

Perth and Kinross Council  
Planning & Development Management Committee – 1 July 2020  
Report of Handling by Head of Planning & Development (Report No. 20/112)

**PROPOSAL:** Erection of 169 dwellinghouses, formation of open space, landscaping and associated infrastructure (Phase 2)

**LOCATION:** Land 300 metres north west of Lathro Farm, Kinross

Ref. No: [19/00917/FLM](#)

Ward No: P8 - Kinross-shire

**Summary**

This report recommends approval of the application as the proposed development is considered to comply with the relevant provisions of the Development Plan and there are no material considerations apparent which outweigh the Development Plan.

**BACKGROUND AND DESCRIPTION OF PROPOSAL**

- 1 The application site (6.12 hectares) is situated at the northern end of Kinross and to the south of Milnathort. The land was last in predominantly agricultural use and has undulating topography with a watercourse known as the 'North Queich' a short distance to the north.
- 2 To the south is established residential development, with access off Gallowhill Road available at the south-west corner. The western boundary has further agricultural field beyond, which is then defined by the M90 motorway; whilst to the north, again across agricultural land, is a mix of uses including: commercial, light industry and residential, all within the settlement of Milnathort. The eastern boundary is defined by the now largely completed first phase of development.
- 3 The application site was originally allocated as part of H47 in the now superseded Perth and Kinross Local Development Plan (LDP 1) 2014. This allocation being for residential development, with an indicative density of 260 dwellings. Currently LDP 2 (2019) sees this larger site identified as 'white land' within the settlement boundary, alongside the associated designated country park.
- 4 Planning permission (15/01512/FLM) was granted in March 2017 for 300 dwellings covering Phases one (203 dwellings) and two (97 dwellings) across the entire allocated H47 site, this also included the extensive country park. However, there have been subsequent alterations to the dwelling numbers of Phase 1 taking that phase from 203 up to 207 dwellings, thus the total number of approved dwellings now stands at 304.

- 5 Planning permission 15/01512/FLM was subject to 36 planning conditions and a Section 75 legal agreement, securing: affordable housing, education and transport infrastructure contributions, as well as the delivery of the country park.
- 6 This current planning application initially proposed redevelopment of Phase 2 to include 195 dwellings, rather than the consented 97 – an increase of 98. However, following assessment and discussions by officers the proposals were substantially altered and unit numbers reduced to 169 in February 2020 – an increase of 72 from that consented. Overall, with this proposal the two combined phases would see 376 dwellings. In general, this revised development moves away from being weighted towards larger house types to a wider variety of housing, including more smaller units of 1, 2, 3 and 4 bedrooms. There are now no 6-bedroom units and a significant reduction in the number with 5 bedrooms. As such, plot sizes are generally smaller, allowing for more units to be accommodated within the same area.
- 7 The existing and proposed housing mix is set out below:

	<u>15/01512/FLM</u>	<u>19/00917/FLM</u>
1 Bedroom	04	08
2 Bedroom	10	37
3 Bedroom Dwelling	02	70
4 Bedroom Dwelling	0	34
5 Bedroom Dwelling	67	20
6 Bedroom Dwelling	14	-
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	97	169

## **ENVIRONMENTAL IMPACT ASSESSMENT (EIA)**

- 8 An EIA screening opinion was undertaken in relation to increased residential development numbers and associated works on the site, concluding that EIA was not required. On this basis, an EIA Report was not required to be submitted, with the extant permission identifying what was of environmental significance (or not) and addressed via a suite of mitigation. A number of individual reports and assessments have been prepared to address specific impacts of the proposal on this site.

## **PRE-APPLICATION CONSULTATION**

- 9 The proposed development is classed as a 'Major' development in terms of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. In this respect, due to the proposed increased housing numbers on the site, a Proposal of Application Notice (PoAN) was submitted and the content approved. This resulted in a public consultation being held at Kinross Community Campus on 10 December 2018. On officer recommendation, to reflect the reduction in scale of design, a follow-up event was held on 10 February 2020 at the Community Campus, entitled 'Community Engagement Update Event'.

- 10 Public comment during the PAC process, as outlined in the PAC Report, principally related to:
- Pressure on infrastructure;
  - Provision of a landscape buffer to existing houses to south; and
  - Concern over the tenure of housing being proposed.
- 11 The PoAN was reported to the January 2019 Planning and Development Management Committee. Members noted the report and made comment on:
- Ensuring the development has a proper play area and the country park is formed;
  - Engagement with the Roads Authority to ensure traffic impacts were properly assessed, including looking at links to M90 motorway;
  - Concern over any proposed increase in site density;
  - Ensuring assessment of education and healthcare capacity; and
  - Concern over the speed of development in the area.

## **NATIONAL POLICY AND GUIDANCE**

- 12 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**

- 13 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. Under the Planning etc. (Scotland) Act 2006 this is now a statutory document and material consideration in any planning application. The document 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.

### **Scottish Planning Policy 2014**

- 14 The Scottish Planning Policy (SPP) was published in June 2014 and 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.
- 15 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
- Maximising the Benefits of Green Infrastructure: paragraphs 219 – 233
- Managing Flood Risk and Drainage: paragraphs 254 – 268
- Promoting Sustainable Transport and Active Travel: paragraphs 269 – 291

### **Planning Advice Notes**

- 16 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 68 Design Statements
- PAN 75 Planning for Transport
- PAN 77 Designing Safer Places

### **Designing Streets 2010**

- 17 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, alongside Creating Places, which sets out Government aspirations for design and the role of the planning system in delivering these.

### **Creating Places 2013**

- 18 Creating Places is the Scottish Government's policy statement on architecture and place. It sets out the comprehensive value good design can deliver. It notes that successful places can unlock opportunities, build vibrant communities and contribute to a flourishing economy and set out actions that can achieve positive changes in our places.

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

- 19 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**

- 20 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2016-2036 and the Perth and Kinross Local Development Plan 2019 (LDP2).

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

- 21 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 plans 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.”*

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

- Policy 1: Locational Priorities
- Policy 2: Shaping Better Quality Places
- Policy 4: Homes
- Policy 6: Developer Contributions
- Policy 8: Green Networks

## **Perth and Kinross Local Development Plan (LDP) (2019)**

- 23 The Perth and Kinross LDP 2019 (LDP2) was adopted by the Council on 29 November 2019. It sets out the Council's vision, which echoes that of TAYplan (as set out above). LDP2 also sets out policies and identifies proposals. The principal relevant policies for this application are:

- Policy 1: Placemaking
- Policy 2: Design Statements
- Policy 5: Infrastructure Contributions
- Policy 14B: Open Space within New Developments
- Policy 15: Public Access
- Policy 17: Residential Areas
- Policy 20: Affordable Housing
- Policy 23: Delivery of Development Sites
- Policy 25: Housing Mix
- Policy 26: Archaeology
- Policy 32: Embedding Low and Zero Carbon Generating Technology in New Developments
- Policy 38A: International Nature Conservation Sites
- Policy 38B: National Designations
- Policy 38C: Local Designations
- Policy 40B: Trees, Woodland and Development
- Policy 41: Biodiversity
- Policy 42: Green Infrastructure
- Policy 46: Loch Leven Catchment Area
- Policy 52: New Development and Flooding
- Policy 53: Water Environment and Drainage
- Policy 54: Health and Safety Consultation Zone

- Policy 56: Noise Pollution
- Policy 57: Air Quality
- Policy 58: Contaminated Land and Unstable Land
- Policy 60: Transport and Accessibility Requirements

### **LDP2 site designation**

- 24 The site is not allocated in LDP2, as it has an approved full planning permission with masterplan, detailed permission, and is under construction. Rather, LDP2 identifies it within the settlement boundary and notes: *‘whilst sites carried forward at Lathro Farm and the old High School for 300 and 91 homes are respectively under development.’*

### **SITE HISTORY**

- 25 [14/00493/SCRN](#) Proposed residential development. Decision issued April 2014 (EIA Required).
- 26 [14/00004/PAN](#) Residential development with associated open space, landscaping and infrastructure. PoAN sufficient. Decision issued May 2014.
- 27 14/01345/SCOP Residential development with associated access and landscaping. Scoping response issued 8 September 2014.
- 28 [15/01512/FLM](#) Erection of 300 dwellinghouses, formation of open space, landscaping and associated infrastructure works. Approved by Development Management Committee, March 2017 (Decision issued 31 March 2017 following conclusion of S75).
- 29 [17/00759/FLL](#) Erection of 13 dwellinghouses and associated works. Application Withdrawn.
- 30 [17/00760/FLL](#) Erection of 47 dwellinghouses and associated works. Approved by Development Management Committee, March 2017 (Decision Issued 28 May 2018 following conclusion of S75).
- 31 [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. Approved by Development Management Committee 20 September 2017.
- 32 [17/00893/FLL](#) Erection of 6 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) Approved by Development Management Committee 20 September 2017.

- 33 [17/01721/FLL](#) Erection of 12 dwellinghouses and associated works. Approved under delegated powers (Decision Issued 28 May 2018).
- 34 [18/01117/FLL](#) Erection of 47 dwellinghouses and associated works (change of house type to include sunrooms for plots 515-518, 522-527, 531-536, 540-546, 550-553 and 557-559). Approved under delegated powers (Decision Issued 17 April 2019).
- 35 [18/01118/FLL](#) Erection of 12 dwellinghouses and associated works (change of house type to include sunrooms for plots 509-512 and 700-707). Approved under delegated powers (Decision issued 17 April 2019).
- 36 [18/00013/PAN](#) Residential development, PoAN sufficient. Decision issued 27 November 2018.

## **CONSULTATIONS**

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

### **External**

- 38 **Historic Environment Scotland (HES)** – No objection in terms of any anticipated impact on scheduled monument SM7614 (Lathro cottage).
- 39 **National Health Service Tayside (NHST)** – No comments.
- 40 **Health and Social Care Partnership (HSCP)** – Have commented in their capacity for provision of primary care services, including GP services. No objection but advise of difficulties in relation to securing additional GPs and associated medical support staff.
- 41 **Scottish Environment Protection Agency (SEPA)** – No objection, following the submission of additional flooding and drainage information and associated clarifications.
- 42 **Scottish Natural Heritage (SNH)** – No objection, subject to suitable control of construction elements and satisfactory Sustainable Urban Drainage (SUDs) in relation to potential run-off to Loch Leven Special Protected Area (SPA).
- 43 **Scottish Water** – No objection.
- 44 **Transport Scotland** – No objection.
- 45 **Royal Society of Protection of Birds (RSPB)** – No comments.
- 46 **Perth and Kinross Heritage Trust (PKHT)** – No objection. Advise the site does not raise any archaeological issues.
- 47 **Balado Airfield** – No comments.

- 48 **Kinross Community Council** – No comments have been made in relation to consultation on the revised proposals for the reduced number of dwellings (169 units). However, the initially proposed 195 unit proposals in the original submission received an objection from the Community Council, with the following issues raised: overdevelopment of the site; lack of parking; loss of trees; impact on conservation area; and that the GP surgery was under strain.
- 49 **Milnathort Community Council** – No comments.
- 50 **Portmoak Community Council** – Object. No response to most recent consultation request for reduced dwelling number proposals. Objection received regarding the original proposal with housing numbers exceeding the original LDP allocation with current LDP not proposing an increase in numbers; impacting on local infrastructure such as schools and medical centres and setting out that the A911 road is not suitable for increased traffic.

### **Internal**

- 51 **Biodiversity Officer** – No objection, subject to condition seeking control of invasive species and a biodiversity action plan.
- 52 **Community Greenspace** – No objection, subject to conditional control to secure play area details.
- 53 **Community Waste Advisor** – No objection, recommending the conditional requirement to deliver a mini glass recycling point within the site.
- 54 **Development Negotiations Officer** – No objection, contribution requirements identified, all to be secured through a further S75 obligation.
- 55 **Environmental Health (Contaminated Land)** – No objection, acknowledging that investigation had been undertaken previously, with no concerns identified in relation to contamination.
- 56 **Environmental Health (Noise Odour)** – No objection, subject to conditional controls for construction elements and to mitigate background road noise.
- 57 **Strategy and Policy (LDP Team)** – No objection.
- 58 **Structures and Flooding** – No objection following the submission of additional flooding and drainage information and associated groundwater clarification.
- 59 **Transport Planning** – No objection. Initial objection was resolved through submission of an updated Transport Assessment (TA) and securing of additional off-site transport infrastructure improvements, via financial contributions by condition and associated S75 agreement.



## REPRESENTATIONS

60 179 valid representations objecting to the scheme have been received overall (including comments from the Kinross-Shire Civic Trust). Of these, 169 were in relation to the objections for original scheme (for 195 dwellings) and 47 individual objections were received specifically for the current scheme (for 169 units). It should be noted that comment from the same household/address were submitted in respect of both schemes but have only been counted once within the totals given. The relevant points raised for the current scheme are:

- Consider proposals contrary to Scottish Planning Policy, TAYplan, LDP and LDP2;
- Poor PAC Report;
- No need for further housing in Kinross and Milnathort;
- Design discriminates against those with mobility issues;
- High density, poor site layout and out of character with location;
- Lack of childrens play area;
- Loss of open space and fields;
- Lack of buffer with Lathro park;
- Loss of trees;
- Adverse visual impact;
- Overlooking/privacy;
- Loss of daylight and sunlight;
- Noise, light and air quality pollution;
- Transport Assessment inadequate;
- Lack of parking;
- Poor transport links;
- Increased congestion;
- Road and pedestrian safety issues;
- Gallowhill Road not suitable for increased traffic;
- Too far from public transport;
- Flood Risk Assessment out of date;
- Flood risk within site and on Gallowhill Road;
- Increased surface water run off;
- Groundwater levels very high;
- Impact on wildlife and biodiversity;
- Lack of EIA or HRA, in terms of Impact on Loch Leven and its national and international designations;
- Impact on infrastructure including High Street, schools, nurseries, and medical centres; and
- No local economic investment as all will be commuters.

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

62 The following issues were also raised in numerous representations but are not a material planning considerations:

- Loss in property values;
- Anti-social behaviour associated with Phase 1;

- Building Standards issues in Phase 1 regarding completion certificates, home insurance, snagging and poor build quality;
- Competence of applicant and their legal representatives;
- Lack of parking in Phase 1; and
- No reference to Phase 1 in respect of the re-mix.

## ADDITIONAL STATEMENTS

63	Environmental Impact Assessment	Not Required
	Screening Opinion	EIA not required
	Environmental Statement/Report	Not Required
	Appropriate Assessment	Considered in consultation with SNH, undertaken and set out as part of the report appraisal
	Design Statement / Design and Access Statement	Submitted
	Reports on Impact or Potential Impact	<ul style="list-style-type: none"> <li>• Updated Transport Assessment;</li> <li>• Air Quality Assessment;</li> <li>• Noise and Vibration Impact Assessment;</li> <li>• Site Investigation Report;</li> <li>• Tree Survey;</li> <li>• Draft Construction</li> <li>• Environment Management Plan (CEMP);</li> <li>• Flood Risk Assessment with update;</li> <li>• Sustainability Checklist;</li> <li>• Carbon reduction report;</li> <li>• Habitat Survey;</li> <li>• Viability Assessment.</li> </ul>

## APPRAISAL

- 64 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 (LDP) (2019). The relevant policy considerations are outlined in the policy section above and are considered in more detail below. In terms of other material considerations, this involves considerations of the Council's other approved policies and supplementary guidance.

### Principle

- 65 The principle of residential development of the site is well established through initial allocation in LDP1 (and Local Development Plans since 2004) and a live

and extant Full Planning Permission since 2017. In addition, TAYplan Policy 1 – Locational Priorities seeks to focus most development to the region's principal settlements. Kinross is identified as a Tier 2 Settlement, with the potential to make a major contribution to the regional economy but will accommodate a smaller share of the additional development than a Tier 1 Settlement.

- 66 The site is identified as 'white land' within the settlement boundary of Kinross and Milnathort under LDP2 and within an area zoned for residential and compatible uses under Policy 17 Residential Areas. The principle of residential development is thus firmly established, and that principle is not considered contrary to Scottish Planning Policy, TAYplan or development plan policy as is the position set out in a number of the representations. It is, however, necessary to undertake an assessment of the detail of the proposal including specific LDP2 policy requirements, as set out below.

### **Pre-Application Consultation**

- 67 Criticism has been made in objections on the quality of the PAC Report submission. It is acknowledged that the PAC Report, whilst sufficient from a statutory position, could have gone further in certain areas and provided more background. In this regard officers encouraged the developer to undertake further community discussion during the processing of the application and in advance of the revised/current layout submission. This voluntary further event took place at Kinross Community Campus in February 2020. However, it is important to confirm that the content of the PAC Report was considered statutorily sufficient and would not constitute a material reason for refusal.

### **Housing Need**

- 68 Representations contend that there is no need for further housing in Kinross and Milnathort. However, there is a statutory requirement for sufficient land to be identified in the LDP to meet identified housing needs. Particularly, Scottish Planning Policy requires the LDP to allocate effective land, or land capable of becoming effective, to meet the housing land requirement as set out in TAYplan Policy 4 – Housing. The requirements in the Kinross Housing Market Area (KHMA) included a 10% shift of overall housing numbers from this area to the Perth Core Area, addressing pressure on the Loch Leven catchment. The housing land identified in the KHMA within LDP2 includes this site. However, it is recognised that within the KHMA there is an identified surplus of 29 units across the 2016-2029 period from the 983-home requirement. In consultation with the LDP Team, the additional units proposed here are minor and welcomed overall; constituting only 3% of the total. Ultimately, housing land supply figures cannot be considered precise; rather the overall approach to identifying appropriate sites and then calculating whether these will deliver closely to the housing land requirement.
- 69 LDP 2 pages 14-17 explains the housing land requirement and describes the spatial strategy which adopts the TAYplan hierarchical approach of focusing development in the Principal Settlements (which includes Kinross/Milnathort).

## Design and Layout

- 70 The application is supported by a Design & Access Statement, as required for an allocated site under LDP2 - Policy 2 and a Planning Statement.
- 71 A high number of representations object on the basis that the number of units proposed across the overall site exceeds the 260 which was set out in LDP1 (2014), and also above the extant permissions for the site (304) by a further 72 dwellings to a total of 376; a 23% increase on the existing permissions. This issue is discussed further in the 'Density' section below.
- 72 In general, the application proposes a wide mix of unit sizes and dwelling styles. One level living accommodation was encouraged by officers; however, this is only seen in four 1-bedroom (Blair) and six 2-bedroom (Glamis) ground floor cottage flat apartments (6%). Dwelling sizes range up to 5-bedroom detached units, with the highest percentage (41%) containing 3 bedrooms. In responding to LDP2 Policy 25, this is considered a good, rich housing mix.
- 73 Representations criticise the proposals as providing a poor site layout and discriminating against those with mobility issues. In response to this and taking the terms and detail of the existing approved layout as a baseline, the movement and connections to and from the site remain generally consistent with that of the extant permission. It is also appropriate that the existing established characteristics of the parts of the site which have been developed and have permissions in place, set the overall framework for what is proposed in this application. Particularly, the two principal access points into and out of the site, both onto Gallowhill Road and through Phase 1. Otherwise, there are key consented pedestrian routes which remain in the promoted layout design. The route to the country park, identified in the original masterplan, has however been lost as a result of approved amendments to Phase 1.
- 74 In terms of Phase 2, as the application has been assessed there have been significant re-designing and negotiating away from the original layout of 195 dwellings, resulting in the current layout which sees numbers reduced to 169. This amended layout and number of units is considered overall to be appropriate, responding to site conditions with a central pocket of higher density, reducing in density to the southern edge - reflecting the adjacent Lathro Park. This southern boundary now also includes an additional 3m deep landscape buffer and then feathering out to a lower density of larger executive house types on the northern edge, forming the edge of the settlement and the immediate interface with the country park.
- 75 Moving away from the material palette of Phase 1, more contemporary material finishes are proposed, tying in with some of the Phase 1 re-mix and older parts of Kinross and rural Kinross-shire. These finishes include: white and off-white render against dark brick underbuild and surrounds, elements of graphite composite cladding with anthracite roof tiles. These finishes are considered appropriate in this context.

- 76 Overall, the proposals are considered to provide an acceptable layout and design. Further, and as is set out below, the proposed layout is not considered overdevelopment and continues to reflect the general character and layout of the surroundings, including both Phase 1 and neighbouring residential developments. The design and scale of development proposed is therefore considered to comply with Policies 1A and B, which relate to placemaking, and the criteria outlined in Policy 17 for residential areas of LDP2.

### **Density**

- 77 A density study was submitted, following officer recommendation, in support of the final layout and to respond to representations which consider the density of the proposals to be too high and out of character with the location. Particularly, it is important to agree that an appropriate density is not simply related to the number of dwellings proposed, but more related to the arrangements within the site and the interfaces with the immediately adjacent areas and then wider context of developed and undeveloped areas; building scale/relationships and associated public open and private amenity space afforded across the layout and beyond. The density study also helpfully looks at the density range across both Phase 1 and the current proposals for Phase 2, as well as the wider development of Kinross.
- 78 Overall, the density within the application sees nearly 29 dwellings per hectare (ha). This figure, with the arrangements and context in place, is considered to get close to maximising what can be accommodated, when considering established neighbouring development, landscape capacity, and the relationship with the edge of the settlement. However, the density is considered appropriate and is supported in the site context. Clear efforts have been made to respond to its site surroundings, whilst pursuing an alternative housing mix. It is also considered that there is excellent pedestrian, cycling and wheeling network opportunities (including its relationship with the country park). It is noted that increasing the housing numbers provides justification for further off-site transport infrastructure improvements to come forward to address the increased demand. This would include public transport facilities, provision of a signalised junction and the requirement to further investigate more sustainable transport opportunities in and around the site (Conditions 13,14, and 15). On balance, the density remains satisfactory and is not considered a material reason for refusal.

### **Sustainability**

- 79 LDP2 Policy 32 requires proposals for new buildings to demonstrate that at least 10% of the current carbon reduction emissions will be met through the installation and operation of zero and low-carbon generating technology.
- 80 A supporting 'Energy Statement' sets out a commitment to install solar panels on every dwelling. A review of the statement has found that it fulfils the terms of Policy 32 and as it will form part of the approved documentation of any planning permission, its terms would be enforceable.

## **Landscape & Open Space**

- 81 As set out, the site has an extant permission. The principle of developing what was agricultural fields has therefore already been established, both through the LDP process and subsequent detailed planning permission.
- 82 Despite the increased dwelling numbers, the principal landscape and open space elements remain intact and adopted from the original approved layout, although refinements following officer comment have created improvements overall. These include a better landscaping specification with: a native species mix and colour injection around the identified play area; removing and reducing impractical left-over open spaces; and a focus on street trees, links between the two principal open spaces and to the country park.
- 83 Other objections to the landscape and open space proposals included:
- Lack of a children's play area – However this is to be delivered, with detail secured (Condition 10).
  - Lack of a buffer with Lathro park – As set out above, this has been addressed via a 3m deep landscape buffer (Condition 8).
  - Loss of trees – Although there is an initial loss of trees to the periphery of the site, this would be the result if the existing permission was implemented. To mitigate any loss, the proposed landscaping scheme includes proposals to introduce more native species than those of the previous permissions. In addition, and following advice from the LDP Team, it would be beneficial and welcomed to see more trees introduced at the edge of the country park. This matter will be investigated separately with the applicant for additional enhancement and edge of settlement treatment but is not possible to pursue directly through this application.
  - Loss of open space – As mentioned above there is no net reduction in open space from the existing situation.
- 84 In terms of further enhancement, Community Greenspace colleagues suggested that there could be improvements at the SUDs pond design, in terms of appearance and easier maintenance, if the top and base slopes of the basin were rounded. Its appearance and biodiversity value could also be increased if wildflower beds were sown on a subsoil (no topsoil) around its edges. Flood team colleagues have agreed this was a reasonable and appropriate suggestion, providing the overall pond capacity did not reduce. These matters can be further investigated and secured (Condition 9).
- 85 Subject to securing and delivering the play park (Condition 10) and associated landscape Conditions 7, 8 and 9, the proposals are considered to comply with Policy 42 and remain in broad accordance with LDP2 Policy 40A and 40B.

## **Residential & Visual Amenity**

- 86 The site is bound to the south by residential properties at Lathro Park and comments have been received relating to both the initial and revised layouts in relation to anticipated or perceived impacts on residential amenity through:

- Overlooking/privacy
- Loss of daylight and sunlight

- 87 In relation to the proposed arrangement of development along the boundaries with Lathro Park, this sees dwellings set back from the boundary and the inclusion of a 3m wide landscape buffer along the entire southern site boundary, where there would be an interface between residential properties. These arrangements see none of the proposed dwellings contain a living room window less than 9m from the boundary. It is therefore considered the distance and relationship between residential properties is adequate and sufficient to mitigate any impact on existing residential amenity from overlooking. As regards levels of daylight and overshadowing, as the proposed dwellings which share a boundary with Lathro Park are all directly north of these existing dwellings there is no detrimental impact in terms of loss of daylight or overshadowing toward those existing properties.
- 88 It is also important to secure private outside areas provided that can perform the minimum to be expected of a garden i.e. storage of outdoor equipment/bins, clothes drying, and sitting out. In this respect the site layout sees all dwellings provided with adequate garden sizes, of at least 9m in depth. The Council's Placemaking Guidance requires a minimum of: 60 square metres (sqm) for 2-bedroom dwellings; and 80sqm metres for 3+ bedroom properties. In all cases, apart from the cottage flat apartments, this standard is comfortably met or exceeded. In relation to the flats, there is currently no set minimum standard, with consideration given on a case by case basis. In this context the cottage flats see a minimum of 30sqm of dedicated private garden ground offered to each flat (split front and back). Further, every dwelling would have access to the country park that will be in close proximity. Overall it is considered that the amount of private amenity space is acceptable to the rear of all dwellinghouses and flats.
- 89 Taking the aforementioned into account, the proposed development is considered compliant with the Council's Placemaking Guide 2019 and LDP2 Policies 1A, 1B and 17 in relation to residential amenity.

## **Air Quality, Lighting and Noise Pollution**

### Air Quality

- 90 An Air Quality Assessment (AQA), was submitted in relation to planning permission 15/01512/FLM. An updated AQA was submitted with this application, in response to the proposed increase in dwelling numbers and the current 2025 forecast completion date for the overall development.
- 91 The updated AQA has been reviewed by the Council's Environmental Health team and is considered competent, based on current guidance and assessing the potential effects of road traffic emissions on both existing and future residential receptors. The AQA predicts no significant change in NO<sub>2</sub> and PM<sub>10</sub> concentrations at all locations, meeting the air quality objective limits with or without the development and therefore the impact of magnitude of change for pollutants is considered negligible. In effect, the assessment concludes that air

quality is not a significant material concern in the consideration of the application.

#### Noise & Vibration

- 92 An updated noise and vibration impact assessment (NVIA) was also submitted. The NVIA discusses construction noise in its conclusions, predicting a negligibly significant adverse temporary short-term impact prior to the implementation of mitigation measures, which are recommended to be incorporated into a detailed Construction Environmental Management Plan CEMP (Condition 3).
- 93 To expand on the detail of the impact, at the closest existing dwelling house, referred to as 'Receptor 1' (approximately 8 metres away from construction activities), the magnitude of impact from a vibratory roller is moderate and from any HGV movement is negligible. Whilst this was considered worst-case scenario and the report goes on to clarify that the distance to other properties is greater and vibration activity data used in the assessment may not be applicable to all construction activities to this site. On this basis, the conclusions of the vibration assessment are useful but can only be used as an indicator and should be more appropriately controlled within the detailed CEMP (Condition 3).
- 94 The NVIA states road traffic noise generated by construction vehicle movements will have a negligible impact at all receptors and is only anticipated during the daytime, with the updated CEMP to include a section securing the control of deliveries during working hours.
- 95 In terms of operational noise, the NVIA assessed the road traffic noise generated from traffic from the new development on existing dwellinghouses and traffic noise from the M90 and South Street on the new proposed dwellinghouses. It concluded that traffic generation from the proposed development would be negligible with the greatest predicted road traffic level change along Gallowhill Road, with an increase of +2.2 decibels (dB) which is not perceptible. Where site layout design and habitable room orientation does not allow, acoustic trickle ventilation is recommended on habitable rooms in line of sight of the M90 (Condition 12).
- 96 Noise assessment from South Street traffic on proposed dwellings along the southern boundary has calculated that external amenity levels would not exceed the World Health Organisation (WHO) external noise level guidance of 55dB, concluding no adverse impact on garden areas of affected properties from traffic noise, with no mitigation required.

#### Sport Pitches/Skate Park

- 97 The NVIA states that the predicted noise level of 5 skateboarders using the skate park would see an increase in ambient noise level of +1.5 dB at the closest proposed residential receptor. The sport pitches predicted noise levels would see an ambient noise increase of +2dB at the closest residential receptor. Both resulting in negligible impact, with no mitigation required.



Environmental Health comment that if there were more patrons using these facilities, the closest properties may be more aware of noise, but the baseline position is acceptable.

#### Odours

- 98 Not forming part of this site, but as part of the wider background site history and in association with neighbouring Phase 1, it is noted that Environmental Health have received complaints regarding odours within several properties. However, following investigations, no formal action was taken as no statutory nuisance was determined and the source of the odour was not confirmed.
- 99 In conclusion, subject to conditional control requiring: the detailed CEMP to cover noise and vibration (Condition 3); securing acoustic trickle ventilators in properties affected by the M90 and South Street (Condition 12); and a further stand alone control (Condition 11) in relation to construction site operational hours, no significant detrimental impact in terms of air quality and noise is anticipated and therefore the proposals are considered to comply with LDP2 Policy 57 – Air Quality and Policy 58 – Noise.

#### **Roads and Access**

- 100 A large volume of representations received relate to concerns and perceived problems with the proposed/existing road and access arrangements. In a strategic network sense Transport Scotland raise no objection to the proposals. Otherwise the Council's Transport Planning team initially objected, advising: an updated Transport Assessment (TA) would be required, in addition to setting out concerns on the narrow road geometry and road detailing within the site.
- 101 Since the submission of the application there have been several improvements to the plans, following discussions in terms of the shared use space elements, and is now considered a compliant design which can be supported. A swept path analysis was carried out on the revised road layout, resulting in sections of road being widened to ensure that the site is navigable for refuse and emergency service vehicles. Areas for on-street car parking have also been added, to ensure two-way traffic flow is not overly impeded by indiscriminate parking of vehicles. This also represents an improvement to the extant permission for Phase 2.
- 102 In terms of traffic impact, the updated TA and traffic modelling work identified issues in terms of capacity and queue lengths at the junction between the Muirs and the Community Campus; with queuing vehicles affecting Gallowhill Road at peak times. As a result, the TA tested the introduction of signalised traffic control at the junction; demonstrating an easing of issues at peak time (Muirs/Community Campus & Gallowhill Road/Muirs), alleviating queue times on Gallowhill Road and dramatically reducing queuing vehicles at the Community Campus junction. This also provides for an added benefit of allowing a pedestrian phase into the signalling, ensuring safe pedestrian movements to the Campus.
- 103 A second traffic signal control at the junction between Springfield Road and Muirs was also modelled. This produced negative impact results in terms of

queuing lengths on Springfield Road, increasing vehicle queue length from approximately 100m to close to 250m in the AM peak, and a similar increase in queueing during the PM school run around 16:00. This signalisation could also incorporate a pedestrian phase. However, the testing work also set out that these signals would not significantly impact this junction, with sufficient junction capacity existing currently. It would therefore not be proportionate or justified to require the delivery of such infrastructure through this planning application, given the concluding results showing no detriment to the local road network.

- 104 The impact of the identified works is anticipated to increase average journey time along the route (Station Road roundabout via the Muirs to the roundabout at the Cross, Milnathort) by less than 3 minutes, but this is greatly offset by the tangible benefits to pedestrian safety; particularly children making their way to the Community Campus.
- 105 In securing the aforementioned improvements, the Transport Planning team recommend a suite of conditions (Conditions 13 – 17) covering: the required road design standards within the site; securing agreed transport infrastructure improvements (in tandem with the S75 agreement) to serve the wider site and beyond; and requiring the associated submission and approval of a Construction Traffic Management Scheme (Conditions 3). Otherwise, Street Lighting will be addressed by the Roads Construction Consent. The terms of LDP2 Policy 60 Transport Standards and Accessibility Requirements is considered to have been satisfied in this regard.

### **Drainage and Flooding**

- 106 The proposed development will be served by the Kinross Waste Water Treatment Works and Scottish Water raise no objection but note that further investigations may be required once a formal application has been submitted to them.
- 107 A Flood Risk Assessment (FRA) supports the application and has been examined by both SEPA and the Council's Structures and Flooding team. This resulted in an update, clarifying the detailed elements regarding the SUDs and its relationship, operation and capacity in association with Phase 1. A review of onsite groundwater conditions was also submitted in background support. This finalised position and clarification raised no objection from SEPA or the Council's Structures and Flood Risk team.
- 108 In terms of flood risk, and consistent with earlier assessments, the proposed dwellings are adjacent to but out with the 1:200-year flood envelope of the North Queich. No dwellings are to be built within the flood plain. Surface water will continue to be treated and addressed via approved SUDs details, with greenfield run-off rates maintained. It is fully appreciated that complaints have been received in relation to Phase 1, both in terms of surface water and foul drainage arrangements. However, these issues have been investigated by the Council's Environmental Health and Structures and Flooding teams, in consultation with Scottish Water. These investigations found no insurmountable issues, both in terms of the onsite drainage and the longer-term connection with

Scottish Water infrastructure assets. Assurances and clarification was provided by Scottish Water to confirm the operational drainage details which will ultimately be adopted by them are considered satisfactory, with no objection raised by Scottish Water to the application.

- 109 The proposals are therefore considered to satisfy the policy objectives of LDP2 Policy 53 Water Environment and Drainage.

### **Contaminated Land**

- 110 A site investigation has been completed for the proposed development, which has not identified any contamination concerns and based on this information, no further action is required.

### **Waste Collection**

- 111 The Swept Path Analysis has been examined by the Council's Transport Planning team, who consider the road layout and turning provision allows for refuse vehicles to enter and leave the site in a forward gear with a kerbside collection proposed. Each dwelling/flat has also been provided with storage provision for a three-bin system. It is recommended to ensure an appropriate situation can be agreed and set aside for a mini glass recycling facility (Condition 19).

### **Conservation Considerations**

- 112 Following a previous detailed archaeological investigation of the site, submitted as part of the extant planning permission, no valuable areas of archaeology were found, and no further mitigation or study is required by PKHT.
- 113 HES noted no significant or adverse setting effects on Lathro cottage (Scheduled Monument Ref: SM7614). As such the proposals are considered satisfactory in terms of the cultural heritage impacts and satisfying the terms of LDP2 Policy 26.

### **Natural Heritage and Biodiversity**

- 114 A Phase 1 Habitat Survey and Tree Survey supports the application and has been reviewed by SNH, RSPB and the Council's Biodiversity Officer. The finalised landscape plan proposes more native trees than the initial submission, this will support long term ecology and biodiversity opportunities on the edge of Kinross and the country park.

### **Invasive Non-Native Species**

- 115 Giant Hogweed has been identified within the southwest part of the site. The updated Phase 1 Habitat Survey and Protected Species Survey Report recommends that an Invasive Species Management Plan should be produced for the eradication and control of Giant Hogweed. This can be required and controlled (Condition 5).

- 116 In summary, the relevant habitat regulation tests are considered to have been satisfied and addressed appropriately through assessment and compliance, as set out in the background submissions. Accordingly, it is considered that the potential threat and impact to population, distribution or habitat of protected species can be either avoided or minimised through mitigation and shall therefore not impede the granting of any planning permission.
- 117 Subject to the control, mitigation and enhancement measures identified being delivered and secured (Conditions 1, 3, 5, 6 and 7), the proposals are considered to accord with LDP2 Policies 38, 40 and 41 of LDP2.

### **Loch Leven SPA Appropriate assessment**

- 118 The site is located within the Loch Leven Catchment Area, which defines the larger drainage consultation area for Loch Leven. The designated Ramsar site and Special Protection Area (SPA) comprises of the loch boundaries only and are located over 1km to the east. To the north, the North Quiech feeds into the Loch however, and it is this which has caused concern in terms of the conservation objectives of the site.
- 119 In order to control potential impact of sediment and water borne pollution from the development, careful consideration has been given to the construction period; and in the longer term through SUDS. SNH have agreed that sufficient control can be achieved through a detailed Construction Environmental Management Plan (CEMP) (Condition 3) and with adherence to the drainage details approved by SEPA and the Council's Structures and Flood team in order to safeguard and ensure no adverse impact on the conservation objectives of the Loch. SNH also clarified that any pollutant/sediment discharge would be a breach of the conditional controls recommended, rather than a poorly conceived permission and would therefore be an enforcement issue, rather than a question of the validity of the permission.
- 120 In summary, in terms of the impact on Loch Leven SPA, the conditional controls recommended, and the detail of both the CEMP and SUDS, are considered to go far enough in terms of undertaking and setting out the Appropriate Assessment. Subject to compliance with these there is not considered to be any associated adverse impact on the SPA as a result of the development proposed. As such, the terms of LDP2 Policy 46 affecting Loch Leven SPA are considered to have been satisfied.

### **Developer Contributions**

#### Affordable Housing

- 121 The Council's Affordable Housing Policy requires that 25% of the total number of houses, above a threshold of 5 units, for which planning permission is being sought is to be in the form of affordable housing.
- 122 The subsequently relevant affordable housing requirement for this proposal is 42.25 units (169 x 0.25). The proposal is that 35 affordable units are provided

within Phase 2 (Drawing: Dev-01, Rev R). This would result in an overall number of units across both Phases 1 and 2 of 372 units, equating to a requirement of 93 affordable units ( $372 \times 0.25$ ). As such, the 35 units from Phase 2, combined with the 58 affordable units already delivered in Phase 1, would see that overall requirement of 93 met.

- 123 The level of affordable units is therefore acceptable, when considered across Phases 1 and 2.
- 124 The applicant has been directed to contact the Council's Affordable Housing Enabler to discuss the Council specific area requirements and the tenure of the proposed units, where necessary.

### Primary Education

- 125 The Council's Developer Contributions Supplementary Guidance requires a financial contribution towards increased primary school capacity in areas where a constraint has been identified. In this case the site is within the catchment of Kinross Primary School, which has such a constraint and as such contributions are being sought.
- 126 The current S75 associated to the site secures a contribution toward Primary Education Facilities at a rate £6,395 per unit for 304 units (relevant to 15/0512/FLM and 17/00886/FLM).
- 127 The current proposal increases the site total to 372 units, reflecting a (net) increase of 68. The relevant adopted Supplementary Guidance at the time the application was submitted (July 2019) would apply to any unit increase (£6,460 per unit). This levy would not however apply to any Affordable Housing units.
- 128 It has been clarified with the Council's Education Services that through continuing to phase the delivery of the site development, the school capacity will not be adversely affected (Condition 2).

### Open Space & Play Provision

- 129 A lump sum is secured for the adoption and maintenance of the proposed play area, along with the relevant adoption rates for the wider open space areas.
- 130 Subject to securing the relevant affordable housing details and contributions via a Legal Agreement, the policy criteria and terms of LDP2 Policy 5 are satisfied.

### **Local Services**

- 131 Concerns have been raised regarding the impact on local service infrastructure including the High Street, schools, nurseries, and medical centres.
- 132 In relation to the town centre, less than 2km away there are a variety of eating and drinking hostelrys, with the swimming pool, leisure centre, local shop and

nursery under 500m walking distance and high school and health centre under 1km from the site.

- 133 With regard to the specific concerns raised in relation to the local health centre, The Health and Social Care Partnership (HSCP) were consulted and advise that there are acknowledged difficulties in General Practice recruitment, with ongoing difficulties in recruiting GP partners in Kinross, and in relation to nursing and allied professionals across Perth & Kinross. They go on to speculate that if recruitment difficulties cannot see the needs of the population met then services would be diluted.
- 134 However, these recruitment difficulties are not a material consideration which can be addressed through a planning application and, whilst appreciating these difficult circumstances, there are no capacity issues associated to the accommodation available to house staff – a matter which could be considered and sought to be addressed. As such, although there is an acknowledged localised and wider structural issue in GP staff recruitment generally, this is not a material planning consideration, constituting a reason for refusal.

### **Viability**

- 135 The Planning Authority requested that the applicant provided a viability statement in relation to the proposed increase in density and the applicant's intention and reasoning for this revised approach. This sits alongside layout and placemaking considerations, and it was considered appropriate and robust to seek this information, in terms of providing transparency and reasoned justification. In summary, the reasoning for change and the increase in numbers set out in the mix now proposed are primarily reflective of market demand from smaller units than was previously proposed; resulting from consistent onsite feedback over the time of developing Phase 1. In terms of relative comparisons, a table is presented setting out the total floor space associated to the dwellings in the extant permission versus this application. In the extant permission, the average dwelling floor area is 167 sqm versus the current 102 sqm, with an overall reduction in total floor space across Phase 2 of 564 sqm compared with the extant permission (for private dwellings only).

### **Economic Impact**

- 136 There is likely to be some economic benefit associated with the construction of this development. However, this is not considered to hold significant weight in the determination of this application.
- 137 Letters of representation have also doubted any economic impact locally, suggesting all new residents will be commuters and simultaneously raising issues regarding the strain on local services. However, it is considered that overall the increase in population would generate increased footfall and spending in the local economy and would in the longer-term assist in sustaining a demand for local services.

## **LEGAL AGREEMENTS**

- 138 If approved, a Section 75 is proposed as the most suitable route of delivering and securing the additional affordable housing, education contributions and off-site transport infrastructure work contributions. The Section 75 currently in place covering the wider site will still apply to Phase 1 in relation to the wider delivery of the country park elements out with this red site line boundary.

## **DIRECTION BY SCOTTISH MINISTERS**

- 139 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**

- 140 To conclude, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. The proposal is considered to remain compatible with surrounding land uses and result in wider transport infrastructure improvements to the surrounding area. In this respect, the development proposed is not considered to conflict with the Development Plan and there are no material considerations which would warrant the refusal of planning permission.
- 141 Accordingly, the proposal is recommended for approval subject to the following conditions.

## **A RECOMMENDATION**

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

- 1 The development hereby approved must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed by this decision notice.

Reason: To ensure the development is carried out in accordance with the approved drawings and documents.

- 2 No development shall commence until a detailed delivery plan confirming the phased delivery of the site and construction works has been submitted and approved in writing by the Planning Authority. Once approved, the development shall be implemented in accordance with the delivery plan.

Reason: In order to ensure the implementation and completion of the development components of the proposal coincide with key infrastructure delivery requirements.

- 3 Prior to the commencement of development, the Construction Environment Management Plan (CEMP) (dated 2019), shall be updated to incorporate

detailed pollution avoidance and mitigation measures for all construction elements, including but not limited to; the appropriate construction hours of operation and measures regarding noise and vibration (as set out within Section 9.5 '*Lathro Farm, Kinross Noise and Vibration Impact Assessment*' document number 9) and the agreed limits for material bunding, submitted for the further written agreement of the Council as Planning Authority, in consultation with Scottish Environment Protection Agency and Scottish Natural Heritage. Thereafter the development shall be fully undertaken in accordance with the approved CEMP.

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

- 4 Prior to the commencement of development and in association with Condition 2, the applicant shall submit for the written approval of the Planning Authority, a Construction Traffic Management Scheme (CTMS) which shall include the following:

- a) restriction of construction traffic to approved routes and the measures to be put in place to avoid other routes being used;
- b) timing of construction traffic to minimise impact on local communities particularly at school start and finishing times, on days when refuse collection is undertaken, on Sundays and during local events;
- c) arrangements for the cleaning of wheels and chassis of vehicles to prevent material from construction sites associated with the development being deposited on the road;
- d) arrangements for cleaning of roads affected by material deposited from construction sites associated with the development;
- e) arrangements for signage at site accesses and crossovers and on roads to be used by construction traffic in order to provide safe access for pedestrians, cyclists and equestrians;
- f) details of information signs to inform other road users of construction traffic;
- g) arrangements to ensure that access for emergency service vehicles are not impeded;
- h) monitoring, reporting and implementation arrangements; and
- j) arrangements for dealing with non-compliance.

The CTMS as approved in writing prior to commencement of development shall be strictly adhered to during the entire site construction programme, all to the satisfaction of the Council as Planning Authority.

Reason: In the interests of pedestrian and traffic safety and in the interests of free traffic flow throughout the construction period.

- 5 Prior to the commencement of development, the following shall be provided for the further written agreement of the Council as Planning Authority:

- An Invasive Species Management Plan;
- A Biodiversity Action Plan, detailing a commitment to detailed site-specific biodiversity enhancement measures.



All approved measures and actions shall thereafter be installed or undertaken in accordance with the agreed details, during and prior to the completion of this development.

Reason: In the interests of protecting environmental quality and promoting biodiversity.

- 6 No removal of hedgerows, trees or shrubs that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared or building affected, and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect 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).

- 7 All existing trees and hedgerows shall be retained and protected by suitable fencing in accordance with BS5837 2012 (Trees in Relation to Construction), unless otherwise agreed in writing by the Planning Authority. The details of the protective fencing and its location shall be as set out and agreed in the Construction Environmental Management Plan (CEMP) subject of Condition 3 of this planning permission. No materials, supplies, plant, machinery, soil heaps, changes in ground levels or construction activities shall be permitted within the protected areas without the written consent of the Planning Authority.

Reason: To ensure adequate protection for the trees on the site during the construction, in the interests of the visual amenity of the area.

- 8 The detailed landscaping and planting scheme (plans 19/00917/74) which is hereby approved shall be implemented concurrently with development and be completed within the first available planting season (October to March) after the completion of the development. The approved scheme shall thereafter be maintained, with any planting failing to become established within five years being replaced in the following planting season with others of a size and species as previously approved.

Reason: In the interests of visual amenity and to ensure the satisfactory implementation of the proposed planting scheme.

- 9 Prior to the commencement of development, the finished detail of the required Sustainable Urban Drainage pond shall be further reviewed and submitted for the written approval of the Council as Planning Authority; detailing rounded top and base slope profiles whilst retaining the approved storage capacity. In association with Condition 8, the edge treatment specification shall include a subsoil specification with wildflower mix.

Reason: In the interests of visual amenity, enhancing biodiversity opportunities and in pursuance of satisfying placemaking policy criteria of the LDP.

- 10 Prior to the commencement of development, a detailed design of the proposed children's play area indicated in the site layout plan shall be submitted for the further written approval of the Planning Authority. The approved play area shall be designed, laid out and equipped in accordance with the Planning Authority's current criteria for play area provision and be available for use prior to the occupation of the one hundredth dwellinghouse hereby approved.

Reason: In the interests of residential amenity and to ensure the satisfactory provision and implementation of a children's play area.

- 11 Construction work shall be limited to Monday to Friday 0700 hours to 1900 hours and Saturday 0800 hours to 1300 hours with no noisy works out with these times or at any time on Sundays.

Reason: In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality during the construction period.

- 12 Trickle ventilators shall be installed with passive extract ventilation systems to all habitable rooms within line of sight of the M90 trunk road and South Street, Milnathort; providing an acoustic attenuation of up to  $42\text{dBD}_{n,e,w} + C_{tr}$  as recommended in Section 9.5 '*Lathro Farm, Kinross Noise and Vibration Impact Assessment*' document number 9.

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

- 13 Prior to the commencement of development, detailed designs and specification of the following road infrastructure improvements shall be submitted to and approved in writing by the Council as Planning Authority, in consultation with the Roads Authority:

- a) hard standing areas to facilitate bus stops on the North and South sides of Gallowhill Road in the vicinity of the development's new access; and
- b) delivery of bus shelters on both sides of the A922, in the vicinity of the development access (near Lathro Cottage).

Thereafter, the approved details for both schemes shall be completed and available for use to the satisfaction of Perth & Kinross Council as Planning Authority, prior to the occupation of the first dwellinghouse within the development hereby approved.

Reason: In the interests of pedestrian and traffic safety; ensuring provision and encouraging use of suitable public transport measures.

- 14 No part of the development shall be occupied until a Travel Plan, aimed to encourage more sustainable means of travel, has been submitted to and approved in writing by the Council as Planning Authority. The Travel Plan will have particular regard to provision for walking, cycling and public transport access to and within the site and will identify the measures to be provided, the system of management, monitoring, review, reporting and the duration of the plan.

Reason: In the interests of road safety; to seek sustainable means of travel to and from the site.

- 15 Prior to the development hereby approved, the vehicular access at Gallowhill Road shall be formed in accordance with Perth & Kinross Council's Road Development Guide Type C Figure 5.7 access detail, of Type B Road construction detail, delivered and opened at a time as agreed in association with satisfying development phasing plan condition 2.

Reason: In the interests of road safety; to ensure the provision of adequate visibility of the vehicular access.

- 16 Prior to the occupation of the first dwellinghouse hereby approved, a scheme for the introduction of traffic signal control at the junction of The Muirs and C495 and associated road infrastructure works shall be submitted to and approved by the Council as Planning Authority in consultation with the Roads Authority in writing. Thereafter the approved scheme shall be implemented prior to the occupation of the ninety seventh dwellinghouse on the development hereby approved, to the satisfaction of Perth & Kinross Council as Planning Authority.

Reason: In the interests of road safety.

- 17 Prior to the occupation of the first dwellinghouse hereby approved, a scheme for the extension of the existing 30mph traffic regulation order beyond the proposed new development access junction on Gallowhill road and associated road infrastructure works shall be submitted to and approved by the Council as Planning Authority in consultation with the Roads Authority in writing. Thereafter the approved scheme shall be implemented at a time as agreed in association with satisfying development phasing plan Condition 2, to the satisfaction of Perth & Kinross Council as Planning Authority.

Reason: In the interests of road safety.

- 18 Prior to the occupation of the first dwellinghouse hereby approved, a mini-glass recycling point location and specification within the site shall be agreed and submitted for further written agreement by the Council as Planning Authority and installed prior to the occupation of the one hundredth dwellinghouse.

Reason: In the interests of sustainability, seeking to reduce carbon footprint and encourage household recycling.

## **B JUSTIFICATION**

The proposal is considered to comply with the Development Plan and there are no other material considerations that would justify a departure from the relevant policies.

## **C PROCEDURAL NOTES**

If approved, the existing Section 75 legal agreement will remain in force to cover the wider site parameters. A further S75 entered into to secure the required additional education contributions, affordable housing and transport infrastructure contributions associated with this planning application for Phase 2. The legal agreement shall 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 will be ultimately recommended for refusal under delegated powers.

## **D INFORMATIVES**

- 1 The development hereby permitted shall be commenced no later than the expiration of two years from the date of this permission or from the date of subsequent approval of matters specified in conditions, or three years from the date of planning permission in principle, whichever is the later.
- 2 Under Section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under Section 123(1) of that Act, which may result in enforcement action being taken.
- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
- 4 The applicant should be aware of the requirements of the Council's Environment and Regulatory Services in relation to waste collection from the site and should ensure adequate measures are provided on site to allow for the collection of waste.
- 5 This development will require the 'Display of notice while development is carried out', under Section 27C (1) of the Town and Country Planning Act 1997, as amended, and Regulation 41 of the Development Management Procedure (Scotland) Regulations 2013. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. According to Regulation 41 the notice must be:
  - Displayed in a prominent place at or in the vicinity of the site of the development

- Readily visible to the public
  - Printed on durable material
- 6 The applicant is advised that in terms of Sections 21 of the Roads (Scotland) Act 1984 he/she/they must obtain from the Council as Roads Authority consent to construct a new road prior to the commencement of roadworks.
  - 7 The applicant should be advised that in terms of Section 56 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environment Protection Agency.
  - 8 The applicant should be advised to contact Perth & Kinross Council Street Lighting Department to obtain technical approval for all street lighting provision.
  - 9 Please consult the Street Naming and Numbering Officer, The Environment Service, Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth PH1 5GD for a new postal address. The form is downloadable from [www.pkc.gov.uk](http://www.pkc.gov.uk) and should be returned to [snn@pkc.gov.uk](mailto:snn@pkc.gov.uk).
  - 10 The applicant is advised that the detailed design of all SUDs shall conform to 'PKC Flooding and Flood Risk Guidance Document (June 2014)', or any subsequent update.
  - 11 The applicant is advised that the granting of planning permission 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.
  - 12 No work shall be commenced until an application for building warrant has been submitted and approved.
  - 13 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
  - 14 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 permission for a development does not provide a defence against prosecution under this act.
  - 15 The applicant is advised that refuse collection vehicles will only enter the site during construction phases where there is clear access and suitable turning; this means that Waste Services may not be able to provide a full kerbside recycling service to residents whilst the build is ongoing and bins may have to

be emptied from a specified (and agreed) collection point until full access is made available for refuse collection vehicles.

- 16 The applicant should make contact with the Community Waste Team to discuss bin collections as the site progresses and be prepared to provide temporary turning points for refuse collection vehicles if required. The road and pavement from any temporary bin collection point to the refuse collection vehicle must be at maximum 10 metres and a hard-standing surface. It must have a level gradient and a smooth surface; use dropped kerbs where appropriate.

Background Papers: 179 letters of representation

Contact Officer: Callum Petrie

Date: 18 June 2020

**DAVID LITTLEJOHN**  
**HEAD OF PLANNING & DEVELOPMENT**

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