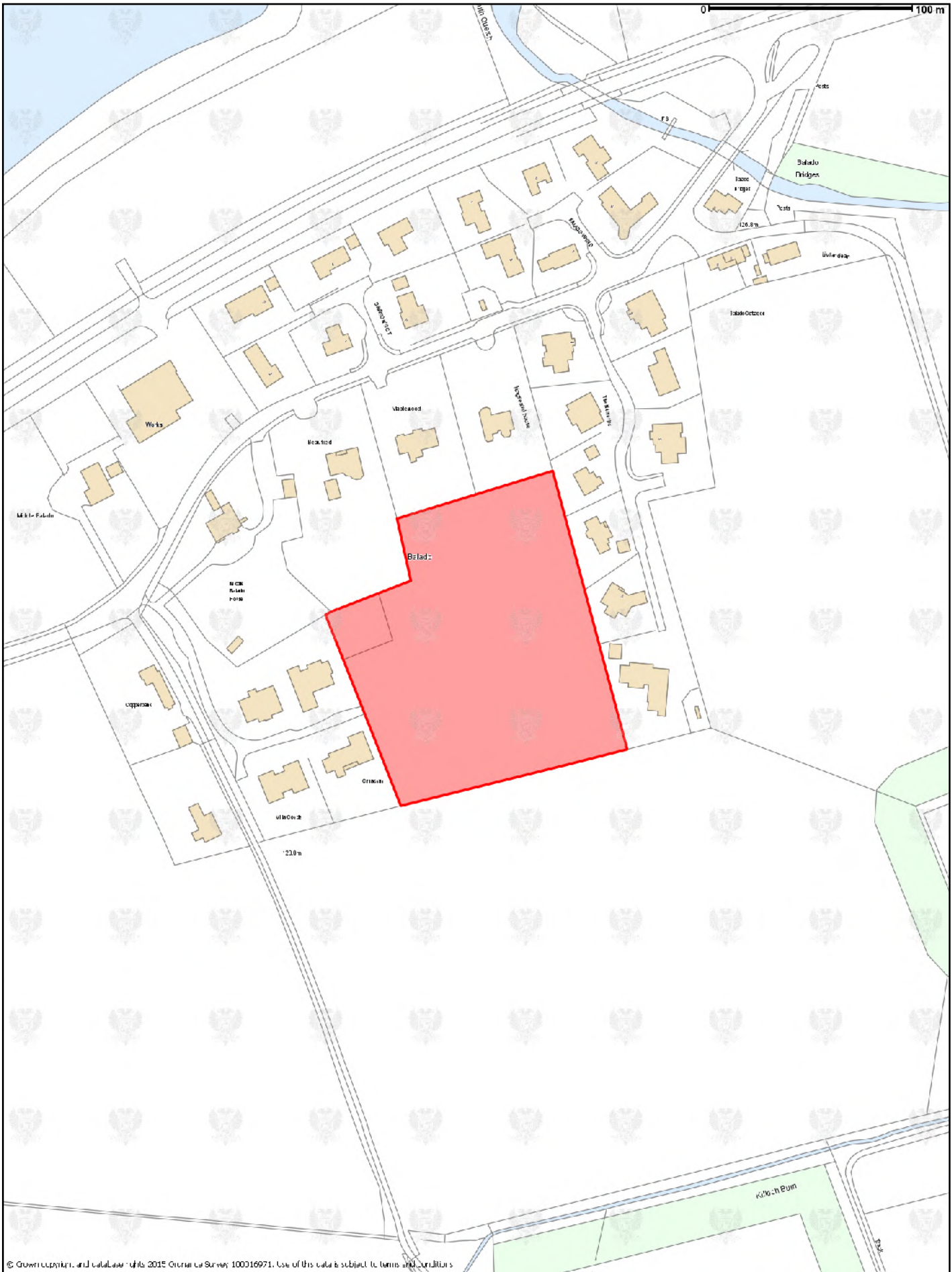
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**13/01379/FLL**  
Erection of eight dwellings with associated access road, parking bays, turning areas and drainage arrangements at Land SE of Beaufield, Balado







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**Development Management Committee**



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