

Perth and Kinross Council  
Planning and Placemaking Committee – 23 November 2022  
Report of Handling by Head of Planning & Development  
(Report No. 22/284)

<b>PROPOSAL:</b>	Formation of A9 slip road and junction including road widening, landscaping, drainage works and erection of a replacement bridge
<b>LOCATION:</b>	Land at A9(T) and Shinafoot Road (B8062) near Auchterarder

Ref. No: [21/01968/FLM](#)

Ward No: P7 – Strathallan

### Summary

This report recommends refusal of the application which proposes: the formation of a southbound off slip road from the A9 at Shinafoot, Auchterarder; a new junction onto the B8602, with associated road widening, drainage, landscaping and a replacement bridge over Ruthven Water. The proposal fails to accord with the Development Plan, raising concerns in relation to traffic safety and biodiversity, and there are no material considerations apparent which outweigh the Development Plan.

### BACKGROUND AND DESCRIPTION OF PROPOSAL

- 1 The application site is c4.42 hectares (ha) in area, situated at Shinafoot, some 1.7 kilometres (km) north-east of Auchterarder. The proposed slip road would replace approximately 3ha area of semi natural / mixed woodland adjacent to the existing A9 Trunk Road (A9). The Ochils Special Landscape Area boundary is some 500 metres (m) to the east and the Ochil Range Site of Special Scientific Interest (SSSI) 1km to the south-east.
- 2 The proposal is to form a new grade separated junction, comprising a south bound off slip road from the A9. Additional and associated works are also proposed to the B8602, (which will connect to the new slip road), including road widening, drainage works and the installation of a replacement bridge across the Ruthven Water. The most significant visual impact will result from the earthworks with a cut through an existing embankment and woodland with ground levels lowered by up to 10m to facilitate the road geometry. Proposed ground profiles are illustrated in Drawing Reference 21/01968/07 - Landscape Cross Sections.
- 3 The Auchterarder Expansion Townhead & Northeast Development Framework (DF) was originally adopted by the Council in February 2008 as planning guidance under the adopted Local Plan at that time, the Strathearn Area Local Plan 2001. In the DF, Trunk Road junction improvements at Shinafoot are identified as a requirement for the delivery of the Auchterarder Development

Framework housing sites. Those housing opportunities being under the control of the applicants. The DF reports Transport Scotland's requirements for the junction improvements, as set out at that time. The improvements were designed to address safety issues and not operational capacity restrictions. Following on from the DF for Auchterarder outline Planning Permission was granted in 2008 (Ref: 08/01133/OUT) for a 'Major' mixed use development, including: residential, business, general industrial and storage uses. That application was subject to a Section 75 Planning Obligation limiting the occupation of no more than 389 open market dwellinghouses, until "*a new grade separated junction on the A9 at Shinafoot Road (B8602) by way of provision of southbound on and off slips and utilising the existing Shinafoot Road underpass together with associated works generally in accordance with the specification and layout on Drawing No. BT1202803/901270/05 Dated April 2002*" had been completed.

- 4 This application seeks to begin implementation of the transport obligations under this section 75 legal agreement, to enable the limit on housing occupation to be lifted. However, the aforementioned and defined "*Shinafoot Junction Improvement Works*" requires that the Consortium (being the applicants in this case) is contracted to provide a new grade separated junction with two essential design features. The first is that it has southbound on and off slips, and the second is that those on and off slips require to be accessed via the existing Shinafoot Road underpass. In this context the extent of development proposed in the current application does not include a southbound on slip to the A9 and as such it fails to meet the full junction improvement works required by legal agreement. Further details are discussed below.
- 5 The Council's Supplementary Guidance "*Planning for Nature – Development Management and Wildlife Guide, April 2022*", sets out the requirement for developments to provide compensatory planting in circumstances where trees or woodland will be lost. Where woodland loss is unavoidable, and mitigation is required, the Council will follow the Scottish Government's Policy on the Control of Woodland Removal (PCWR). It is expected that landscape proposals are provided detailing replacement or compensatory planting, wherever possible within, or adjacent to, the site of loss. The development proposed would see the loss of 3.3 ha of woodland and only 1.7 ha of compensatory planting is set out within the site boundary. This leaves a net shortfall of 1.6 ha of woodland which will be lost and not replaced. The applicant was requested to provide alternative planting options but has been unable to do so. To offset any loss in woodland the applicant has offered to make a one-off single payment to the Council of £24,000, with the expectation that PKC provide off site planting elsewhere. The payment would be made under Section 69 of the Local government (Scotland) Act 1973 and secured through legal agreement. Whilst the payment is at the discretion of the Council whether to accept, the Planning Authority is concerned by the precedent that seeking a payment of this type may set in terms future applications. It is considered that this financial offset offer does not comply with the PCWR or Policy 41 of the Local Development Plan 2 (2019).

- 6 There are two associated 'local' planning applications which propose further related works connected to those contained in this application.
- 7 The first being 22/00546/FLL which proposes additional road widening and drainage works related to both the proposed new A9 off slip and at Shinafoot Road. These works resulted from discussions with the Council's Transportation & Development team, following submission of the application subject of this report (Ref: 21/01968/FLM), which confirmed that additional road widening, and drainage works were required, over and above those set out in this application. Rather than withdraw, amend and resubmit 21/01968/FLM those matters are contained within that separate related application which is subject to a separate report on the agenda for this committee.
- 8 The second associated application is 22/00724/FLL, which proposes to form a new vehicle layby within the A9 road boundary, as the proposed off slip junction requires removal of an existing layby. The revised location has been agreed with Transport Scotland. This application was approved on the 13 July under delegated authority.

### **Environmental Impact Assessment**

- 9 Directive 2011/92/EU (as amended) requires the 'competent authority' (in this case Perth and Kinross Council) when giving a planning permission for certain large-scale projects to do so in the knowledge of any likely significant effects on the environment. The Directive therefore sets out a procedure that must be followed before 'development consent' can be given.
- 10 This procedure, known as Environmental Impact Assessment (EIA), is a means of drawing together, in a systematic way, an assessment of a project's likely significant environmental effects. The EIA Report helps to ensure that the importance of the predicted effects, and the scope for reducing any adverse effects, are properly understood by the public and the relevant competent authority before it makes its decision.
- 11 An EIA screening has previously been undertaken by the Planning Authority (Reference 21/00206/SCRN), concluding that an EIA was not required as the proposal was not considered likely to have significant environmental effects. However, a suite of supporting assessments, presenting environmental information in respect of: flooding, noise, ecology, traffic and transport were required and submitted in support of this application.

### **Pre-Application Consultation**

- 12 The proposed development is a 'Major' development, in terms of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, due to scale and size of the application area exceeding 2 ha. The applicant was therefore required to undertake formal pre-application consultation with the local community. The PAC Report notes that a letter drop to local properties (within a 250 m radius) was undertaken, outlining that a consultation event was to be held online, in accordance with the relevant regulations in place at the

time. This online event was held on Wednesday 30 June 2021, between 11am and 1pm and again from 5pm to 8pm. The local MP, MSP and Council Members were also notified. A total of 7 individuals made comment during the events and 11 completed feedback forms. The content and coverage of the community consultation exercise is considered sufficient and proportionate and in line with the regulations.

- 13 Public concerns raised during this pre application consultation process related to: pedestrian access; access to private land adjoining the development; noise; impacts; impact on traffic flow and congestion; flooding of the Ruthven Water; being considered a departure from road construction standards; access to other local roads; impacts on traffic flows in Auchterarder; ongoing maintenance of the road; safety of all road users and in particular concerns about the closure of the Aberuthven Junction. These matters have been responded to in writing by the agent and included within a Pre-Application Consultation (PAC) Report submitted with this application.

## **NATIONAL POLICY AND GUIDANCE**

- 14 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.

### **National Planning Framework 2014**

- 15 NPF3 is a long-term strategy for Scotland and is a spatial expression of the Government's Economic Strategy and plans for development and investment in infrastructure. This is a statutory document and material consideration in any planning application. It provides a national context for development plans and planning decisions as well as informing the on-going programmes of the Scottish Government, public agencies and local authorities.

### **The Scottish Planning Policy 2014 (SPP)**

- 16 The Scottish Planning Policy (SPP) sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:
  - The preparation of development plans;
  - The design of development, from initial concept through to delivery; and
  - The determination of planning applications and appeals.
- 17 The following sections of the SPP will be of particular importance in the assessment of this proposal:
  - Sustainability: paragraphs 24 – 35
  - Placemaking: paragraphs 36 – 57

- Valuing the Natural Environment: paragraphs 193 – 218
- Managing Flood Risk and Drainage: paragraphs 254 – 268
- Promoting Sustainable Transport and Active Travel: paragraphs 270 – 291

### **Planning Advice Notes**

18 The following Scottish Government Planning Advice Notes (PANs) and Guidance Documents are of relevance to the proposal:

- PAN 40 Development Management
- PAN 51 Planning, Environmental Protection and Regulation
- PAN 61 Planning and Sustainable Urban Drainage Systems
- PAN 66 Trunk Road planning applications best practise guidance.
- PAN 68 Design Statements
- PAN 75 Planning for Transport
- PAN 77 Designing Safer Places
- PAN 79 Water and Drainage
- PAN 1/2011/: Planning and Noise
- PAN 3/2010 Community Engagement

### **National Transport Strategy 2020**

19 The Strategy presents the vision for Scotland's transport system over the next 20 years. This focuses on four key priorities, reducing inequalities, taking climate action, delivering inclusive economic growth and focusing on the health and wellbeing of community.

20 The development will increase traffic congestion within Auchterarder daily and thus has a net determinant to the health and wellbeing of the community. The corresponding potential for additional risk to pedestrians and cyclists is also increased. However, the development will have economic benefits to the community in terms of allowing further housing development. On balance whilst the development does promote some of the aims of the transport strategy those impacts to health and wellbeing are considered to carry the greater planning weight in this case. The development does therefore not align with the Transportation Strategy.

### **National Roads Development Guide 2014**

21 This document supports Designing Streets and expands on its principles and is the technical advice that should be followed in designing and approving of all streets including parking provision.

22 The proposed development is considered by the Council's Transportation & Development team to be of concern in terms of road safety, pedestrian movements and air quality while further increasing traffic congestion. The development does not accord with the Roads Development Guide.

## **Scottish Government's Policy on the Control of Woodland Removal (CWRP)**

- 23 To provide policy direction for decisions on woodland removal in Scotland. The proposed development is seeking to remove an area of approximately 1.6ha of woodland without offering compensatory planting within or near to the development site. Means of mitigation is offered in the form of financial compensation to the Council to provide offsite planting. The CWRP implementation guide has some guidance on compensation and planning requirements (see annex 6) and leaves it up to councils as to whether a sum would be acceptable. Following the CWRP the Council would be seeking an area at least equal to the area removed and of a native mix appropriate to the area in which it is planted. There are requirements in the CWRP for certainty such as requiring a compensatory planting plan before felling is approved, and planting to be complete within 5 years of the permission. The provision of a commuted sum in this case does not seek to offer any planting plan. Furthermore, the sum does not account for labour costs or ongoing monitoring. Overall, it is considered that the mitigation offer does not align with the CWRP of the Council's supplementary Guidance on Woodland Removal.

## **DEVELOPMENT PLAN**

- 24 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2016-2036 and the Perth and Kinross Local Development Plan 2019.

## **TAYplan Strategic Development Plan 2016-2036**

- 25 TAYplan sets out a vision for how the region will be in 2036 and what must occur to bring about change to achieve this vision. The vision for the area as set out in the development plan states that:

*"By 2036 the TAYplan area 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, study and visit, and where businesses choose to invest and create jobs."*

- 26 The following sections of the TAYplan 2016 are of particular importance in the assessment of this application.

- Policy 2 Shaping Better Quality Places
- Policy 6 Developer Contributions
- Policy 8 Green Networks
- Policy 10 Connecting People, Place and Markets

## **Perth and Kinross Local Development Plan 2**

- 27 The Local Development Plan 2 (2019) (LDP2) sets out a vision statement for the area and states that, *"Our vision is of a Perth and Kinross which is dynamic, attractive and effective which protects its assets whilst welcoming population*

*and economic growth.”* It is the most recent statement of Council policy and is augmented by Supplementary Guidance.

28 The principal relevant policies are in summary;

- Policy 1A: Placemaking
- Policy 1B: Placemaking
- Policy 5: Infrastructure Contributions
- Policy 23 Delivery of Development Sites
- Policy 39: Landscape
- Policy 40B: Forestry, Woodland and Trees: Trees, Woodland and Development
- Policy 41: Biodiversity
- Policy 51: Soils
- Policy 52: New Development and Flooding
- Policy 53A: Water Environment and Drainage: Water Environment
- Policy 53C: Water Environment and Drainage: Surface Water Drainage
- Policy 56: Noise Pollution
- Policy 57: Air Quality
- Policy 60B: Transport Standards and Accessibility Requirements: New Development Proposals

## **OTHER POLICIES**

29 The relevant Supplementary Guidance are,

- Supplementary Guidance: Air Quality, February 2020
- Supplementary Guidance: Developer Contributions and Affordable Housing, April 2020
- Supplementary Guidance: Flood Risk and Flood Risk Assessments, March 2021
- Supplementary Guidance: Forest & Woodland Strategy, February 2020
- Supplementary Guidance: Landscape (February 2020)
- Supplementary Guidance: Placemaking (February 2020)

## **Non-Statutory Supplementary Guidance**

- Supplementary Guidance: Planning for Nature – Development Management and Wildlife Guide, April 2022

## **Auchterarder Expansion Townhead & Northeast Development Framework**

30 A need for improved access to the A9 trunk road north and south of the settlement is identified in the Local Development Plan 2, forming part of the Auchterarder Settlement summary description. To date a new trunk road junction at Loaninghead south of Auchterarder has been completed. However, a trunk road junction north of the settlement is also needed as the planned expansion of the settlement continues beyond the identified threshold, to address safety issues. A specific location for the new junction was not identified

within the Local Development Plan, however the Plan highlights that Shinafoot is the planned location.

- 31 Within the Development Framework (DF), Trunk Road junction improvements at Shinafoot are identified as a requirement for the full development of the Auchterarder DF housing sites. The detail as to what works are required and why is set out and can be summarised as follows:
- The DF reports Transport Scotland's requirements for the junction improvements as set out at that time. The improvements proposed to address safety issues and not operational capacity restrictions. Transport Scotland describe the type and location of the required trunk road junction at Shinafoot, "...the new Interchange at Shinafoot would include the provision of southbound on and off slips and would utilise the existing Shinafoot Road underpass below the A9 to accommodate the grade separated crossing of the A9 from the southbound carriageway."
  - The DF also notes that Transport Scotland suggest staging of the trunk road improvements as development progresses.
  - A modest development of 50 residential units would be acceptable without junction improvements.
  - The Loaninghead improvement (permitting the closure of the central reserve gap at Auchterarder South) should be implemented first, followed by Shinafoot (permitting the closure of the gap at Aberuthven)
  - The full Masterplan development at Auchterarder would require the provision of both Loaninghead and Shinafoot Junction Improvements.
  - Detailed assessment would be required to establish an acceptable intervening level of development that could be accommodated with the Loaninghead Improvement
  - The DF included the figure of up to 350 dwellings could be accommodated within the Loaninghead junction improvement.
- 32 After the adoption of the DF and as noted in Paragraph 3, Planning Permission 08/01133/OUT was granted, subject to a Section 75 legal agreement restricting open market housing development to no more than 389 units until after the completion of the agreed roads junction improvements. The DF is no longer supplementary guidance within the LDP2 but is considered a material consideration in any decision.

## **SITE HISTORY OF RELEVANCE**

- 33 [08/01133/IPM](#) Planning Permission in Principle was granted on 31 October 2013 for a mixed-use development including residential, Class 4 (Business), Class 5 (General Industry) & Class 6 (storage and distribution) uses on Land at Castlemains and Kirkton, Auchterarder.
- 34 [21/00206/SCRN](#) A Screening Opinion was issued by the Planning Authority on the 1 April 2021 for the construction of a new southbound diverge slip road on the A9, connecting Shinafoot Road (B8602) with a simple priority junction as well as including landscaping, drainage and associated works.



- 35 [21/00008/PAN](#) A Proposal of Application Notice related to the formation of an A9 slip road and junction with the B8062 and other road infrastructure including landscaping, drainage and associated works was submitted and PKC, with a response issued on 1 June 2021.
- 36 [22/00546/FLL](#) A 'Local' application proposing the Formation of road widening and drainage works associated with 21/01968/FLM (works to A9 trunk road) is presented elsewhere on this Committee Agenda.
- 37 [22/00724/FLL](#) Planning Permission was granted on the 13 July 2022 for the formation of a layby and associated works related to 21/01968/FLM (works to A9 trunk road) on land At A9(T) And Shinafoot Road (B8062) Auchterarder.

## CONSULTATIONS

- 38 As part of the planning application process the following bodies were consulted:

### External

- 39 **Transport Scotland (TS):** No objection, subject to conditions related to a replacement layby, and that works accord with the details submitted. Informative notes are requested to flag the need for further engagement with Transport Scotland at the construction phase.
- 40 **Auchterarder and District Community Council (ADCC):** Object. Raise concerns that the proposals do not accord with the Section 75 and that failure to implement the full junction works previously agreed will impact traffic movement and road safety.
- 41 **Scottish Environment Protection Agency (SEPA):** No objection, subject to a condition to narrow the upstream splay span of the Ruthven Water Bridge during its replacement, in line with the flood risk assessment provided by the applicant. SEPA has agreed with the flood risk assessment conclusions and notes that works overall will have a neutral impact on flooding. Advise a CAR Licence has already been obtained for the works within Ruthven Water.
- 42 **Scottish Water (SW):** No objection or further commentary provided.

### Internal

- 43 **Structures And Flooding (S&F):** No objection. The applicant is directed to the Council's Technical Design Standards for Roads and Bridges.
- 44 **Environmental Health (Contaminated Land) (EHCL):** No objection, subject to condition to secure a site evaluation to confirm the potential for any contamination.
- 45 **Biodiversity/Tree Officer.** No objection. Initially requested revisions to the draft Construction Environmental Management Plan (CEMP) and the need for

compensatory planting. Also, that an Ecological Clerk of Works (ECoW) be secured. Note compensatory planting in full is not possible within land under the applicant's ownership and that to address this shortfall a one off £24,000 payment is being offered under Section 69 of the Local Government Act (Scotland) 1973 to the Council for biodiversity use. Advise that the principle of this payment as a means of addressing the Supplementary Guidance raises concern in terms of the precedent it will set for future applications. However, do not object.

- 46 **Environmental Health (Noise Odour) (EHNO):** No objection subject to conditions to secure acoustic mitigation barriers along the B8062, such noise mitigation as set out within the supporting Noise and Vibration Assessment Report, and the provision of a Dust Management Plan.
- 47 **Planning and Housing Strategy:** Advise that the need for new junction connections to the A9 north and south of Auchterarder are set out within the Local Development Plan 2 and that consideration in any decision must be given to both the original Development Framework and the most recent consultation with Transport Scotland.
- 48 **Development Contributions Officer:** No objection. Commentary provided in respect of the Section 75 obligations and confirmation that if the proposals are approved a modification to the Section 75 Agreements will be required in accordance with Section 75A(2) of the Town and Country Planning (Scotland) Act 1997 (as amended). Also confirm that any modification of the planning obligation, owing to the extent of the changes likely, would require a formal application.
- 49 **Transport Planning (TP):** Objection. Significant commentary provided in respect of traffic modelling within Auchterarder, noting the impacts of the proposed development compared with the full junction works as set out in the Section 75. The development will increase the number of vehicle movements through Auchterarder town daily by over 1000 vehicles and 70 HGVs. It is the view of TP that such increases are detrimental to Auchterarder's sense of place, health & wellbeing, and active & sustainable travel methods. Thus, they are contrary to Design Streets, the National Roads Development Guide and the National Transport Strategy. These policy documents are clear that traffic capacity should not always be of prime consideration in decision making and that weight must be given to the Place Principle. The increased traffic generation raises concern in relation to matters of road safety, pedestrian movement, and air quality.

## REPRESENTATIONS

- 50 5 objections have been received. The main issues raised are:
- Visual impacts
  - Noise from construction and traffic
  - Traffic and road safety Impacts
  - Air pollution from construction and road traffic

- Flooding
- An overall sense that there will be no local benefits to the development as proposed

51 These issues are addressed in the Appraisal section of the report.

## ADDITIONAL STATEMENTS

52

Screening Opinion	No EIA required
Environmental Impact Assessment (EIA): Environmental Report	Not Required
Appropriate Assessment	Habitats Regulations Appraisal – Not Required
Design Statement or Design and Access Statement	Submitted
Report on Impact or Potential Impact	<ul style="list-style-type: none"> <li>• Ecological Impact Report</li> <li>• Landscape and Visual Assessment</li> <li>• Planning Statements 1 and 2, Including Design Report – A9 Shinafoot Junction (February 2020)</li> <li>• Drainage Impact Assessment</li> <li>• Noise and Vibration Impact Assessment</li> <li>• Air Quality Impact Assessment Report</li> <li>• Flood Risk Assessment</li> </ul>

## APPRAISAL

53 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 adopted Development Plan comprises the TAYplan Strategic Development Plan 2016–2036 and the Perth and Kinross Local Development Plan 2019. The relevant policy considerations are outlined in the policy section above and are considered in more detail below.

### Principle

54 The location is a peripheral rural area outside Auchterarder adjacent to the A9. LDP2 policy considerations in assessing its suitability in principle are Policies 1A and 1B: Placemaking; Policy 23: Delivery of Development Sites; Policies 39-41: Landscape, Trees and Woodland and Biodiversity; Policy 53: Water Environment and Drainage; and Policy 60B: Transport Standards and Accessibility – New Development Proposals. Furthermore, consideration must also be had to the Auchterarder Development Framework and the Auchterarder

‘settlement description’ set out within the LDP2, which identifies the need for improved access to the A9 to the North of the Settlement.

- 55 Having regard to the National Transport Strategy 2020, the Auchterarder Development Framework and the LDP2 there is a general policy presumption in favour of the development of a new grade separated junction at Shinafoot. However, when considering the proposal in detail against the requirements of the outline planning permission, including the Section 75 Legal Agreement, the development does not deliver the full package of roads improvements required and as such would result in adverse road safety, pedestrian movement and potential air quality implications. As the revised junction proposal fails to provide a southbound on-slip and has not been proposed as a partial delivery of the required traffic obligations by the Section 75 agreement. It is therefore unacceptable in planning terms and should be refused on these grounds.

### **Design and Layout**

- 56 The design and layout of works essentially reflects the physical and engineering requirements associated to the improvements proposed, with infrastructure details consistent with industry standards. In physical terms, the most significant visual change will arise as a result of the earthworks necessary to form the slip road and the related cutting through the existing embankment.
- 57 A Landscape and Visual Impact assessment supports the application and concludes that although earthworks, cut slopes, embankments and the associated introduction of swales and water attenuation features are noted landform changes they are similar to those within the existing road corridor and therefore not out of place. Overall, wider landscape character and form would remain largely unchanged, with any built aspects having limited influence in a wider context. In terms of the location alone, any landscape impacts are not considered unacceptable when considered in a context that a new junction at this location has been proposed and accepted by the Council for some time. However, as noted above the proposed design and layout do not deliver the full roads improvements that is legally required, and therefore do not meet the expectation of the Planning Authority or the wider community. In addition, as discussed below, the single slip design presents offsite impacts in terms of traffic movements which on preliminary investigation have not been mitigated. Therefore, on balance the design and layout of the development are unacceptable in planning terms.

### **Landscape**

- 58 Safeguarding and enhancing landscape character and green infrastructure is required to be considered via LDP2 Policies 1 and 39. In this instance, the proposed utilitarian design is largely set via the engineering requirements, thus some landscape and visual impact is inevitable. Furthermore, development of this type and nature has been intended at this location for some time, having formed part of the Auchterarder Development Framework intentions and being agreed through a previous Section 75 agreement and outline planning permission. However, and notwithstanding these material considerations, it is

especially important to ensure robust landscaping and associated green infrastructure provides mitigation from key viewpoints, softens the immediate and cumulative landscape impact, whilst also improving biodiversity opportunities. A Landscape Visual Impact Assessment (LVIA) was requested, along with a fully detailed structural landscape plan.

- 59 The Council applies the principles of the Scottish Government Policy on Control of Woodland Removal, which presumes in favour of protecting woodland resources. However, where the loss of woodland is unavoidable, mitigation measures in the form of compensatory planting will be sought. The submitted Ecological Impact Report states that approximately 3.3ha of immature / semi-mature mixed plantation woodland will be lost to allow the development to proceed. This without mitigation would see adverse effects. The application proposes 1.7ha of planting within the site boundary, as set out in landscape masterplan drawing reference 21/01968/06. However, this leaves a shortfall of c.1.6 ha of woodland which would be lost. The Council's Supplementary Guidance: Planning for Nature and Wildlife provides that compensatory planting must be at least compatible to existing trees and woodland. Given that the applicant advises that they cannot achieve off-site planting within other land they control, (and no other private agreement has been explored), mitigation has been offered via a lump sum payment of £24,000, to be used by the Council for biodiversity mitigation offsite. The payment is sought to be made as a one off under Section 69 of the Local Government (Scotland) Act 1973. The Planning for Nature Guidance doesn't reference directly the use of Section 69 Agreements, but rather advises that where woodland loss is unavoidable, and mitigation is required, the Council will follow the Scottish Government's Policy on the Control of Woodland Removal (PCWR). It is at the discretion of the Council whether to accept a Section 69 agreement and the Planning Authority is not aware of this option having been considered before. The Scottish Government's policy on control of woodland removal: implementation guidance, February 2019 under the section on Guiding Principles paragraph 4 states: "Planning conditions and agreements are used to mitigate the environmental impacts arising from development and Scottish Forestry will also encourage their application to development-related woodland removal". Mitigation measures must be fully explained in the EIA Report and agreed with Scottish Forestry. They should not be left to post-consent agreements, but instead conditioned within the planning approval.
- 60 Concern is raised by the Planning Authority that this type of offer may set a precedent for future applications. Furthermore, as discussed above this type of agreement does not align with the PCWR Policy nor the Council's Supplementary Guidance on this matter. The onus should always be on the developer to avoid, mitigate and compensate for any harmful impacts (in that order). For the greatest certainty, relevance and enforceability the best option is to replace woodland on land the applicant controls ideally close to the woodland that will be lost. Whilst steps have been taken as far as practical to minimise the loss of woodland, very limited details have been submitted as to whether alternative offsite solutions near to the development have been considered. The Planning Authority does not consider the Financial Offset Mitigation offer reasonable in the absence of further information or clarifying

alternatives considered. In addition, the value sum offered has not been fully costed in terms of labour and any ongoing maintenance required by the Council.

### **Residential Amenity**

- 61 Matters pertaining to Noise, Dust, Air Quality and Vibration which would arise both during construction and once the new junction is open are considered by Policies 56 and 57 of the LDP2. The submitted Air Quality Impact Assessment Report and Noise and Vibration Impact Assessment have been reviewed by Environmental Health Officers. Those properties most impacted by the development are those adjoining or accessing directly off the B8062 Shinafoot Road, including a caravan park directly downstream of the Ruthven Water Bridge. There are also properties located in direct proximity to the north-west and south-east of Shinafoot Road as well as an existing caravan park.
- 62 Environmental Health have raised no objections or concerns in relation to impacts on residential amenity, subject to recommended conditions. Notwithstanding the conclusions from EH officers Transport Planning have raised concerns that the proposal development in comparison with the two-slip junction design agreed within the Section 75 will result in additional traffic movements within Auchterarder Township. It is anticipated that this will have corresponding impacts on air quality, though any actual impacts have not been modelled.

### **Roads and Access**

- 63 LDP2 Policy 60B requires that local road networks be capable of absorbing traffic generated by development and that satisfactory access is provided. In this case public objections have raised concerns over potential impacts on traffic and road safety as a result of the development.
- 64 Matters relating to the Trunk Road Network have been considered by Transport Scotland and no objection is raised, subject to recommended conditions.
- 65 In respect of any impacts to the local road network, significant concerns have been raised by the Council's Transportation and Development team. Specifically, these impacts relate to the design of the new junction which, as noted, seeks to incorporate only a single slip design solution, thereby omitting the southbound on-slip from the previously secured design. In order to consider the impacts of the development proposed against the full road improvements required by the Section 75 legal agreement, officers have sought to model vehicle movements between a single slip, proposed, against a second option of a two slip, grade separated diverge & merge junction, (the design previously secured). The modelling for the single slip design shows an increase to both journey times, for vehicles traveling from central Auchterarder south bound on the A9, and to the number of vehicle movements through Auchterarder. Modelling shows traffic increases as follows:
- Orchil Road AM +140 vehicles (up 36%), PM + 91 vehicles (up 22%).

- Hunter Street AM +30 vehicles (up 12.8%), PM +17 vehicles (up 8%)
- A824 (west of) junction with Hunter Street AM +117 (up 15%) vehicles, PM +83 (up 11%) vehicles.
- A824 (east of) junction with Hunter Street AM +47 (up 7%) vehicles, PM +51 (up 8%) vehicles.

- 66 A high-level review of the model data shows that westbound traffic movements through Auchterarder increase significantly. The High Street in the vicinity of the school sees an increase of 1,040 vehicles during the day (7am – 7pm) a 28.5% increase in daily traffic flows. Within this, daily HGV movements increase westbound by 74 vehicles, a 68.5% increase. This is mirrored further west at Townhead (in the vicinity of Orchil Road) where an increase of 1,050 vehicles occurs, a 33.9% increase in daily traffic flows. Within this, HGV daily movements increase westbound by 73 vehicles, an 80.2% increase. While all eastbound traffic movements remain static (all traffic less than 0.01% increase, HGV less than 1.3% increase).
- 67 Based on the modelled outputs, the Transportation & Development team has concluded that in isolation a single slip design has a determinantal impact to the local road network within Auchterarder when compared to the full set of roads improvements previously secured. Having discussed the initial consultation response with the applicants, a review of the submitted application was undertaken. Subsequently a further technical note was produced by way of addendum. This additional information was submitted to the Council in September 2022 and included several recommended infrastructure improvements to support the application and redress concerns raised. The additional recommendations included, vehicle signage measures, a 20mph zone extension, restricting Hunter Street to one-way traffic and a traffic controlled pedestrian crossing in the vicinity of the Community School. The applicant has offered £100,000 to fund delivery of this infrastructure by Perth and Kinross Council. However, having reviewed these mitigation offerings, transportation officers have confirmed the recommendations lack detailed costings, design, testing and crucially no consultation with key stakeholders or the community. Whilst officers have not been able to wholly assess the validity of the mitigation offering, on preliminary assessment they have advised that they do not consider these will be anywhere near adequate to offset the absence of the southbound on slip.
- 68 In conclusion, the development proposed will have a net determinant to the local road network within Auchterarder when compared with the full road's improvements secured via the Section 75 agreement. The identified increases in traffic generation are considered to impact road safety, pedestrian movement and may also impact air quality. As such the development is considered detrimental to Auchterarder's sense of place, health & wellbeing, and may impact other active sustainable travel methods. Thus, the proposal overall is contrary to the National Roads Development Guide, the National Transport Strategy and Policy 60B of the LDP2 (2019).

## **Drainage and Flooding**

- 69 Policies 52 and 53 of the LDP2, require development to appropriately consider flooding and drainage. The application has been reviewed by both SEPA and the Council's Structures and Flooding Team and neither raise objections.
- 70 In terms of flood impacts resulting from the replacement bridge over the Ruthven Water it is confirmed that the cross-sectional area is slightly larger than the existing structure, at 7.6m wide verses 7 m. Consequently, any flood risk upstream is slightly reduced from any existing impacts. It should be noted that the nearest property which could be at risk, being part of an existing caravan park, is located on the downstream side of the bridge (below the confluence of the Ruthven Water and Pairney Burn) is already at severe flood risk, as identified on SEPA flood risk maps. This risk would not be increased by this development.
- 71 Otherwise, the majority of the slip road is out with any area of flood risk and cuts through higher ground. Where the slip road meets the B8062, small sections of raised embankment are proposed, partly within the flood extents of the Pairney Burn, as shown on the SEPA flood maps. However, SEPA have confirmed that any loss of storage here will be minimal and negligible to the overall flood risk in the area. Furthermore, there will be no increase in risk downstream towards any buildings/caravan park, as flows are controlled by an existing culvert under the A9. Overall, all drainage is to be controlled from the slip road via road runoff and interception via SUDS in accordance with best practice design.

## **Natural Heritage and Biodiversity**

- 72 LDP2 Policy 41 is a relevant consideration in respect of potential biodiversity impacts or opportunities arising from the development. In this respect the Landscape Masterplan includes largely native species and contains a number of positive elements, making a likely valuable contribution to biodiversity, consistent with the Perth and Kinross Supplementary Guidance: Planning for Nature Development Management and Wildlife. As noted in paragraph 59 mitigation in the form of financial remuneration is offered.
- 73 The Council's biodiversity officer has reviewed the development proposal and raised no specific objections to the works, subject to conditions seeking the adoption of proposed landscaping, the provision of an agreed Construction Environmental Management Plan and the appointment of an ecological clerk of works to oversee development implementation. However, significant concern is raised with respect to the proposed financial agreement to offset the lack of physical mitigation proposed and the potential for a precedent to be set. Commentary is provided that whilst the financial offer will likely be sufficient to accommodate planting of comparable scale to that lost, no financial account has been made in respect of labour or future maintenance costs. As such the value offer is insufficient. Whilst the Ecological Impact Assessment Report, dated 24 June 2022, sufficiently confirms any ecological impacts from this development are acceptable, the proposal overall fails to accord with policy 41



of the LDP2 on account of the loss of woodland and adequate mitigation planting being offered.

### **Developer Contributions**

- 74 The junction improvement works are identified as a requirement for “Auchterarder Development Framework” sites, included within Section 75 Agreements agreed as part of Outline Permission 08/01133/IPM. The works, defined as “the Shinafoot Junction Improvement Works” in these Agreements was previously agreed with design and specifications which differ to the proposal submitted. If the proposals are deemed acceptable a modification to the Section 75 Agreements will be required. As the agreed junction improvements are part of a previous decision on the outline planning permission further contributions could not be added now. However, and notwithstanding this matter the junction improvements do not trigger any contributions under the Developer Contributions and Affordable Housing Supplementary Guidance.
- 75 Whilst no specific developer contributions are required, the applicant has sought to address shortfalls in mitigation both in terms of woodland loss and as a result of impacts to the local road network, specifically increases in traffic movements through Auchterarder. A payment of £24,000 is proposed as financial offset for woodland loss, whilst a payment of £100,000 is offered to carry out road's improvements within Auchterarder. Both payments are to be single lump sum payments under Section 69 of the Local Government (Scotland) Act 1973. Legal Services have agreed that this can be secured via a legal agreement, and it is at the discretion of the Council whether to accept these offers. The Planning Authority does not consider the financial offers are acceptable.

### **Economic Impact**

- 76 In the short term, construction will create jobs with scope for local employment but in the operational period local employment opportunities are limited. However, there is a clear fit between Scottish Government aims of enabling new development whilst promoting investment within the Perth and Kinross area. This development proposal should be viewed as seeking to deliver traffic obligations required to enable further housing development within Auchterarder and as such there are longer term economic opportunities. However, the development raises concerns in terms of road safety and in terms of limited overall biodiversity enhancement opportunities in proximity to the site.

### **VARIATION OF APPLICATION UNDER SECTION 32A**

- 77 This application was varied prior to determination, in accordance with the terms of section 32A of the Town and Country Planning (Scotland) Act 1997, as amended. The variations incorporated changes to the submitted bridge design over the Ruthven Water which comprised minor alterations to the cross-section design of the structure, which do not significantly alter its wider appearance or location.

## **PLANNING OBLIGATIONS AND LEGAL AGREEMENTS**

- 78 The development in isolation is not required to be subject to any Section 75 legal agreement. However, it must be seen in association to the wider proposal to implement transport obligations agreed via a Section 75 legal agreement associated to a significant mixed-use development (reference Planning Permission 08/01133/OUT). In this regard the works proposed within this application do not comply in full of the transport obligations set out in that Section 75.
- 79 The development is recommended for refusal due to impacts on the local road network. As such a comprehensive assessment relative to the proposed financial mitigation offsets has not been undertaken. However, Legal Services have confirmed the proposed payments under Section 69 of the Local Government (Scotland) Act 1973 to secure single lump sum payments is at the discretion of the Council whether to accept. This type of agreement has not been accepted in the past and does not accord with the LDP2 or Scottish Government Policy.

## **CONCLUSION AND REASONS FOR RECOMMENDATION**

- 80 To conclude, 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 not comply with the approved TAYplan 2016 and the adopted Local Development Plan 2 (2019). Account has been taken of the relevant material considerations and none has been found that would justify overriding the adopted Development Plan.
- 81 Accordingly, the proposal is recommended for refusal.

## **RECOMMENDATION**

### **Reasons for Refusal Recommendation**

1. The development proposed is contrary to the Auchterarder Expansion Townhead & Northeast Development Framework as well as policy 60B of the adopted Perth and Kinross Local Development Plan 2 (2019).
2. The projected vehicle movement increases through Auchterarder are detrimental to the town's sense of place, its health and wellbeing and may impact other forms of active and sustainable travel methods. Accordingly, the proposal is contrary to the Scottish Government National Roads Development Guide 2014 and National Transport Strategy 2020.
3. The proposed financial offset to mitigate the loss of woodland and biodiversity within the site is considered to set a precedent and fails to accord with the principles of the Scottish Government Policy on Control of Woodland Removal. The proposal is therefore contrary to Policy 41 of the adopted Perth and Kinross Local Development Plan 2 (2019) and fails to accord with the

principals of the Perth and Kinross Planning for Nature Development  
Management and Wildlife Guide April 2022.

Background Papers: 6 letters of representation  
Contact Officer: Jamie Torrance  
Date: 11 November 2022

**DAVID LITTLEJOHN**  
**HEAD OF PLANNING AND DEVELOPMENT & CHIEF PLANNING OFFICER**

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