

Perth and Kinross Council  
Development Management Committee – 20 September 2017  
Report of Handling by Interim Development Quality Manager

Erection of 47 dwellinghouses and associated works on land NW of Lathro Farm, Kinross.

Ref. No: 17/00760/FLL  
Ward No: N8 Kinross-shire

**Summary**

This report recommends approval of the detailed application for the erection of 47 dwellinghouses and associated works on land NW of Lathro Farm, Kinross. The development is considered to comply with the current Development Plan. The application is recommended for approval, subject to conditions.

**BACKGROUND AND PROPOSAL**

- 1 The application site is situated on land in between the northern end of Kinross and the southern end of Milnathort and is part of a larger housing site that received planning permission in March 2017 for 300 dwellinghouses (15/01512/FLM approved by Development Management Committee on 14<sup>th</sup> September 2016).
- 2 The site is part of allocated site (H47) in the Perth and Kinross Local Development Plan (LDP) 2014 for residential development.
- 3 The proposals relate to a part of the site to the south of the farm road that serves Lathro Farm, accessed from the A922 Kinross to Milnathort road. Springfield Properties is acquiring the land from the original developer, Persimmon, and is to construct houses on this section of the larger site. This application is for a revised layout and design of this part of the site. The approved layout for this part of the site included 45 dwellinghouses. This application is for 47 units thus an increase of two units.

**NATIONAL POLICY AND GUIDANCE**

- 4 The Scottish Government expresses its planning policies through the National Planning Framework 3, the Scottish Planning Policy (SPP) 2014 and Planning Advice Notes (PAN), Designing Places, Designing Streets and the National Roads Development Guide.

**The Scottish Planning Policy 2014**

- 5 The Scottish Planning Policy (SPP) was published on 23 June 2014. It 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.
  - The determination of planning applications and appeals.
- 6 Of relevance to this application are;
- Paragraphs 24 – 35: Sustainability
  - Paragraphs 36 – 57: Placemaking
- 7 A successful Sustainable Place;
- Paragraphs 126 – 131 Affordable Housing
  - Paragraphs 135 – 151 Valuing the Historic Environment
- 8 A Natural, Resilient Place;
- Paragraphs 219 – 233 Maximising the Benefits of Green Infrastructure
  - Paragraphs 254 – 268 Managing Flood Risk & Drainage
- 9 A Connected Place;
- Paragraphs 286 – 291 Promoting Sustainable Transport and Active Travel
- 10 The following Scottish Government Planning Advice Notes (PAN) are also of interest:
- PAN 2/2010 Affordable Housing and Housing Land Audits
  - PAN 1/2011 Planning and Noise
  - PAN 40 Development Management
  - PAN 51 Planning, Environmental Protection and Regulation
  - PAN 58 Environmental Impact Assessment
  - PAN 60 Planning for Natural Heritage
  - PAN 61 Planning and Sustainable Urban Drainage Systems
  - PAN 63 Waste Management Planning
  - PAN 65 Planning and Open Space
  - PAN 67 Housing Quality
  - PAN 68 Design Statements
  - PAN 69 Planning & Building Standards Advice on Flooding
  - PAN 75 Planning for Transport
  - PAN 79 Water and Drainage
  - PAN 83 Masterplanning

### **Designing Places 2001**

- 11 The first policy statement which marks the Scottish Government's determination to raise standards of urban and rural development.

## **Designing Streets 2010**

- 12 Designing Streets is the first policy statement in Scotland for street design and marks a change in the emphasis of guidance on street design towards place-making and away from a system focused upon the dominance of motor vehicles. It has been created to support the Scottish Government's place-making agenda and is intended to sit alongside the 2001 planning policy document Designing Places, which sets out Government aspirations for design and the role of the planning system in delivering these.

## **National Roads Development Guide 2014**

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

## **DEVELOPMENT PLAN**

- 14 The Development Plan for the area consists of the Approved TAYplan Strategic Development Plan June 2012 and the Perth and Kinross Local Development Plan February 2014.

## **TAYplan Strategic Development Plan (June 2012)**

- 15 TAYPlan sets out a vision for how the region will be in 2032 and what must occur to bring about change to achieve this vision. The vision for the area as set out in the plans states that:

*"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, study and visit, and where businesses choose to invest and create jobs"*

- 16 The following sections of the TAYplan 2012 are of particular importance in the assessment of this application.

### **Policy 1 – Location Priorities**

- 17 Seeks to focus the majority of development in the region's principal settlements. Kinross and Milnathort are identified as a Tier 2 Settlements with the potential to make a major contribution to the regional economy and accommodate a smaller share of additional development over the plan period.

### **Policy 2 – Shaping better quality places**

- 18 Seeks to ensure that climate change resilience is built into the natural and built environment, integrate new development with existing community infrastructure, ensure the integration of transport and land uses, ensure that waste management solutions are incorporated into development and ensure that high resource efficiency and low/zero carbon energy generation

technologies are incorporated with development to reduce carbon emissions and energy consumption.

### **Policy 3: Managing TAYplan's Assets**

- 19 Seeks to respect the regional distinctiveness and scenic value of the TAYplan area and presumes against development which would adversely affect environmental assets.

### **Policy 6: Energy and Waste/Resource Management Infrastructure**

- 20 Relates to delivering a low/zero carbon future for the city region to contribute to meeting Scottish Government energy targets and indicates that, in determining proposals for energy development, consideration should be given to the effect on off-site properties, the sensitivity of landscapes and cumulative impacts.

### **Policy 8 – Delivering the Strategic Development Plan**

- 21 States, *“To ensure that quality is designed-in to development and places, developer contributions shall be sought for new development to mitigate any adverse impact on infrastructure, services and amenities brought about by development including contributions towards schools, affordable housing, transport infrastructure and facilities (including road, rail, walking, cycling and public transport) and other community facilities in accordance with the Scottish Government Circular 1/2010”.*

### **Perth and Kinross Local Development Plan 2014**

- 22 The Local Development Plan (LDP) 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.
- 23 The LDP 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.”*
- 24 Under the LDP, the following policies are of particular importance in the assessment of this application.

### **Policy PM1A - Placemaking**

- 25 Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place. All development should be planned and designed with reference to climate change mitigation and adaption.

### **Policy PM1B - Placemaking**

- 26 All proposals should meet all eight of the placemaking criteria.

### **Policy PM1C - Placemaking**

- 27 Proposals of more than 200 houses or 10 ha should create a sustainable neighbourhood and seek to meet the key needs of residents or businesses either within or adjacent to the development. A Masterplan will be required in most cases.

### **Policy PM2 - Design Statements**

- 28 Design Statements should normally accompany a planning application if the development comprises 5 or more dwellings, is a non-residential use which exceeds 0.5 ha or if the development affects the character or appearance of a Conservation Area, Historic Garden, Designed Landscape or the setting of a Listed Building or Scheduled Monument.

### **Policy PM3 - Infrastructure Contributions**

- 29 Where new developments (either alone or cumulatively) exacerbate a current or generate a 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.

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

- 30 In identified areas, residential amenity will be protected and, where possible, improved. Small areas of private and public open space will be retained where of recreational or amenity value. Changes of use away from ancillary uses such as local shops will be resisted unless supported by market evidence that the existing use is non-viable. Proposals will be encouraged where they satisfy the criteria set out and are compatible with the amenity and character of an area.

### **Policy RD4 - Affordable Housing**

- 31 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. Off-site provision or a commuted sum is acceptable as an alternative in appropriate circumstances.

### **Policy TA1A - Transport Standards and Accessibility Requirements**

- 32 Encouragement will be given to the retention and improvement of transport infrastructure identified in the Plan.

### **Policy TA1B - Transport Standards and Accessibility Requirements**

- 33 Development proposals that involve significant travel generation should be well served by all modes of transport (in particular walking, cycling and public transport), provide safe access and appropriate car parking. Supplementary Guidance will set out when a travel plan and transport assessment is required.

### **Policy CF1B - Open Space Retention and Provision**

- 34 Appropriate areas of informal and formal open space should be provided as an integral part of any new development where existing provision is not adequate. Where there is an adequate supply of open space a financial contribution towards improved open space may be acceptable. Opportunities should be to create, improve and avoid the fragmentation of green networks.

### **Policy CF2 - Public Access**

- 35 Developments will not be allowed if they have an adverse impact on any core path, disused railway line, asserted right of way or other well used route, unless impacts are addressed and suitable alternative provision is made.

### **Policy CF3 - Social and Community Facilities**

- 36 The loss or change of use of land or buildings used for community purpose will only be permitted where the availability of community facilities in the locality is not seriously affected, no suitable alternative community use can be found or alternative facilities of equivalent benefit and provided.

### **Policy HE1A - Scheduled Monuments and Non Designated Archaeology**

- 37 There is a presumption against development which would have an adverse effect on the integrity of a Scheduled Monument and its setting, unless there are exceptional circumstances.

### **Policy HE1B - Scheduled Monuments and Non Designated Archaeology**

- 38 Areas or sites of known archaeological interest and their settings will be protected and there will be a strong presumption in favour of preservation in situ. If not possible provision will be required for survey, excavation, recording and analysis.

### **Policy HE2 - Listed Buildings**

- 39 There is a presumption in favour of the retention and sympathetic restoration, correct maintenance and sensitive management of listed buildings to enable them to remain in active use. The layout, design, materials, scale, siting and use of any development which will affect a listed building or its setting should be appropriate to the building's character, appearance and setting.

### **Policy NE2A - Forestry, Woodland and Trees**

- 40 Support will be given to proposals which meet the six criteria in particular where forests, woodland and trees are protected, where woodland areas are expanded and where new areas of woodland are delivered, securing establishment in advance of major development where practicable.

### **Policy NE2B - Forestry, Woodland and Trees**

- 41 Where there are existing trees on a development site, any application should be accompanied by a tree survey. There is a presumption in favour of protecting woodland resources. In exceptional circumstances where the loss of individual trees or woodland cover is unavoidable, mitigation measures will be required.

### **Policy NE3 - Biodiversity**

- 42 All wildlife and wildlife habitats, whether formally designated or not should be protected and enhanced in accordance with the criteria set out. Planning permission will not be granted for development likely to have an adverse effect on protected species.

### **Policy NE4 - Green Infrastructure**

- 43 Development should contribute to the creation, protection, enhancement and management of green infrastructure, in accordance with the criteria set out.

### **Policy ER6 - Managing Future Landscape Change to Conserve and Enhance the Diversity and Quality of the Areas Landscapes**

- 44 Development proposals will be supported where they do not conflict with the aim of maintaining and enhancing the landscape qualities of Perth and Kinross and they meet the tests set out in the 7 criteria.

### **Policy EP1 - Climate Change, Carbon Reduction and Sustainable Construction**

- 45 Sustainable design and construction will be integral to new development within Perth and Kinross. Proposals for new buildings must be capable of meeting one of the standards set out in the table.

### **Policy EP2 - New Development and Flooding**

- 46 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.

### **Policy EP3A - Water, Environment and Drainage**

- 47 Proposals which do not accord with the Scotland River Basin Management Plan and any relevant associated Area Management Plans will be refused unless they are considered to be of significant specified benefit to society and / or the wider environment.

### **Policy EP3B - Water, Environment and Drainage**

- 48 Foul drainage from all developments within and close to settlement envelopes that have public sewerage systems will require connection to the public sewer. A private system will only be considered as a temporary measure or where there is little or no public sewerage system and it does not have an adverse effect on the natural and built environment, surrounding uses and the amenity of the area.

### **Policy EP3C - Water, Environment and Drainage**

- 49 All new developments will be required to employ Sustainable Urban Drainage Systems (SUDS) measures.

### **Policy EP3D - Water, Environment and Drainage**

- 50 Development over an existing culvert or the culverting of watercourses as part of a new development will not be supported unless there is no practical alternative. Existing culverts should be opened and redundant water engineering features removed whenever possible.

### **Policy EP8 - Noise Pollution**

- 51 There is a presumption against the siting of proposals which will generate high levels of noise in the locality of noise sensitive uses, and the location of noise sensitive uses near to sources of noise generation.

### **Policy EP11 - Air Quality Management Areas**

- 52 Development proposals within or adjacent to designated Air Quality Management Areas which would adversely affect air quality may not be permitted.

### **Policy EP12 - Contaminated Land**

- 53 The creation of new contamination will be prevented. Consideration will be given to proposals for the development of contaminated land where it can be demonstrated that remediation measures will ensure the site / land is suitable for the proposed use.

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

- 54 EP7A: 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.
- 55 EP7B: 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.

## **OTHER POLICIES**

- 56 The following supplementary guidance and documents are of particular importance in the assessment of this application.
- Developer Contributions and Affordable Housing Supplementary Guidance April 2016.
  - Flood Risk and Flood Risk Assessments – Developer Guidance June 2014.
  - Sustainable Design and Zero Carbon Development Supplementary Guidance May 2014.

## **Perth & Kinross Community Plan (2006 – 2020)**

- 57 Key aim - Create a vibrant and successful area through:
- A thriving economy including successful tourism and cultural sectors.
  - A positive image locally, nationally and internationally.
  - Improved infrastructure and transport links.
  - A sustainable natural and built environment.

## **Perth & Kinross Corporate Plan 2013-2018**

- 58 Corporate Plan Vision includes – Promoting a prosperous, inclusive and sustainable economy. Creating safe and sustainable places for future generations.

## **Planning Site History**

- 59 **14/00493/SCRN** – EIA Screening request submitted March 2014. Confirmation that EIA is required April 2014.
- 60 **14/00004/PAN** – Proposal of Application Notice (PAN) submitted April 2014. Content of PAN approved May 2014.
- 61 **14/01345/SCOP** - EIA Scoping requested July 2014. Content of EIA agreed September 2014.
- 62 **15/01512/FLM** Erection of 300 dwellinghouses, formation of open space, landscaping and associated infrastructure works. Approved by Committee on 14 September 2016. Decision issued March 2017.
- 63 **17/00759/FLL** Erection of 13 dwellinghouses and associated works on land NW of Lathro Farm Kinross (pending consideration)

- 64 **17/00886/FLM** Application under Section 42 of the Town and Country Planning (Scotland) Act 1997 to develop land to modify conditions 8 (children's play area), 9 (access) and 11 (boundary treatment) of planning permission 15/01512/FLM (Erection of 300 dwellinghouses, formation of open space, landscaping and associated infrastructure works) to reflect change in implementation timescale land NW of Lathro Farm Kinross (currently on this Agenda)
- 65 **17/00893/FLL** Erection of 6no. dwellinghouses, formation of open space, landscaping and associated infrastructure works for plots 1-6, relocation of SUDS basin, pump station and erection of substation (revised layout and design) (in part retrospect) land NW of Lathro Farm Kinross (currently on this Agenda)

## **CONSULTATIONS**

### **External**

#### **Scottish Water**

- 66 No response to this application but noted to have capacity to service the overall development.

#### **Kinross Community Council**

- 67 A number of concerns in relation to the application were raised:-
- Housing numbers exceed LDP allocation
  - Loss of trees
  - Inadequate pre-construction ecology check
  - No bat survey
  - Impact on road network
  - Two Springfield applications should have been a major – 60 houses, more consultation etc required.
  - Incorrect reference to Scottish Borders Council in the covering letter from the applicant

## **R S P B**

- 68 Comments with regard trees and bird surveys. Would like clarification as to what will happen to the mature oak trees on the site. Would like to see the trees maintained and that a full breeding bird survey is carried out to assess what would best provide for the species present on the site.

### **Internal**

#### **Transport Planning**

- 69 No objections.

### **Contributions Officer**

- 70 This proposal is a modification to the existing consent under 15/01512/FLM. The existing consent has an associated S.75 Legal Agreement securing the necessary Contributions. These requirements will also be required from this proposal. A new section 75 agreement will be required.

### **Environmental Health**

- 71 No objection subject to condition with regard to noise.

### **Flooding Team**

- 72 No comments received however previous issues with regard to flood risk have been addressed.

### **Biodiversity Officer**

- 73 Comments made with regard to information submitted. Recommends various conditions to safeguard biodiversity.

### **Community Greenspace**

- 74 Comments made on open space and landscaping of the overall scheme.

### **REPRESENTATIONS**

- 75 The application has attracted 7 letters of objection including Kinross Civic Trust and the Woodland Trust. The following issues were raised by the objectors:

- Housing numbers exceed Development Plan allocation
- Impact on road network
- Impact on local services
- Loss of trees including possible loss of Ancient Woodland
- Impact on biodiversity including lack of surveys for protected species, i.e. bats breaches EC Directive 92/43/EEC "The Habitats Directive"
- Two Springfield applications should be a major application

### **Response to issues**

- 76 The material planning concerns are addressed in the Appraisal section of this report.

## 77 ADDITIONAL STATEMENTS

Environment Statement	Submitted as part of overall application 15/01512/FLM
Screening Opinion	Scoping undertaken as part of overall proposal
Environmental Impact Assessment	Submitted as part of overall application
Appropriate Assessment	Not required
Design Statement / Design and Access Statement	Submitted with overall application
Reports on Impact or Potential Impact	Submitted as part of the Environmental Statement accompanying application 15/01512/FLM; including Flood Risk Assessment, Transport Assessment and Landscape and Visual Impact Assessment

## APPRAISAL

### Policy

- 78 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 as amended by the 2006 Act require that planning decisions be made in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the approved TAYplan 2012 and the adopted Perth and Kinross Local Development Plan 2014.
- 79 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.

### Principle

- 80 TAYplan Policy 1 (Location Priorities) focuses the majority of development to Tier 2 settlements as they have the potential to accommodate a smaller share of the region's additional development in the next 20 years. The proposed site is located within the Tier 2 settlement of Kinross and therefore the principle of development complies with the objective of this policy.
- 81 The design and layout of the site was previously agreed through application 15/01512/FLM when approval was granted for the erection of 300 dwellinghouses on the wider site. This proposal represents a change to the site layout and proposes two additional residential units than was originally proposed.

- 82 There have been objections with regard to the numbers of houses proposed and that this exceeds the allocation in the Development Plan. This application proposes two additional units on this part of the site than was previously approved. It is noted that the wider issue of unit numbers potentially exceeding the Development Plan was addressed as part of application 15/01512/FLM. In particular the Development Plan figure of 260 units was an indicative figure and did not preclude developments of higher or indeed lower densities on such sites. Permission is in place for 300 units. This proposal is for 2 additional units and it is suggested that such an increase is not significant for a site of this size.

### **Design and Layout**

- 83 The application site is for a section of the main site to the south of the proposed SUDS basin and existing farm buildings complex. The house plots primarily front the main through access road with a spur off that leads to the SUDS basin and proposed country park area. A short section of road has been removed where it formed a short loop between roads. This does not impact on the overall layout although has allowed for two additional dwellinghouses to be included in the layout. Some small areas of landscaping have also been removed and largely incorporated in gardens.
- 84 There is a mix of house types proposed including ten pairs of semi-detached dwellings, five terraces comprising of three dwellinghouses and twelve detached properties. There are five, two bed properties; thirty two, three bed and ten with four bedrooms. The four bed detached properties all have integral garages. All are two storey. Finishing materials are dry dash render with slate grey concrete tile roof and grey uPVC window frames. Feature timber wall detailing is included in many of the house types.
- 85 Parking is shown mainly to the front of properties. Some provision has been made to mitigate the overall impact of this with hedge planting to the front and side of some plots.
- 86 The approved layout included twenty, four bedded properties; twenty one, three bed and four, two bed. This comprised of four pairs of semi-detached, two terraces of four dwellinghouses and twenty nine were detached properties.
- 87 The site area for this application measures 1.298 hectares. This makes the density for this part of the site 36.1 dwellings per hectare. This is a slight increase on the approved layout for this section which is around 34.6 dwellings per hectare.

### **Landscape and biodiversity**

- 88 Landscaping plans were approved as part of application number 15/01512/FLM. This application includes a landscaping plan specifically for this revised layout and design.

- 89 There was concern from objectors with regard to the felling of trees on the site. These trees have now been felled as part of the works approved under application 15/01512/FLM.
- 90 The Council's Biodiversity Officer has commented on the proposals and noted that additional information was required such as an up to date tree condition survey and ecological survey. However this aspect has been dealt with as part of the works that have already commenced on site.
- 91 Community Greenspace has been consulted and make general comment on the overall scheme. These will largely be addressed as part of the Further Matters of detail required for landscape maintenance. This will need to be agreed between the developer and Community Greenspace so that it is clear which areas will be maintained by the Council and which areas will be maintained by the Developer.

### **Residential Amenity**

- 92 The change to the layout and house types are acceptable in terms of residential amenity considerations such as overlooking, overshadowing and provision of private amenity space. Where a proposed dwelling faces directly onto another dwelling there will be a minimum of 18 metres between the external walls and the distance to rear boundaries is 9 metres or more. Environmental Health has been consulted and notes that the applicant is proposing an amendment to plot layout and the substitution of house types with Hybrid heating systems to be installed. Technical specification documents for proposed air source heat pumps (ASHP) have been submitted that are to be installed as part of the gas boiler/ASHP hybrid heating systems. As such plant may generate noise it is recommended that a condition is attached with regard to this.

### **Roads and Access**

- 93 The road layout of the development was fully assessed as part of the earlier application. This application makes a minor amendment to the road layout and is acceptable to Transport Planning.
- 94 There have been representations with regard to traffic generated by the development however this has been assessed as part of the original application and the addition of two units proposed by this application would not affect this.

### **Drainage and Flooding**

- 95 A Flood Risk Assessment (FRA) has been undertaken as part of the earlier application. The Council's Flood Risk Officer raised no objections to the proposal as none of the residential properties are within the flood plain or recorded areas of flood risk. Conditions attached to the earlier permission with regard to flood risk will be imposed on this consent. It is also noted that a Construction Method Statement has been submitted for the wider site where

the development may affect a watercourse. A condition will be attached to require the developer to update the approved CEMP.

### **Cultural Heritage and Archaeology**

- 96 The Environmental Statement submitted with the earlier overall permission has identified some archaeological interest within the application site boundary and Lethangie estate is situated immediately to the east of the site. The category B listed West Lodge and gate piers are located on the A922, immediately opposite the access to the Lathro Farm, which forms part of the northern boundary to the site.
- 97 The revised proposals do not have any impact on the listed buildings and their setting.
- 98 A programme of archaeological evaluation was undertaken as part of the pre-commencement works on the wider site. No further archaeological work is required on this section of the site.

### **Waste and recycling**

- 99 The Council's Waste Services team provided guidance as part of their consultation response on the wider site. It is recommended that the condition and Informative note previously included shall be attached to this consent to ensure the collection of waste will not be compromised.

### **Developer Contributions**

#### **Affordable Housing**

- 100 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. The affordable housing requirement for the overall site approved under application 15/01512/FLM is 75 units (300 x 25%). The phasing of this has been agreed through the section 75 agreement associated with the overall site. In terms of this planning application for a part of the site the requirement is 11.75 (47 x 25%). How this is delivered will need to be agreed through the section 75 agreement.

#### **Primary Education**

- 101 The Council's Developer Contributions Supplementary Guidance requires a financial contribution towards increased primary school capacity in areas where a primary school capacity constraint has been identified. A capacity constraint is defined as where a primary school is operating, or likely to be operating following completion of the proposed development and extant planning permissions, at or above 80% of total capacity.
- 102 This proposal is within the catchments of Kinross and Milnathort Primary Schools. Contributions to primary education are not required from affordable units. The original contribution requirement was based on 225 units (300 – 75)

as agreed in the section 75 associated with 15/01512/FLM. For this application the requirement will be based on 35.25 (47 – 11.75) units requiring a contribution of Education: £227,715 (35.25 x £6,460).

- 103 The requirement for affordable housing and education provision required as part of this new application will need to be agreed through a new section 75 agreement and will have to take account of the slight change in numbers (two additional units) resulting from this application. The existing section S75 will be taken into account as part of this however a new agreement will be required due to a change in applicant for this part of the site who is not a signatory to the existing legal agreement.

### **Air Quality**

- 104 Perth and Kinross Council have a statutory duty under the Environment Act 1995 to review and assess air quality within its area. The application site is not within the boundary of an Air Quality Management Area (AQMA).
- 105 Environmental Health have not raised any air quality issues associated with the proposal and therefore it is considered to comply with LDP Policy EP11 Air Quality Management Area.

### **Contaminated Land**

- 106 The Council's Land Quality Officer previously advised that there may be some contamination in the area of the old railway line. This site is not part of this area so there are no concerns with contaminated land with regard to this application.

### **Economic Impact**

- 107 It is expected that there will be a positive economic impact from the current proposal and that the overall development of 300 dwellings will provide a significant increase in the economy of Kinross and Milnathort.

### **LEGAL AGREEMENTS**

- 108 A new section 75 legal agreement is required to secure necessary developer contributions and infrastructure.

### **DIRECTION BY SCOTTISH MINISTERS**

- 109 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, regulations 30 – 33 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**

- 110 In conclusion, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, it is considered the proposal does comply with the relevant provisions of the adopted plan. There are no material considerations that would justify departing from the LDP. On that basis the application is recommend 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 Prior to the occupation of any residential plot, 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 unless otherwise agreed in writing.

Reason: In the interest of vehicle and pedestrian safety and in accordance with the policies of the adopted Perth and Kinross Local Development Plan 2014.

- 3 Prior to the occupation of any residential plot, details of the specification including materials of all footpaths and cycleways shall be submitted to the Planning Authority for further approval. The agreed detail shall thereafter be implemented prior to the completion of the development.

Reason: In the interest of pedestrian and cycle safety.

- 4 The detailed landscaping and planting scheme which is hereby approved shall be implemented as part of the site development programme 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 Perth and Kinross Local Development Plan 2014.

- 5 Any planting failing to become established within five years shall be replaced in the following planting season with others of similar sizes and species to the satisfaction of the Council as Planning Authority.

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 Perth and Kinross Local Development Plan 2014.

- 6 The areas of public open space and parkland indicated on the approved landscape and planting drawings shall be planted in accordance with the open space standards of the Planning Authority and completed to phase with the adjacent dwellinghouses in accordance with a programme to be submitted to and agreed in writing with the Planning Authority prior to the commencement of the development. The scheme shall thereafter be maintained to the satisfaction of the Council as Planning Authority.

Reason: In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality and to reserve the rights of the Planning Authority.

- 7 The developer shall ensure that during the construction of the development that all surface water is controlled, treated and discharged under the principles of SUDS all to the satisfaction of the Council as Flood Authority.

Reason: In the interests of best practice surface water management; to avoid undue risks to public safety and flood risk.

- 8 The discharge of any surface water drainage shall be limited to the Greenfield runoff rate as calculated in Section 4.3 of the Flood Risk Assessment within the Environmental Impact Assessment Environmental Statement Vol.3 Technical Appendix A. All discharge rates shall be agreed in writing by the Planning Authority in consultation with the Flooding Team prior to the commencement of any works on site.

Reason: To reduce flood risk

- 9 Unless otherwise agreed in writing by the Planning Authority the Finished Floor Level of all properties shall be a minimum of 600mm above the 200 year flood level.

Reason: To reduce the risk of flooding.

- 10 Unless otherwise agreed in writing by the Planning Authority, the garden level of all properties shall be a minimum of 300mm above the 200 year flood level.

Reason: To reduce the risk of flooding.

- 11 Prior to the commencement of development details of all front driveway screening shall be submitted to the Planning Authority for further approval. The agreed detail shall be thereafter implemented prior to the occupation of each dwelling and permanently maintained thereafter.

Reason: In the interest of visual amenity and in compliance with the National Roads Development Guide.

- 12 Prior to commencement of development the CEMP approved under application 15/01512/FLM shall be updated to reflect the changes proposed in this application. The CEMP detailing environmental mitigation measures and construction method statements, including specific measures for environmental monitoring during construction, shall be submitted for the further written agreement of the Council as Planning Authority in consultation with SNH and/or

SEPA. Such details shall be submitted not less than two months prior to the agreed scheduled commencement date and shall incorporate detailed pollution avoidance and mitigation measures for all construction elements. Thereafter the development shall be fully undertaken in accordance with the agreed CEMP.

Reason: In the interest of protecting environmental quality and of bio-diversity.

- 13 The hours of operation at the construction stage shall be Monday to Friday 07:00 to 19:00 hours, Saturday 08:00 to 13:00 hours and no workings on a Sunday, unless otherwise agreed in writing with the Planning Authority.

Reason: In the interests of public health and to prevent noise pollution.

- 14 No works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect animals from being trapped in open excavations and/or pipe and culverts are submitted to and approved in writing by the local planning authority. The measures may include creation of sloping escape ramps which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day and open pipework greater than 150 mm outside diameter being blanked off at the end of each working day.

Reason - In order to prevent animals from being trapped within any open excavations.

- 15 Lighting will be designed, and positioned in such a way as to prevent light spillage into adjacent watercourses and woodland.

Reason - In the interests of protecting environmental quality and of biodiversity.

- 16 No development, including earth moving, shall take place or material or machinery brought on site until protective fencing and warning signs have been erected on site in accordance with an approved Construction Method Statement. All protective fencing and warning signs will be maintained during the construction period in accordance with the approved details.

Reason: In the interest of natural heritage.

- 17 Should the development not commence within 12 months of any approval then further preconstruction surveys shall be undertaken to ascertain the presence or absence of protected species and breeding birds and written confirmation that no protected species or birds will be harmed and/or that there are appropriate measures in place to protect said protected species and nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

Reason - In the interests of employing best practice ecology and to ensure there is no adverse impact on any protected species as identified under the Wildlife and Countryside Act (1981).

- 18 All trees to be retained shall be protected in accordance with BS 5837 2012 Trees in Relation to Design, Demolition and Construction prior to any works commencing on site, and shall remain in place until all construction is completed.

Reason - In the interests of employing best practice ecology and to ensure there is no adverse impact on any protected species as identified under the Wildlife and Countryside Act (1981).

- 20 All plant or equipment 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 property, with all windows slightly open, when measured and/ or calculated and plotted on a rating curve chart.

Reason - In order to safeguard the neighbouring residential amenity in the area from noise associated with the air source heat pumps and other plant or equipment associated with the proposed dwellinghouses.

## **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 NOTE**

- 1 Consent shall not to be issued until a Section 75 Agreement relating to developer contributions has been completed and signed. Affordable housing contributions will require 35.25 (47 – 11.75) affordable units to be provided as part of this application with contributions for primary education provision of £227,715 (35.25 x £6,460).
- 2 The legal agreement should be concluded and completed within 4 months of the date of any Committee approval. Failure to conclude a legal agreement within 4 months will result in the planning application being re-assessed through failing to comply with the associated developer contributions policy and may be recommended for refusal under delegated powers.

## **D INFORMATIVES**

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
- 2 Under Section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the Planning Authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement

would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.

- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.
- 4 The applicants are advised that they must apply to the Roads Authority, for construction consent to form a new street. Please contact The Construction and Maintenance Manager, The Environment Service, Perth and Kinross Council, The Atrium, Glover Street, Perth.
- 5 Please consult the Street Naming and Numbering Officer, The Environment Service, Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth PH1 5GD
- 6 The applicant is advised that the granting of planning consent does not guarantee a connection to Scottish Water's assets. The applicant must make a separate application to Scottish Water Planning & Development Services team for permission to connect to the public wastewater system and/or water network and all their requirements must be fully adhered to.
- 7 No work shall be commenced until an application for building warrant has been submitted and approved.
- 8 The development shall be in accordance with the Council's Developer Contributions and Affordable Housing Policy approved in April 2016 which requires a 25% allocation of affordable units within the development all to the satisfaction of the Council as Planning Authority.
- 9 All domestic properties require an appropriate storage area for a minimum of 3 x 240 litre bins (1 for general waste, 1 for garden & food waste and 1 for dry mixed recyclates/paper) and suitable access/surface to wheel the bins from the storage area to the kerbside where they must be presented for collection.

#### Bin Dimensions

Capacity (litres)	Width (mm)	Height (mm)	Depth (mm)
240	580	1100	740

- 10 The applicant is reminded that, should any protected species be present a licence may be required from Scottish Natural Heritage to disturb a protected species. Failure to obtain a licence may constitute a criminal act under the Habitats Regulations and penalties are severe for non-compliance.
- 11 The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended, it is an offence to remove, damage or destroy the nest of any wild

birds while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.

Background Papers: 7 letters of representation  
Contact Officer: Persephone Beer Ext 75354  
Date: 23 August 2017

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

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