

Perth and Kinross Council
Development Management Committee – 12 August 2015
Report of Handling by Development Quality Manager

Modification of permission 14/00269/AMM for change of house types (plots 1, 5, 20, 34, 38, 39, 43, 50, 77- 82) and land engineering (in part retrospect), Cherrybank, Necessity Brae, Perth

Ref. No: 15/00810/AMM
 Ward No: 10- Perth City South

Summary

This report recommends approval of the application for the modification of planning consent 14/00269/AMM for a material change of house type to plots 1,5,20,34,38,39,43,50 and 77-82 inclusive and associated land engineering operations as the development proposals are considered to remain broadly compliant 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 Detailed planning consent is sought for the modification and regulation of matters not currently benefitting from planning permission as part of planning consent 14/00269/AMM, which included consent for residential development for 98 dwellings, associated access roads, path networks, open space, a local play area and SUDs pond.
- 2 The defined site under consideration extends to 1.55 Ha, of the consented 3.9Ha site bounded by Necessity Brae and Glasgow Road, to the south west of Perth City centre commonly and locally referred to as 'Cherrybank', historically forming the headquarters of Bell's Distillers and latterly occupied by Bank of Scotland banking group.
- 3 The over-riding characteristics of this site include the established landscape framework, with original elements planted up over 50 years ago. The landscaped grounds won a Civic Trust Award in 1982 with a blanket Tree Preservation Order remaining across the entire site. Direct views into the site from Glasgow Road and Necessity Brae are limited due to this mature landscape.

The immediate and surrounding architecture is varied, including interesting buildings such as Pitheavlis (Aviva), Cherrybank Gardens and Pitheavlis Cottages.

PROPOSAL

- 4 The modifications consist of the following elements:
- 5 Detailed consent exists for 98 residential units. The layout remains consistent with that originally approved, with no change to the overall units approved on

site. There have however been changes in levels experienced across the site and the re-grading of the site across plots has not been consistently undertaken in line with what had been originally anticipated by Council officers. The development now includes a number of retaining wall elements of differing scales and finishes and under build elements, which did not form part of the original consideration or assessment of application 14/00269/AMM. In some areas, the level changes are not considered adversely significant (up to +- 400mm, depending on individual plot context).

- 6 Some of the associated elements already exist on site, with a mixture of proposed changes and regulation of established changes being sought as part of the consideration and assessment of the planning application.

PRE-APPLICATION CONSULTATION

- 7 The application is a modification of a major development as defined under Class 9 of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009.
- 8 The applicant was advised by the Council's Monitoring Enforcement Officer at an early stage of site development operations that the levels and associated retaining engineering elements identified on the detailed engineering drawings were a material change to the extant planning consent and would require a planning application to fully assess the nature and scale of the changes, which has resulted in the current application.

NATIONAL POLICY AND GUIDANCE

- 9 The Scottish Government expresses its planning policies through the National Planning Framework 1 & 2, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Designing Places, Designing Streets, and a series of Circulars.

Scottish Planning Policy 2010

- 10 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.
- 11 The following sections of the SPP are of particular importance in the assessment of this application:-

- Paragraph 25: Determining planning applications
- Paragraphs 77 - 84: Location and Design of New Development
- Paragraphs 125 – 148: Landscape and Natural Heritage
- Paragraphs 196 – 211: Flooding and Drainage

Designing Places (2001), Designing Streets (2010) and Creating Places (2013)

- 12 Policy statements setting out the Scottish Government’s determination to raise standards of urban and rural development.

National Roads Development Guide 2014

- 13 The National Roads Development Guide has been produced by the Society for Chief Officers of Transport in Scotland, supported by Transport Scotland and Scottish Government Planning and Architecture Division. This document dovetails with Designing Streets and expands on its principles to clarify the circumstances in which it can be used.

DEVELOPMENT PLAN

- 14 The Development Plan for the area consists of the Approved TAYplan Strategic Development Plan 2012 and the Adopted Local Development Plan 2014.

TAYplan: Strategic Development Plan 2012-2032

- 15 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.”*
- 16 Due to the nature of the proposed development, there are no TAYplan policies of direct relevance.

LOCAL DEVELOPMENT PLAN 2014

- 17 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.
- 18 The application site is located within the settlement boundary of Perth City, sandwiched between Glasgow Road and Necessity Brae, north of the M90 bypass.

19 The principal relevant policies are in summary: -

RD1 – Residential Areas

20 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.

PM1A - Placemaking

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

Policy PM1B - Placemaking

22 All proposals should meet all eight of the placemaking criteria.

Policy EP2 - New Development and Flooding

23 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. Built development should avoid areas at significant risk from landslip, coastal erosion and storm surges. Development should comply with the criteria set out in the policy.

OTHER POLICIES

24 None

SITE HISTORY

25 08/00122/OUT Proposed residential development, erection of a hotel with associated public house/restaurant, erection of a care home and offices with associated car parking, internal access roads and adjusted site levels (in outline) 15 August 2008 Application Permitted

26 11/00001/PAN Variation of Conditions 2 and 3 (08/00122/OUT) to extend time period for submission of reserved matters 21 March 2011

27 11/00933/FLM Variation of Conditions 2 and 3 of previous consent (08/00122/OUT for residential development) to allow an extended time period for submission of reserved matters 8 September 2011 Application Permitted

28 13/01544/FLL Application for Approval of Matters Specified in Conditions 1, 2, 3, 4, 10, 11, 16, 17, 21, 23 and 24 (08/00122/OUT and subsequent Section 42 consent 11/00933/FLM) 12 February 2014 Application Withdrawn

- 29 14/00269/AMM Application for Approval of Matters Specified in Conditions 1, 2, 4, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21(b), 22, 23, 24 and 25 of 08/00122/OUT and subsequent Section 42 consent (11/00933/FLM)
Application Permitted

CONSULTATIONS

Internal

- 30 **Flood Prevention Authority** – No comments received
- 31 **Transport Planning** – No adverse impact calculated on pedestrian or traffic safety.

REPRESENTATIONS

- 32 No letters of representation have been received regarding this application.

ADDITIONAL STATEMENTS

33

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	None Submitted

APPRAISAL

Policy

- 34 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) require the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The determining issues here are whether the proposals comply with Development Plan policy or if there are other material considerations which justify a departure from policy. The most relevant policies of the Development Plan are listed in the policy section above.
- 35 In this case, the principle of the development has already been established. The fundamental areas to focus and review within the appraisal section are therefore the impact of the level changes and hard engineering elements proposed in relation to visual, landscape and residential amenity.

Design, Scale and Layout

- 36 The layout of the development has not deviated from that currently benefitting from approval. All of the associated plots retain a consistent design to that of the extant consent in relation to the overall scale and form. The required changes are summarised as an unfortunate result of a lack of full understanding of site levels and sensitive re-grading of the site by the applicant, which has led to material changes in levels across the site, underbuilding elements and ultimately retaining wall structures, which were not identified or envisaged by the Planning Authority from the outset.
- 37 In the whole, the material changes across the site are manageable differences, which whilst not originally envisaged, would not result in an adverse visual or landscape impact overall or failure to satisfy associated policy criteria. In reviewing the drawings originally submitted for consideration, officer assessment consequently highlighted two pinch points within the site requiring to be re-dressed and further considered, namely:
- In and around the rear garden boundary relationship with Plot 40 through the difference in level changes attributed to Plots 37 and 39.
 - The extent, height and scale crib walling and its associated wider relationship with the public path running through the site and onto Glasgow Road between Plots 55 and 58.
- 38 From the outset and including original pre-application discussions, officers highlighted concerns regarding the sensitive approach required for the public interface with proposed boundary treatments and associated level differences experienced on the rear boundaries of the plots to the north of the site with Glasgow Road in the context of the setting of the open space and landscape framework. Additional hedge and shrub planting was originally considered appropriate to soften around key plots (particularly adjacent to the principal pedestrian route). Unfortunately, this key elevation has now been further compromised through the introduction of a timber crib retaining wall, which currently includes level drops of up to 4 metres. A further compromise position has ultimately now been reached through the current proposals, which involve re-grading the site next to the foot of the crib wall to ensure the crib wall will be reduced in height and scale to no more than a 2.5 metre difference at any point. In addition, securing detailed landscaping proposals in and around this boundary continues to be considered paramount to ensure that, in time, the impact of the associated crib wall, and significant level change with timber fence boundary detailing do not result in an adverse visual and landscape impact both when viewed from within and outwith the boundaries of the site itself.
- 39 The development is assessed to continue to loosely satisfy basic policy objectives of Designing Places, Designing Streets and Placemaking Policy of the Local Development Plan.

Landscape Impact/Visual Amenity

- 40 As previously identified and in relation to aforementioned, the landscape quality of this site is a key, valuable asset. The site offers part of a 'green, urban park' network and a key landscape characteristic when arriving and departing Perth via Glasgow Road and Necessity Brae. It therefore remains crucial to ensure that the existing landscape framework is not further compromised but is instead enhanced and maintained in perpetuity. On this basis, the request to further amend and review the proposed modifications, again recommending fully detailed landscape proposals to support the modifications, are considered to be justified and reasonable in this context in making every effort to ensure no long term adverse impact associated with the landscape and visual amenity of this site, particularly when viewed from northern, public vantage points.

Residential Amenity

- 41 Following the submission of the amended plans, the proposals are now considered comparable and consistent with the impact calculated and anticipated from planning consent 14/00269/AMM. This is particularly the case with key level changes at Plots 37 and 39 to ensure that the residential amenity at Plot 40 will be at an acceptable level. As a result, overall, in terms of residential amenity, the proposals are not considered to result in any adverse impact to either existing or proposed residential amenity.

Traffic Safety/Access

- 42 No significant changes are being experienced to the extant consent in relation to vehicle and pedestrian access and layout. A minor change has been proposed to include a reduction in road width along the gable of Plot 38, to accommodate further level changes, which has been reviewed by Transport Planning, with no objection in this context.

Flooding & Sustainable Urban Drainage

- 43 The Council's Flood Team has requested further clarification to ascertain which drainage solution is proposed for the individual retaining wall elements, with two identified.

Building Sustainability

- 44 Policy EP1 of the LDP states that sustainable design and construction will be integral to new development within Perth and Kinross. As previously set out in support of planning application 14/00269/AMM, a sustainability statement was provided in support of this application, stating the dwellings will comply with Section 6 – Energy of Building (Scotland) Regulations 2011. The appropriate section of the Building (Scotland) Regulations 2011 is Section 7 – Sustainability. By virtue of full compliance with Section 6, the development would meet the Bronze standard of Section 7 towards sustainability. Consistent with the extant consent, the proposals were considered to meet the minimum

standards required in accordance with Policy EP1, which in this context is considered appropriate.

Developer Contributions

- 45 A Section 75 Legal Agreement was concluded in relation to planning application 14/00269/AMM, securing the following contributions in respect of affordable housing and education provision. As this current application involves no changes to the number or tenure of units then there is no additional contribution requirement.

Economic Development

- 46 The economic impact of the wider consented development is considered to be significant in assisting in the Perth Housing Market delivery. Employment opportunities exist during the construction phase and consequently achieve increased available expenditure through net growth in residential occupation, resulting in a positive impact on consumer spend within the Perth City market area. However, the changes currently proposed will have no further impact.

LEGAL AGREEMENTS

- 47 A Section 75 Legal Agreement was concluded in relation to planning application 14/00269/AMM, securing the developer contributions set out above.

DIRECTION BY SCOTTISH MINISTERS

- 48 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

- 49 In conclusion, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, the proposal is considered to satisfactorily comply with the adopted Perth and Kinross Local Development Plan 2014 and TAYplan 2012. I have taken account of material considerations and find none that would justify over-riding the adopted Development Plan. On that basis the application is recommended for approval subject to conditions.

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.

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

- 2 Permitted development rights associated with Classes 1A, 1B, 3A and 3B of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended), or any subsequent comparable classes in future legislation relating to development within the curtilage of a dwellinghouse are hereby revoked in full for all semi-detached and terraced dwellings (including house type Portree, Newmore and Newton) of the approved Site Layout Plan.

Reason - In the interests of visual and residential amenity; to ensure a satisfactory standard of local environmental quality and to avoid over-intensive development of individual plots.

- 3 The landscaping plan to be approved (following consultation with Perth and Kinross Council's Outdoor Services) by this Council as Planning Authority shall be carried out in accordance with the approved scheme within one calendar year of the commencement of development and thereafter maintained.

Reason - In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality and in pursuance of suitably satisfying placemaking policy criteria of the adopted development plan.

- 4 Any planting failing to become established within five years shall be replaced in the following planting season with others of similar sizes and species.

Reason - In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality and in pursuance of suitably satisfying placemaking policy criteria of the adopted Development Plan.

- 5 Where site boundaries affect trees, the development shall fully comply with, respect and remain in full accordance with BS5837 2012: *'Trees in relation to construction, demolition and construction. Recommendations'*.

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

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.

D INFORMATIVES

- 1 This development will require the 'Display of notice while development is carried out', under Section 27C (1) of the Town and Country Planning Act 1997, as

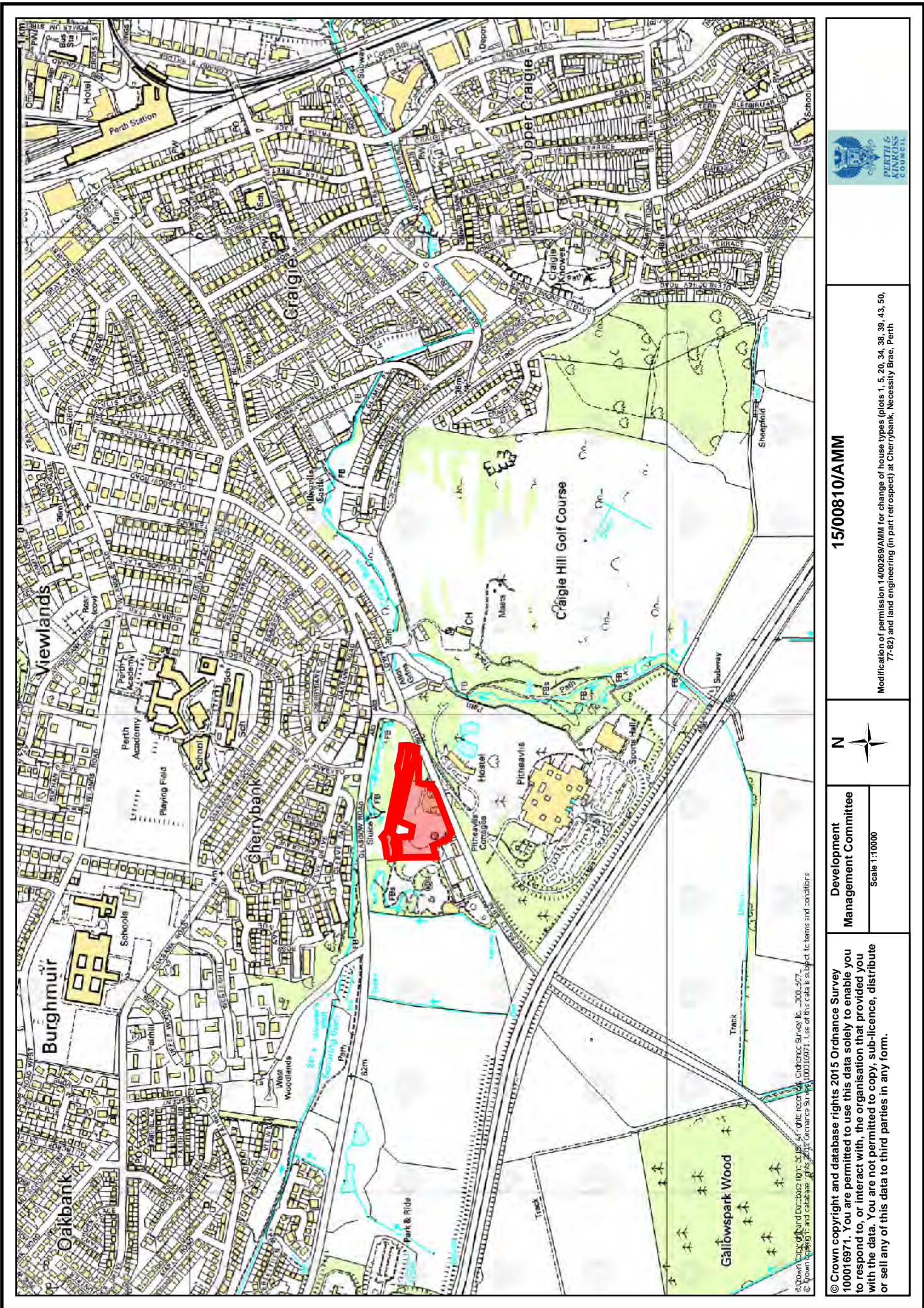
amended, and Regulation 38 of the Development Management Procedure (Scotland) Regulations 2008. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for guidance. According to Regulation 38 the notice must be:

- Displayed in a prominent place at or in the vicinity of the site of the development
 - Readily visible to the public
 - Printed on durable material.
- 2 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.
- 3 No work shall be commenced until an application for building warrant has been submitted and approved.
- 4 Please consult the Street Naming and Numbering Officer, The Environment Service, Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth PH1 5GD

Background Papers: None
Contact Officer: Callum Petrie – Ext 75353
Date: 29 July 2015

Nick Brian
Development Quality Manager

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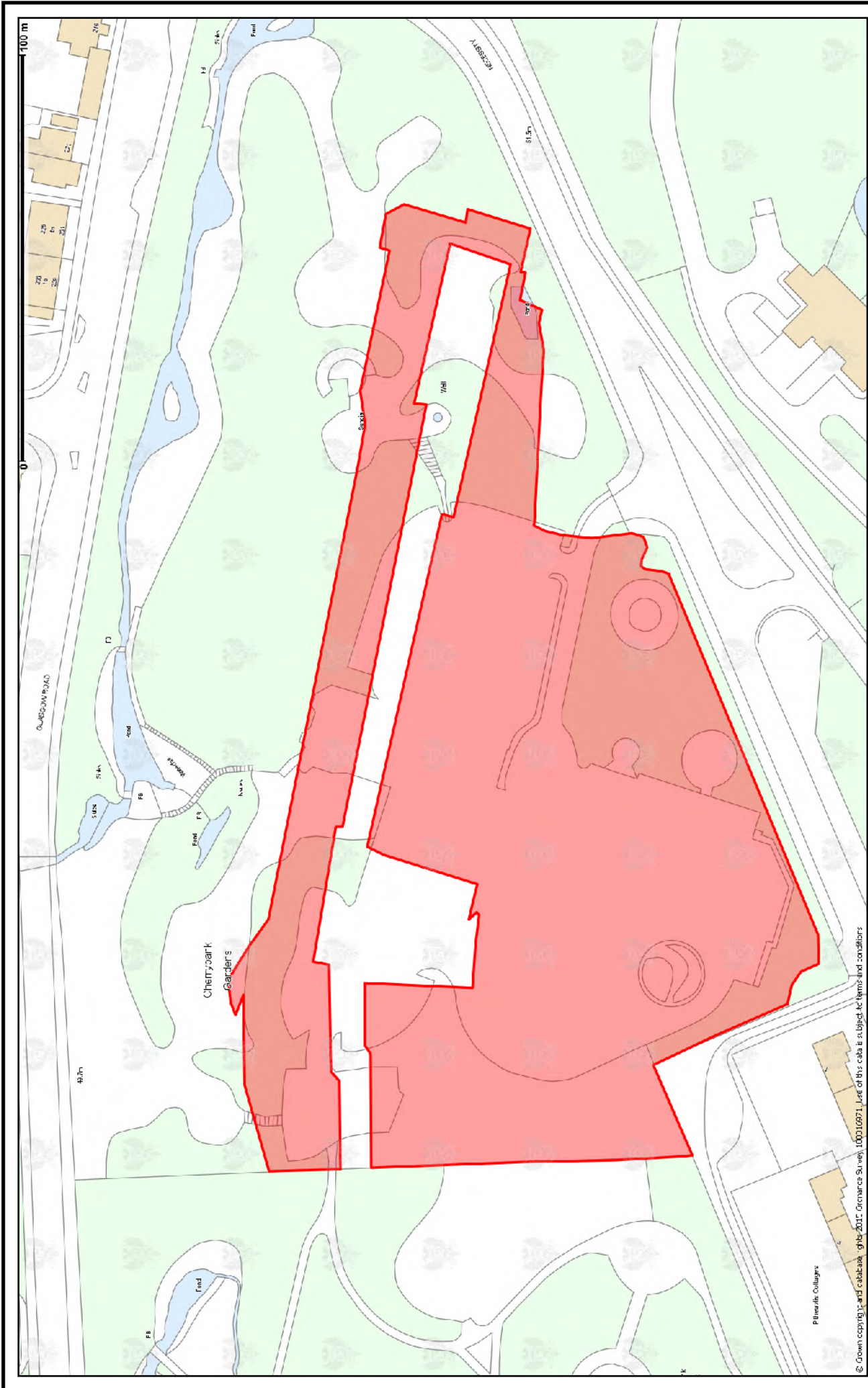


Development Management Committee

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