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Council Building
2 High Street
Perth
PH1 5PH

24 June 2019

A Meeting of the **Planning and Development Management Committee** will be held in the **Council Chamber, 2 High Street, Perth, PH1 5PH** on **Wednesday, 03 July 2019** at **10:00**.

If you have any queries please contact Committee Services on (01738) 475000 or email Committee@pkc.gov.uk.

KAREN REID
Chief Executive

Those attending the meeting are requested to ensure that all electronic equipment is in silent mode.

Please note that the meeting will be recorded and will be publicly available on the Council's website following the meeting.

Members:

Councillor Roz McCall (Convener)	Councillor Willie Wilson
Councillor Bob Brawn (Vice-Convener)	
Councillor Henry Anderson	
Councillor Bob Band	
Councillor Michael Barnacle	
Councillor Harry Coates	
Councillor Eric Drysdale	
Councillor Tom Gray	
Councillor Ian James	
Councillor Anne Jarvis	
Councillor Lewis Simpson	
Councillor Richard Watters	

Planning and Development Management Committee

Wednesday, 03 July 2019

AGENDA

MEMBERS ARE REMINDED OF THEIR OBLIGATION TO DECLARE ANY FINANCIAL OR NON-FINANCIAL INTEREST WHICH THEY MAY HAVE IN ANY ITEM ON THIS AGENDA IN ACCORDANCE WITH THE COUNCILLORS' CODE OF CONDUCT.

- 1 WELCOME AND APOLOGIES/SUBSTITUTES**
- 2 DECLARATIONS OF INTEREST**
- 3 DEPUTATIONS**
- 4 MINUTE OF MEETING OF THE PLANNING AND DEVELOPMENT MANAGEMENT COMMITTEE OF 5 JUNE 2019 FOR APPROVAL AND SIGNATURE (copy herewith) 5 - 32**
- 5 APPLICATIONS FOR DETERMINATION**
- 5(1) MAJOR APPLICATION**
- 5(1)(i) 19/00552/FLM - PERTH - APPLICATION UNDER SECTION 42 OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 TO MODIFY CONDITION 11 (SUSTAINABLE CONSTRUCTION) OF PLANNING PERMISSION 15/01109/FLM (ERECTION OF RESIDENTIAL UNITS, COMMERCIAL UNITS (CLASSES 1, 2, 3 AND 10), FORMATION OF ALLOTMENTS/OPEN SPACE, LANDSCAPING AND ASSOCIATED INFRASTRUCTURE WORKS), LAND AT BERTHA PARK, PERTH 33 - 64**
Report of Handling by Head of Planning and Development
(Recommendation - Approve) (copy herewith 19/198)
- 5(2) LOCAL APPLICATIONS**
- 5(2)(i) 19/00136/FLL - DUNNING - ALTERATIONS TO SITE LAYOUT, SITING OF 11 ADDITIONAL CARAVANS, FORMATION OF LANDSCAPING AND ASSOCIATED WORKS (IN PART RETROSPECT), LOCHMANOR LODGE ESTATE, DUNNING, PERTH, PH2 0QN 65 - 84**
Report of Handling by Head of Planning and Development

(Recommendation - Approve) (copy herewith 19/199)

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|------------------|---|------------------|
| 5(2)(ii) | 19/00591/FLL - INCHTURE - ERECTION OF A GARDEN BUILDING, ASGIOBAL, INCHTURE, PERTH, PH14 9RN
Report of Handling by Head of Planning and Development
(Recommendation - Approve) (copy herewith 19/200) | 85 - 100 |
| 5(2)(iii) | 19/00657/FLL - ABERFELDY - ALTERATIONS TO STREET LAYOUT INCLUDING HARD LANDSCAPING, SOFT LANDSCAPING, STREET FURNITURE, CAR PARKING AND ASSOCIATED WORKS, THE SQUARE, ABERFELDY
Report of Handling by Head of Planning and Development
(Recommendation - Approve) (copy herewith 19/201) | 101 - 120 |

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PLANNING AND DEVELOPMENT MANAGEMENT COMMITTEE

Minute of meeting of the Planning and Development Management Committee held in the Council Chamber, Ground Floor, Council Building, 2 High Street, Perth on Wednesday 5 June 2019 at 10.00am.

Present: Councillors R McCall, B Brawn, C Ahern (substituting for Councillor I James), H Anderson, B Band, M Barnacle, H Coates, E Drysdale, A Forbes (substituting for Councillor L Simpson), T Gray, A Jarvis, M Williamson (substituting for Councillor R Watters) and W Wilson.

In Attendance: A Condliffe, D Niven, J Scott, A Belford, L Reid and D Salman (all Housing and Environment); C Elliott, L Potter, M Terava and D Williams (all Corporate and Democratic Services).

Apologies for Absence: Councillors I James, L Simpson and R Watters.

Councillor R McCall, Convener, Presiding.

. **WELCOME AND APOLOGIES**

The Convener welcomed everyone present to the meeting.

. **DECLARATIONS OF INTEREST**

Councillor Forbes declared both a financial and non-financial interest in Item 5(3)(i).

. **MINUTES**

The minute of meeting of the Planning and Development Management Committee of 8 May 2019 (Arts. 237-241) was submitted, approved as a correct record and authorised for signature.

. **DEPUTATIONS**

In terms of Standing Order 72, the Committee agreed to hear deputations in relation to the following planning applications:

Planning Application No.
19/00143/AML

Art. No.
(2)(i)

APPLICATIONS FOR DETERMINATION

(1) Major Application

- (i) 17/00950/IPM - BLACKFORD - Mixed use development comprising holiday accommodation, spa, restaurants, retail, public house, events spaces, storage, landscaping and associated infrastructure, land north west of Easterton Farm, Blackford – Report 19/165 – The Gleneagles Hotel**

J Scott, Team Leader, updated members as follows:

(i) paragraph 83 of Report 19/165 advises that appropriate assessment is not required. That assessment is required and has been undertaken and published; (ii) for recommended condition 31, the reference to condition 3 (xvi) should read condition 3 (iii); and (iii) informative 4 is not required as there is the direction.

Resolved:

Grant, subject to the following direction, terms, amended conditions and amended informatives:

Direction

Perth and Kinross Council direct that sub-sections (2)(a)(i) and (3) of Section 59 of the Town and Country Planning (Scotland) Act 1997 apply with respect to the in Principle Permission (17/00939/IPM) with the substitution of the period of 3 years referred to in each of those subsections, with the period of 6 years.

Conditions

1. Application for the approval required by a condition imposed on this Planning Permission in Principle shall conform with the requirements of Regulation 12 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 and of Section 59 (2) and (3) of the Town and Country Planning (Scotland) Act 1997 as amended by Section 21 of the Planning etc. (Scotland) Act 2006 and, in particular, must be made before whichever is the latest of the following:
 - (i) the expiration of 6 months from the date on which an earlier application for the requisite approval was refused, or
 - (ii) the expiration of 6 months from the date on which an appeal against such refusal was dismissed.

Reason: In accordance with the terms of Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended by Section 21 of the Planning etc. (Scotland) Act 2006

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2. The masterplan and numbers as submitted is purely indicative and is not approved.
Reason: The application is for planning permission in principle only at this stage and details of a layout would be considered in subsequent applications for the Approval of Matters Specified in Conditions.
3. No works in connection with the development hereby approved shall take place until full details of the siting, design, external appearance and landscaping of the development and the means of access serving the development (hereinafter referred to as the 'Approval of Matters Specified Condition' (AMSC)) have been submitted to and approved in writing by the Planning Authority. The specified matters include:
 - (i) an updated masterplan and a phasing plan;
 - (ii) a detailed levels survey (existing and proposed) and cross sections showing proposed finished ground and floor levels of all buildings forming part of the development phase, relative to existing ground levels and a fixed datum point; details of all cut and fill operations;
 - (iii) the siting, design, height and external materials of all buildings, structures, roads and camping areas;
 - (iv) the details of all accesses, roads, car parking, footpaths, cycleways, path connections throughout the development;
 - (v) the details of public road widening/improvement and footpath improvement/connection with Gleneagles Hotel and Auchterarder;
 - (vi) details of any screen walls/fencing to be provided
 - (vii) measures to maximise environmental sustainability through design, orientation and planting or any other means;
 - (viii) details of all landscaping, structure planting and screening associated with the development of each site;
 - (ix) the lighting of all roads and paths;
 - (x) the layout of any play areas and the equipment to be installed;
 - (xi) details of watercourse alignments and any de-culverting
 - (xii) full details of the proposed means of disposal of foul and surface water from the development;
 - (xiii) details of car charging points to be provided within the car park;
 - (xiv) updated ecological/biodiversity/protected species/breeding bird survey;
 - (xv) submission of Construction and Environment Management Plan (CEMP);

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- (xvi) archaeological assessment;
- (xvii) noise assessment; and
- (xviii) air quality assessment.

Reason - To ensure that the matters referred to within this Planning Permission is Principle are given full consideration and to accord with the requirements of Section 59 Town and Country Planning (Scotland) Act 1997 (as amended).

4. In pursuance of Condition 3 (xiv), a detailed protected species survey covering the site shall be submitted as part of any application for the Approval of Matters Specified by Condition (AMSC). The report shall include appropriate mitigation to protect any identified species.

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).

5. In pursuance of Condition 3 (xiv), a detailed breeding bird survey covering the site shall be submitted as part of any application for the Approval of Matters Specified by Condition (AMSC). The report shall include appropriate mitigation to protect any identified species.

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).

6. In pursuance of Condition 3 (xiv), an updated ecology report covering the site shall be submitted as part of any application for the Approval of Matters Specified by Condition (AMSC). The report shall include appropriate mitigation to protect any identified species.

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. In pursuance of Condition 3 (xiv), a biodiversity action plan covering the site shall be submitted as part of any application for the Approval of Matters Specified by Condition (AMSC). The report shall include appropriate mitigation to protect any identified species.

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).

8. Prior to the operation of the facility, all the relevant measures stated within the applicant's Recreation and Access Management Plan (RAMP) shall be fully implemented. For the avoidance of doubt, the implementation of these measures needs to take account

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of the presence of wintering geese and be done between May and September or 1 hour after dawn to 1 hour before dusk during the period October to April.

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).

9. Prior to the operation of the facility, and as noted in the RAMP, a programme of mitigation shall be submitted to and for the approval of the Planning Authority in consultation with SNH.

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).

10. No site clearance or removal of vegetation, including trees and shrubs will take place between 1 March and 31 August inclusive unless a competent ecologist has undertaken a careful and detailed check of vegetation for active birds' nests immediately before the vegetation is to be cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting birds on site. Any such written confirmation must be submitted to the planning authority prior to commencement of works.

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).

11. As part of any application for the Approval of Matters Specified by Condition (AMSC), measures to protect animals from being trapped in open excavations and/or pipe and culverts shall be incorporated within proposals and, once approved, implemented for the duration of the construction works of the development. The measures may include creation of sloping escape ramps for animals, 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.

12. In pursuance of Condition 3 (viii), where it is intended to create semi-natural habitats, a detailed native species planting proposal shall be submitted as part of any application for the Approval of Matters Specified by Condition (AMSC).

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

13. In pursuance of Condition 3 (iii), as part of any application for the Approval of Matters Specified by Condition (AMSC), details of the location and specification of swift brick(s) and bat nest box(s) shall be incorporated in to the submitted application for the approval in writing by the Council as Planning Authority. Thereafter, the swift brick(s) and bat nest box(s) shall be installed in accordance with the agreed details prior to the occupation/operation of the relevant building.

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).

14. In pursuance of Condition 3 (iii and viii), as part of any application for the Approval of Matters Specified by Condition (AMSC) and prior to any work starting, on the relevant parts of the site, a tree survey shall be submitted to identify all trees on site, all trees to be retained, including ancient woodland, as identified in the submitted surveys. Thereafter, all trees to be retained shall be protected by suitable fencing in accordance with BS5837 2012 (Trees in Relation to Construction). The details of the protective fencing and its location shall be first submitted to and agreed in writing by the Planning Authority. 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 and no fire shall be lit in the position where the flames could extend to within 5 metres of foliage, branches or trunks.

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

15. In pursuance of Condition 3 (xv), any Construction Environment Management Plan (CEMP) submitted as part of any application for the Approval of Matters Specified by Condition (AMSC) 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.

16. In pursuance of Condition 3 (xvi), as part of any application for the Approval of Matters Specified by Condition (AMSC) and prior to development commencing, the developer shall secure the implementation of a programme of archaeological work in

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accordance with a written scheme of archaeological investigation which has been submitted by the applicant, and agreed in writing by the Council as Planning Authority, in consultation with Perth and Kinross Heritage Trust. Thereafter, the developer shall ensure that the programme of archaeological works is fully implemented including that all excavation, preservation, recording, recovery, analysis, publication and archiving of archaeological resources within the development site is undertaken. In addition, the developer shall afford access at all reasonable times to Perth and Kinross Heritage Trust or a nominated representative and shall allow them to observe work in progress.

Reason: In the interest of protecting archaeological interest within the site.

17. In pursuance of Condition 3 (xvii), any noise impact assessment submitted as part of any application for the Approval of Matters Specified by Condition (AMSC) shall include proposed mitigation measures such that an acceptable level of amenity is ensured for the proposed development. Before any residential unit is occupied the measures agreed to mitigate noise shall be fully implemented as approved by the Planning Authority.

Reason: In the interest of residential amenity.

18. In pursuance of Condition 3 (xviii), should any wood burning stoves /flues and fire pits be proposed, an air quality assessment shall be required to be submitted as part of any application for the Approval of Matters Specified by Condition (AMSC). The report shall assess the impact of these facilities on the air quality of the environs.

Reason: In the interest of residential amenity and air quality.

19. In pursuance of Condition 3 (xvii and xviii) a Construction Management Plan (CMP), detailing pollution prevention ,control and mitigation measures for noise and dust shall be submitted as part of any application for the Approval of Matters Specified by Condition (AMSC).

Reason: In the interest of residential amenity.

20. In pursuance of Condition 3 (iv), a plan of public access across the site (existing, during construction & upon completion) submitted as part of any application for the Approval of Matters Specified by Condition (AMSC) shall illustrate:

- a) all existing paths, tracks & any (including proposed) rights of way.
- b) any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance

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- or curtilage, in relation to proposed buildings or structures;
- c) all paths & tracks proposed for construction, for use by walkers, riders, cyclists, all-abilities users, etc.
- d) any diversions of paths - temporary or permanent-proposed for the purposes of the development
- e) the detailed specification of the proposed paths and tracks, along with how they will be constructed to avoid impacts on trees.

Reason: In the interest of sustainable transportation.

21. Prior to the start of any work on the site, an agreed construction programme shall be submitted to and approved in writing by the Planning Authority. The construction programme shall accord with the approved phasing plan.

Reason: To ensure the implementation and completion of the proposed development

22. Prior to the commencement of the development hereby approved, the applicant shall submit for the further written agreement of the Council as Planning Authority, in consultation with the Roads Authority (Structures), a Construction Traffic Management Scheme (TMS) 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) a code of conduct for HGV drivers to allow for queuing traffic to pass;
- (d) arrangements for liaison with the Roads Authority regarding winter maintenance;
- (e) emergency arrangements detailing communication and contingency arrangements in the event of vehicle breakdown;
- (f) 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;
- (g) arrangements for cleaning of roads affected by material deposited from construction sites associated with the development;
- (h) 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;

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- (i) details of information signs to inform other road users of construction traffic;
- (j) arrangements to ensure that access for emergency service vehicles are not impeded;
- (k) co-ordination with other significant developments known to use roads affected by construction traffic;
- (l) traffic arrangements in the immediate vicinity of temporary construction compounds;
- (m) the provision and installation of traffic counters at the applicant's expense at locations to be agreed prior to the commencement of construction;
- (n) monitoring, reporting and implementation arrangements;
- (o) arrangements for dealing with non-compliance; and
- (p) details of HGV movements to and from the site.

The TMS as approved shall be strictly adhered to during the entire site construction programme.

Reason: To mitigate the adverse impact of development traffic.

23. In pursuance of condition 3 (xi) full details and method statements of any proposed de-culverting of watercourses shall be submitted as part of any application for the Approval of Matters Specified by Condition (AMSC).

Reason: To prevent flood risk.

24. As required by condition 3 (xii), storm water drainage from all hard surfaces shall be disposed of by means of suitable sustainable urban drainage systems to meet the requirements of best management practices.

Reason: In the interest of vehicle and pedestrian safety and in accordance with the policies of the adopted development plan.

25. In pursuance of condition 3 (xii), full drainage calculations and the final layout and depth of the proposed lochans and associated infrastructure shall be submitted as part of any application for the Approval of Matters Specified by Condition (AMSC). The agreed detail shall thereafter be implemented prior to the completion of development.

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

26. As required by condition 3 (xii), 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.

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

27. In pursuance of Condition 3 (ii) and (iii), any application for the Approval of Matters Specified by Condition (AMSC) shall detail that the Finished Floor Level of all properties shall be a minimum of 600mm + 20% Climate Change above the 200 year flood level.

Reason: To reduce the risk of flooding.

28. In pursuance of condition 3 (xii) details of the soffit level of any bridges or culverts shall be submitted as part of any application for the Approval of Matters Specified by Condition (AMSC). The agreed detail shall thereafter be implemented prior to the completion of development.

Reason: To reduce the risk of flooding.

29. In pursuance of condition 3 (xii), details of the foul drainage system shall be submitted as part of any application for the Approval of Matters Specified by Condition (AMSC). For the avoidance of doubt foul drainage from the site shall be drained to the mains sewerage system or by other alternative means of adoptable sewerage and plant.

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

30. In pursuance of condition 3 (viii), the hard and soft landscaping scheme, including woodland shelter planting, submitted as part of any application for the Approval of Matters Specified by Condition (AMSC) shall include specification of the following:

- (i) existing and proposed finished ground levels relative to a fixed datum point;
- (ii) existing landscape features and vegetation including ancient woodland to be retained;
- (iii) existing and proposed services including cables, pipelines and substations;
- (iv) the location of new trees, shrubs, hedges, grassed areas and water features;
- (v) a schedule of plants to comprise species, plant sizes and proposed numbers and density;
- (vi) the location, design and materials of all hard landscaping works including walls, fences, gates, any other means of enclosure, street furniture and play equipment;
- (vii) an indication of existing trees, shrubs and hedges to be removed;
- (viii) a programme for the completion and subsequent maintenance of the proposed landscaping.

All soft and hard landscaping proposals shall be carried out in accordance with the approved scheme and shall be

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completed during the planting season immediately following the commencement of the development on that part of the site, or such other date as may be agreed in writing with the Planning Authority.

Any planting which, within a period of 5 years from the completion of the development, in the opinion of the Planning Authority is dying, has been severely damaged or is becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted.

Reason: To ensure the implementation of satisfactory schemes of landscaping which will help to integrate the proposed development into the local landscape in the interests of the visual amenity of the area.

31. In pursuance of Condition 3 (iii), a site specific plan, detailing bin storage areas, collection locations and recycling facilities shall be submitted as part of any application for the Approval of Matters Specified by Condition (AMSC).

Reason: In the interests of the sustainable disposal of waste.

32. The development hereby approved shall be used solely for holiday accommodation and shall not be occupied as the sole or main residence of any occupant.

Reason: In order to clarify the terms of the permission; to control and restrict the use of the buildings.

Justification

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

Informatives

1. 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.
2. As soon as practicable after the development is complete, the person who completes the development is obliged by Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.
3. This development will require the 'Display of notice while development is carried out', under Section 27C (1) of the

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Town and Country Planning Act 1997, as amended, and Regulation 38 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 38 the notice must be

- Displayed in a prominent place at or in the vicinity of the site of the development.
 - Readily visible to the public.
 - Printed on durable material.
4. The applicant is advised that to enable some of the negative suspensive conditions to be fulfilled works which are operational development may have to be undertaken outwith the application site. These works themselves may require the submission of a planning application.
 5. The developer is advised to contact Mr David Strachan, Archaeologist to discuss terms of reference for work required Tel 01738 477080.
 6. 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, Housing and Environment, Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth PH1 5GD.
 7. Please consult the Street Naming and Numbering Officer, Housing and Environment, Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth PH1 5GD.
 8. 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.
 9. No work shall be commenced until an application for building warrant has been submitted and approved.
 10. 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.
 11. The applicant should be advised that a caravan and camping licence is required in terms of Section 1 of the Caravan Sites and Control of Development Act 1960 and therefore an application should be made to The Environment Service (Environmental Health) if planning consent is approved.

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12. Authorisation is required under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) to carry out engineering works in or in the vicinity of inland surface waters (other than groundwater) or wetlands. Inland water means all standing or flowing water on the surface of the land (e.g. rivers, lochs, canals, reservoirs).
13. Please contact Scottish Water as further investigations may be required to be carried out as there is a 12" Trunk Water Main running through this site.
14. No works are to be undertaken in the vicinity of the gas pipelines and that no heavy plant, machinery or vehicles cross the route of the pipeline until detailed consultation has taken place with the operator (Ineos).

(ii) 18/02213/IPM - CRIEFF - Application under Section 42 of the Town and Country Planning (Scotland) Act 1997 to amend Condition 1 (timescales for submission of Approval of Matters Specified by Conditions application) and Condition 3 (phasing of development) of planning permission 15/01237/IPM (mixed use development (in principle)), land at Broich Road, Crieff – Report 19/166 – Robert Simpson and Son

D Niven, Team Leader, updated members as follows: (i) paragraph 77 of Report 19/166 incorrectly makes reference to the Perth and Kinross Local Development Plan 2014, which in fact preceded the approval of Planning Application 15/01237/IPM; and (ii) recommended condition 4 should refer to condition 3, not 2..

Resolved:

Grant, subject to the following direction, terms, amended conditions and informatives:

Direction

Perth and Kinross Council direct that sub-sections (2)(a)(i) and (3) of Section 59 of the Town and Country Planning (Scotland) Act 1997 apply with respect to the in Principle Permission (18/02213/IPM) with the substitution of the period of 3 years referred to in each of those subsections, with the period of 10 years.

Conditions

1. Application for the approval required by a condition imposed on this Planning Permission in Principle shall conform with the requirements of Regulation 12 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 and of Section

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59 (2) and (3) of the Town and Country Planning (Scotland) Act 1997 as amended by Section 21 of the Planning etc. (Scotland) Act 2006 and, in particular, must be made before whichever is the latest of the following:

- (i) the expiration of 6 months from the date on which an earlier application for the requisite approval was refused, or
- (ii) the expiration of 6 months from the date on which an appeal against such refusal was dismissed.

Reason: In accordance with the terms of Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended by Section 21 of the Planning etc. (Scotland) Act 2006.

2. No works in connection with the development hereby approved shall take place until full details of the siting, design, external appearance and landscaping of the development and the means of access serving the development (hereinafter referred to as the 'matters specified by condition') have been submitted to and approved in writing by the Planning Authority. The specified matters include:
- (i) an updated phasing plan for the whole site;
 - (ii) a detailed levels survey (existing and proposed) and cross sections showing proposed finished ground and floor levels of all buildings forming part of the development phase, relative to existing ground levels and a fixed datum point.
 - (iii) the siting, design, height and external materials of all buildings or structures;
 - (iv) the details of all roads, footpaths, structures and cycleways throughout the development;
 - (v) details of any screen walls/fencing including retaining walls to be provided;
 - (vi) measures to maximise environmental sustainability through design, orientation and planting or any other means;
 - (vii) details of all landscaping, structure planting and screening associated with the development;
 - (viii) full details of the proposed means of disposal of foul and surface water from the development;
 - (ix) protection of scheduled monument;
 - (x) a Construction and Environment Management Plan (CEMP);
 - (xi) a Site Waste Management Plan (SWMP);
 - (xii) lighting details;
 - (xiii) bin storage, collection location and recycling facilities provision;
 - (xiv) air quality mitigation;
 - (xv) noise impact assessment;

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- (xvi) updated ecology survey;
- (xvii) tree survey;
- (xviii) contaminated land assessment;
- (xix) a Green Travel Plan (GTP); and,
- (xx) archaeological assessment.

Reason: This is a Planning Permission in Principle under Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended by Section 21 of the Planning etc. (Scotland) Act 2006.

3. Prior to the start of any work on the site, an agreed construction programme shall be submitted to and approved in writing by the Planning Authority. The construction programme shall accord with the phases outlined below.
- (i) Phase 1 and 2 of the employment land development as shown on the agreed phasing plan required by condition 2(i) must be fully serviced before the occupation of the 100th open market residential dwelling;
 - (ii) Phase 3 and 4 of the employment land development must be fully serviced before the occupation of the 200th open market residential dwelling; or following take up of at least 60% of Phase 1 and 2 of the employment land development whichever is the later;
 - (iii) the structure planting required by condition 2(vii) of this consent must be planted along the site boundary with the Arnbro caravan site before the start of construction of residential dwellings.

Reason: To ensure the implementation of the employment land component of the proposal.

4. In pursuance of Condition 3 (iii), (iv) and (v), a development brief shall be submitted as part of any application for the Approval of Matters Specified by Condition (AMSC). The briefs shall specify:
- (i) the height and appearance of all new structures;
 - (ii) the use of appropriate external materials including walls, fences and other boundary enclosures;
 - (iii) the surfacing of all new roads, parking areas, cycleways and footpaths;
 - (iv) the lighting of all streets and footpaths;
 - (v) the layout of play areas and the equipment to be installed;
 - (vi) maintenance of all open space and treed areas not included in private house plots;
 - (vii) details of car charging points to be provided within the development;

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Once approved, all development in the respective areas shall be carried out in accordance with the approved briefs.

Reason: In order to give further consideration to those details which have still to be submitted.

5. No part of the development shall commence until an agreed financial contribution has been paid towards a road improvement scheme (including public transport) that mitigates the impact of the proposed development on the local and trunk road network be paid. The details of this provision shall be agreed in writing with the Planning Authority. If this not achievable a Section 75 legal agreement will be required between the applicant and the Council.

Reason: To ensure that the development proposals will not have a significant detrimental impact on the operation of the local road network.

6. The development shall be in accordance with the Council's Affordable Housing Supplementary Guidance approved in September 2016 which requires a 25% allocation of affordable units within the development all to the satisfaction of the Council as Planning Authority.

Reason: To comply with the Council's approved policy on affordable housing.

7. The development shall be in accordance with the requirements of the Council's Primary Education and New Housing Development Policy approved in September 2016 all to the satisfaction of the Council as Planning Authority.

Reason: To comply with the Council's approved Education Contributions policy.

8. In pursuance of Condition 2 (ix), a development brief to protect Scheduled Monument 9135 and its settings shall be submitted as part of any application for the Approval of Matters Specified by Condition (AMSC).

Reason: In the interest of protecting the scheduled monument and archaeological interest within the site.

9. In pursuance of Condition 2 (viii), full details of the finalised SUDS scheme including Drainage Impact Assessment for all individual phases of development shall be submitted as part of any application for the Approval of Matters Specified by Condition (AMSC).

Reason: To ensure adequate protection of the water environment from surface water run-off.

10. In pursuance of Condition 2 (x), any Construction Environment Management Plan (CEMP) submitted as part of any application for the Approval of Matters Specified by Condition (AMSC) shall incorporate detailed pollution avoidance and mitigation measures for all

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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.

11. In pursuance of Condition 2 (xiii), a site specific plan, detailing bin storage areas, kerbside collection locations and recycling facilities shall be submitted as part of any application for the Approval of Matters Specified by Condition (AMSC).

Reason: To ensure there is adequate provision for waste disposal and recycling.

12. In pursuance of Condition 2 (xiv), a scheme of mitigation to improve air quality shall be submitted as part of any application for the Approval of Matters Specified by Condition (AMSC).

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

13. In pursuance of Condition 2 (xv), any noise impact assessment submitted as part of any application for the Approval of Matters Specified by Condition (AMSC) shall include proposed mitigation measures such that an acceptable level of amenity is ensured for the proposed development. Before any residential unit is occupied the measures agreed to mitigate noise shall be fully implemented as approved by the Planning Authority.

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

14. In pursuance of Condition 2 (vii), the hard and soft landscaping scheme submitted as part of any application for the Approval of Matters Specified by Condition (AMSC) shall include specification of the following:

- (i) existing and proposed finished ground levels relative to a fixed datum point;
- (ii) existing landscape features and vegetation to be retained;
- (iii) existing and proposed services including cables, pipelines and substations;
- (iv) the location of new trees, shrubs, hedges, grassed areas and water features;
- (v) a schedule of plants to comprise species, plant sizes and proposed numbers and density;
- (vi) the location, design and materials of all hard landscaping works including walls, fences, gates, any other means of enclosure, street furniture and play equipment;
- (vii) an indication of existing trees, shrubs and hedges to be removed;
- (viii) a programme for the completion and subsequent maintenance of the proposed landscaping.

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All soft and hard landscaping proposals shall be carried out in accordance with the approved scheme and shall be completed during the planting season immediately following the commencement of the development on that part of the site, or such other date as may be agreed in writing with the Planning Authority.

Any planting which, within a period of 5 years from the completion of the development, in the opinion of the Planning Authority is dying, has been severely damaged or is becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted.

Reason: To ensure the implementation of satisfactory schemes of landscaping which will help to integrate the proposed development into the local landscape in the interests of the visual amenity of the area.

15. In pursuance of Condition 2 (xvi), the Ecology Survey undertaken in respect of In Principle application 15/01237/IPM shall be updated and re-submitted as part of any application for the Approval of Matters Specified by Condition (AMSC).

Reason: To ensure a satisfactory standard of local environmental quality; to safeguard the welfare of any protected wildlife.

16. In pursuance of Condition 2 (xviii), an intrusive contaminated land investigation shall be submitted as part of any application for Approval of Matters Specified by Condition (AMSC). The investigation should identify;
- I. the nature, extent and type(s) of contamination on the site
 - II. measures to treat/remove contamination to ensure the site is fit for the use proposed
 - III. measures to deal with contamination during construction works
 - IV. condition of the site on completion of decontamination measures.

Prior to the completion or bringing into use of any part of the development the agreed measures to decontaminate the site shall be fully implemented as approved by the Council as Planning Authority. Validation that the scheme has been fully implemented must also be submitted to the Council as Planning Authority.

Reason: To ensure details are acceptable to the Planning Authority and to safeguard residential amenity.

17. In pursuance of Condition 2 (xix), the Green Travel Plan (GTP) shall have particular regard to the provision of walking, cycling and public transport access to and within the site and will identify measures to be provided

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regarding the system of management, monitoring, review, reporting and the duration of the plan.

Reason: To ensure that the development proposals will not have a significant detrimental impact on the operation of the local and trunk road network.

18. In pursuance of Condition 2 (xx), as part of any application for the Approval of Matters Specified by Condition (AMSC) and prior to development commencing, the developer shall secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation which has been submitted by the applicant, agreed by Perth and Kinross Heritage Trust, and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with Perth and Kinross Heritage Trust.
Reason: In the interest of protecting archaeological interest within the site

Justification

The proposal is in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

Procedural Notes

A Section 75 legal agreement will be required should the developer contribution towards the Broich Road transport improvements not be paid up front.

Informatives

1. Applicants are advised that should their application for 'matters specified by condition' be refused and/or their appeal against such refusal dismissed outwith the three year time limit they are entitled to submit a revised application for 'matters specified by condition' within six months after the date of refusal of the earlier application or of the dismissal of an appeal against such refusal.
2. The applicant is advised that to enable some of the negative suspensive conditions to be fulfilled works which are operational development may have to be undertaken outwith the application site. These works themselves may require the submission of a planning application.
3. The definition of 'fully serviced business land' in Condition 3 means the delivery of road infrastructure (including service road and pavements with access/junctions into business land plots, street lighting, road signage and

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sustainable urban drainage scheme) with services provided to each business plots access/junction to include electricity connection, water supply connection, foul drainage connection, gas connection and telecommunication connection.

4. The applicant is 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.
5. The applicant is advised that in terms of Section 21 of the Roads (Scotland) Act 1984 they must obtain from the Council as Roads Authority consent to construct a new road prior to the commencement of roadworks. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environment Protection Agency.
6. 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, Housing and Environment Service, Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth PH1 5GD.
7. Paths to be constructed as part of a development should reflect likely patterns of use: pedestrian, bikes, horse riders and wheelchairs as appropriate. Specifications should be based on those in "Lowland Paths Guide: A Good Practice Guide to Planning , Design, Construction and Maintenance of Lowland paths in Scotland – A Guide to Good Practice" published by SNH and Paths for All Partnership.
8. 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.
9. The applicant is advised that the works may need a license under the Water (Controlled Activities) Regulations 2005 (CAR). The applicant should contact SEPA's Perth Environmental Protection and Improvement Team (Tel: 01738 627989) in regard to this. The applicant should ensure that all works on site comply with the best practice guidelines laid out in SEPA's published Pollution Prevention Guidance, found at www.sepa.org.uk

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10. The Council's Community Waste Adviser in the Environment Service should be contacted to clarify the bin storage requirements for the development.
11. A Section 75 legal agreement will be required should the developer contribution towards the Broich Road transport improvements not be paid up front.

(2) Local Applications

(i) 19/00146/AML - BLAIRGOWRIE - Erection of 3 dwellinghouses and garages (matters specified by conditions 17/02057/IPL), land north of Morvich House, Golf Course Road, Blairgowrie – Report 19/167 – Fotheringham Property Developments Ltd

Mr K Crawford, agent on behalf of the applicant, addressed the Committee, and, following his representation, withdrew to the public benches.

Resolved:

Grant, subject to the following direction, terms, conditions and informatives:

Conditions

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. Prior to the commencement of the development hereby approved, details of the proposed boundary treatments for the site (both internally and along the sites wider boundaries) shall be submitted for the further written agreement of the Council as Planning Authority. The scheme as subsequently agreed shall be implemented prior to the completion or bringing into use of the development, whichever is the earlier.
Reason: In the interests of residential amenity; in order to safeguard the privacy and amenity of the residents of the neighbouring dwellinghouse(s) and the proposed.
3. Prior to the commencement of any development hereby approved, detailed drawings showing waste and recycling facility enclosures or waste and recycling facility storage areas and associated locations for bin presentation shall be submitted for the further written agreement of the Council as Planning Authority. None of the residential units hereby approved shall be occupied until the agreed scheme has been provided in full.

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

4. Prior to the commencement of the development hereby approved, an updated detailed landscaping and planting scheme for the site which includes additional tree planting, shall be submitted for the further written agreement of the Council as Planning Authority. The scheme shall include details of the height and slopes of any mounding or recontouring of the site, full details of all hard landscaping proposals including materials and installation methods and, species, height, size and density of trees and shrubs to be planted. The scheme as subsequently approved shall be carried out and completed within the first available planting season (October to March) after the completion or bringing into use of the development, whichever is the earlier, and the date of Practical Completion of the landscaping scheme shall be supplied in writing to the Council as Planning Authority within 7 days of that date. The scheme as agreed and implemented shall thereafter be maintained to the satisfaction of the Council as Planning Authority., and any planting failing to become established within five years must be replaced in the following planting season with others of similar size, species and number.

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

5. Prior to the commencement of the development hereby approved, a 1:200 site plan which identifies the Construction Exclusion Zone (CEZ) shall be submitted for the further written agreement of the Council as Planning Authority. This plan shall ensure all fencing adheres to BS 5837 2012: Trees in Relation to Design, Demolition and Construction. The CEZ as subsequently agreed shall be strictly adhered to during construction of the development.

Reason: In order to ensure that existing trees and hedges are protected.

6. All trees and hedges identified for retention and any peripheral trees or hedges bounding the site, which may be affected by any element of the approved development and its associated construction, (including land within the blue site area) shall be protected in full accordance with BS 5837: 2012 'Trees in relation to design, demolition and construction'. Approved Tree Protection measures shall not be removed breached or altered without prior written authorisation from the local planning authority but shall remain in a functional condition throughout the entire development or as per the phasing plan. If such

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protection measures are damaged beyond effective functioning then works that may compromise the protection of trees and hedges shall cease until the protection can be repaired or replaced with a specification that shall provide a similar degree of protection.

Reason: In order to ensure that existing trees and hedges are protected.

7. Prior to the commencement of the development hereby approved, details of the construction methodology for constructing the garage of Plot 3, which is within the root protection area of adjacent trees shall be submitted to the Council for the further approval in writing by the Council. The details shall be undertaken by a suitably qualified tree arboriculturist, and the subsequent approved details shall thereafter be implemented in full.

Reason: In order to ensure that the existing trees are adequately protected during the course of construction.

8. Prior to the development hereby approved being completed or brought into use, the vehicular access shall be formed in accordance with Perth & Kinross Council's Road Development Guide Type B Figure 5.6 access detail, of Type B Road construction detail.

Reason: In the interests of road safety; to ensure an acceptable standard of construction within the public road boundary.

9. The visibility splays of the access onto Woodlands Road, as shown in purple on plan 19/00146/12, shall be maintained and kept clear of any structures and planting.

Reason – In order to ensure that an acceptable level of forward visibility is maintained and that road and pedestrian safety is delivered.

10. 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 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 Council as Planning Authority.

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

11. An updated survey to determine presence of red squirrel dreys must be undertaken if any tree / hedge felling is proposed after 1 February 2020. If the survey identifies the presence of dreys(s), Scottish Natural Heritage must be consulted in respect of any need and implications for any application for a licence.

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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.

12. Temporary lights used during construction should be fitted with shades to prevent light spillage outside the working area. Temporary and permanent lights must not illuminate the surrounding tree lines, to reduce impact on foraging bats.

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

Justification

The proposal is in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

Procedural Notes

The planning permission decision notice shall not be issued until such time as the required Developer Contributions have been secured or paid in full.

In the event the applicant does not either make the required payment within 28 days from the date the agent/applicant is advised of the need for the contributions, or complete a legal agreement for delayed payment within a 4 month period from the date the agent/applicant is advised of the need for the contributions the application may be refused under delegated powers without any further discussion with the applicant.

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

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- (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
4. An application for Building Warrant will be required.
 5. 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 Environmental Protection Agency.
 6. The applicant is advised that deadwood is an important habitat and food source for many rare and threatened species. Leaving some of the felled trees in tact on the ground or cut into small piles, would enhance the biodiversity value of the site, and is advised.
 7. 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.
 8. 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.
 9. In the event that there is a Section 75 legal obligation associated with this planning permission, which relates to education contributions. A copy is available to view on the Council's Public Access portal.

(ii) 19/00377/FLL - PERTH - Change of use of hairdressers (class 1) to café (class 3), Louis T'ney Hair and Beauty, 8 West Mains Avenue, Perth, PH1 1QZ – Report 19/168 – West End Bistro

Resolved:

Grant, subject to the following amended conditions and informatives:

Conditions

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.

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2. Prior to the development hereby approved being completed or brought into use, an effective ventilation system commensurate with the nature and scale of cooking to be undertaken shall be installed and operated such that cooking odours are not exhausted into or escape into any neighbouring buildings. Thereafter the system shall be maintained to the satisfaction of the Council as planning authority.
Reason - In order to safeguard the amenity of occupants of nearby premises and to ensure the provision of a satisfactory ventilation system for the premises.
3. 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 to the satisfaction of the Council as planning authority.
Reason - In order to safeguard the neighbouring residential amenity in the area.
4. Servicing of and deliveries to the premises shall be carried out between 0700 and 1900 Monday to Saturday only, with no servicing or deliveries permitted on Sundays.
Reason - In order to safeguard the residential amenity of the area.

Justification

The proposal is in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

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.

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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. An application for Building Warrant may be required.

HAVING PREVIOUSLY DECLARED BOTH A FINANCIAL AND NON-FINANCIAL INTEREST IN THE FOLLOWING ITEM, COUNCILLOR FORBES LEFT THE MEETING AT THIS POINT.

(3) Proposal of Application Notice (PAN)

- (i) 19/00001/PAN - ERROL - Change of use from clay extraction pit to form extension to caravan park, formation of 9 hole pitch and putt course and erection of ancillary maintenance shed, and formation of parking areas, footpaths, boundary treatments, landscaping and associated works, land east of Errol Brickworks, Errol – Report 19/169 – Errol Ground Ltd**

Councillor McCall requested that consideration be given to connecting the development to the local path network.

Members also noted the issues identified by the Interim Development Quality Manager.

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Perth and Kinross Council  
Planning & Development Management Committee – 3 July 2019  
Report of Handling by Head of Planning and Development (Report No. 19/198)

**PROPOSAL:** Application under Section 42 of the Town and Country Planning (Scotland) Act 1997 to modify condition 11 (sustainable construction) of planning permission [15/01109/FLM](#) (Erection of residential units, commercial units (Classes 1, 2, 3 and 10), formation of allotments/open space, landscaping and associated infrastructure works).

**LOCATION:** Land at Bertha Park, Perth.

Ref. No: [19/00552/FLM](#)  
Ward No: P5 - Strathtay

### Summary

This report recommends approval of the application as the 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 planning application site, known as Bertha Park, is part of the allocation in the Perth and Kinross Local Development Plan (LDP) referred to as site H7 for 3,000 dwellinghouses and in excess 25Ha of employment land. This application forms part of the central area of site H7, extending to 95Ha of the wider 333Ha overall H7 allocation.
- 2 The general site characteristics are agricultural land, elevated above the River Almond and Inveralmond Industrial Estate to the south, framed by Bertha Wood and Bertha Loch to the north. To the east, the wider allocated site is contained by the A9, the Inverness railway line and the River Tay beyond. Gelly Burn watercourse defines the southern and southwestern boundaries, with Almondbank village beyond the burn to the south west.
- 3 In December 2016, detailed Planning Permission ([15/01109/FLM](#)) was approved for 1060 dwellinghouses, commercial units (Classes 1, 2, 3 and 10), the formation of allotments/open space, landscaping and associated infrastructure works. Table 1 below provides a useful snapshot of what has been built to date under this extant permission and what is still to come forward under any new permission affected by updated condition wording:

| <b>Table 1<br/>Phase 1 - Bertha Park, Perth</b> |                        |                                |                                         |                  |
|-------------------------------------------------|------------------------|--------------------------------|-----------------------------------------|------------------|
| <b>Development</b>                              | <b>Total Permitted</b> | <b>Delivered (26 May 2019)</b> | <b>Under Construction (26 May 2019)</b> | <b>Remaining</b> |
| Private dwellinghouses                          | 796                    | 28                             | 59                                      | 709              |
| Affordable homes                                | 265                    | -                              | 58                                      | 207              |
| <b>TOTAL dwellinghouses</b>                     | <b>1,061</b>           | <b>28</b>                      | <b>117</b>                              | <b>916</b>       |
| Commercial Space                                | 4,106sqm (gross)       | -                              | 304sqm (gross)                          | 3,802sqm (gross) |

- 5 The principle of development has previously been established through the LDP allocation and the extant permissions and this cannot be considered directly as part of this application. The determining issue in this application is therefore, whether; the amendment of Condition 11 of planning permission 15/01109/FLM would be reasonable and consistent with the relevant provisions of the Development Plan; or if an exception to these provisions is justified by other material considerations.
- 6 This Section 42 Application proposes to revise the wording of suspensive condition 11 of planning permission 15/01109/FLM, which currently reads:
- “For the avoidance of any doubt the domestic and non-domestic buildings to be erected shall comply with Silver Active from 2016 and Gold Active from 2020 as per the 'Building Standards Technical Handbook Section 7 - Sustainability'. The sustainability label shall be provided for the written approval of the Planning Authority prior to the occupation of the domestic or non-domestic building.”*
- 7 The applicant has indicated in their current planning statement (plan reference 19/00552/3) that the development will continue to seek standards above the minimum carbon reduction measures, as required by building standards. The current phase of development has been built to the Silver Active standard (bronze is the current building standard minimum), with the applicant identifying a commitment to continue to pursue more carbon reduction measures as they become technically and economically feasible and/or are required through building standards.
- 8 The amendment solely seeks to remove the ongoing progressive requirement reference to meet the “Gold Active from 2020” standard as a result of it being technically and economically unfeasible to deliver within this timeframe. The

requirements set out in Policy EP1 are also over and above what it was seeking to achieve. No other changes or amendment are proposed.

- 9 Planning applications 17/00919/FLM, 18/01800/IPM and 18/00430/FLM also relate in part with this site area; with 18/01800/IPM covering the wider Bertha Park H7 allocation site area footprint. For clarification; however, the changes relate only to condition 11 applied to the approval for 15/01109/FLM.

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

- 10 An Environmental Statement (ES) was submitted and assessed in association with the 15/01109/FLM application. The applicant has submitted an up-to-date EIA Addendum for this S42 application, which assesses the implications of the proposals. The original ES, Supplementary Environmental Information (SEI) forming part of the original application and this Addendum cumulatively form the EIA Report for considering this EIA development. This assessment concludes that impacts arising from this development have not changed from the original EIA development.

## **PRE-APPLICATION CONSULTATION**

- 11 The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, does not require Pre-application Consultation for Section 42 applications which relates to 'major planning applications' made on or after the 3 February 2013.

## **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

### **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

### **Creating Places 2013**

17 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.

### **DEVELOPMENT PLAN**

18 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2016-2036 and the Perth and Kinross Local Development Plan 2014.

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

19 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.”*

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

## **Policy 7: Energy, Waste and Resources**

- 21 Seeks to deliver a low/zero carbon future and contribute to meeting Scottish Government energy and waste targets and prudent resource consumption objectives.

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

- 22 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. 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.”* It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
- 23 As the principle is established and the change relates only to one matter, the relevant LDP policies are only as follows:

## **Bertha Park H7**

- 24 This site is covered by site allocation development site ‘Bertha Park H7’.

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

- 25 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.

## **Proposed Perth and Kinross Local Development Plan 2 (LDP2)**

- 26 Perth & Kinross Council is progressing with preparation of a new Local Development Plan to provide up-to-date Development Plan coverage for Perth & Kinross. When adopted, the Perth & Kinross Local Development Plan 2 (LDP2) will replace the current adopted Perth & Kinross Local Development Plan (LDP). The Proposed Local Development Plan 2 (LDP2) was approved at the Special Council meeting on 22 November 2017.
- 27 The representations received on the Proposed LDP2 and the Council's responses to these were considered at the Special Council meeting on 29 August 2018. The unresolved representation to the Proposed Plan after this period is likely to be considered at an Examination by independent Reporter(s) appointed by the Scottish Ministers, later this year. The Reporter(s) will thereafter present their conclusions and recommendations on the plan, which the Council must accept prior to adoption. It is only in exceptional circumstances that the Council can elect not to do this.
- 28 The Proposed LDP2 represents Perth & Kinross Council's settled view in relation to land use planning and as such it is a material consideration in the determination of planning applications. It sets out a clear, long-term vision and

planning policies for Perth & Kinross to meet the development needs of the area up to 2028 and beyond. The Proposed LDP2 is considered consistent with the Strategic Development Plan (TAYplan) and Scottish Planning Policy (SPP) 2014. However, the outcome of the Examination could potentially result in modifications to the Plan. As such, currently limited weight can be given to its content where subject of a representation, and the policies and proposals of the plan are only referred to where they would materially alter the recommendation or decision.

## **SITE HISTORY**

- 29     [14/00001/PAN](#) Proposed housing development. PAN Decision Issued 10 February 2014.
- 30     14/01318/SCRN Residential development. Application Withdrawn.
- 31     [14/01767/SCOP](#) Housing development. Scoping decision issued 24 November 2014.
- 32     [15/01109/FLM](#) Erection of residential units, commercial units (Classes 1,2,3 and 10), formation of allotments/open space, landscaping and associated infrastructure works. Approved by Development Management Committee September 2016 (Decision Issued 12 December 2016).
- 33     [15/01112/IPM](#) Residential development with community facilities, employment land, open space, landscaping and associated infrastructure (in principle) Approved by Development Management Committee September 2016 (Decision Issued 12 December 2016).
- 34     [17/00919/FLM](#) Erection of residential units, commercial units (Classes 1,2,3 and 10), formation of allotments/open space, landscaping and associated infrastructure works (revised site layout and change of house types) Approved by Development Management Committee August 2017 (Decision Issued 30 August 2017).
- 35     [17/02242/FLL](#) Erection of 2no. dwellinghouses and 8no. flats (revised design and layout). Approved under delegated powers 20 February 2018.
- 36     [18/00357/ADV](#) Display of a sign. Approved under delegated powers 27 April 2018.
- 37     [18/00358/ADV](#) Display of a sign. Approved under delegated powers 27 April 2018.
- 38     [18/00430/FLM](#) Erection of 62no. dwellinghouses and associated works (change of house type to include sunrooms for plots 10001-10043, 10070-10071 and 10075-10091). Approved by Development Management Committee (Decision Issued 6 June 2018)

- 39 [18/01487/ADV](#) Display of signs and flag poles. Approved under delegated powers 2 October 2018.
- 40 [18/01800/IPM](#) Application under Section 42 of the Town and Country Planning (Scotland) Act 1997 to amend condition 1 (timescales for submission of Approval of Matters Specified by Conditions applications) and condition 2 (phasing of development) of planning permission 15/01112/IPM. Approved by Development Management Committee (minded to issue decision, subject to conclusion of MPO decision 19/00918/MPO).
- 41 [19/00227/FLL](#) Erection of 2no. dwellinghouses and 8 flats (change of house types plots 1120, 1121 and 1124-1131) Approved under delegated powers 3 April 2019.
- 42 [19/00774/FLL](#) Formation of a surface water outfall structure and associated works (in part retrospect) Under consideration.

## **CONSULTATIONS**

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

### **EXTERNAL**

#### **Forestry Commission Scotland**

- 44 No objection received.

#### **Historic Environment Scotland (HES)**

- 45 No objection.

#### **Luncarty, Redgorton and Moneydie Community Council**

- 46 No objection received.

#### **Methven Community Council**

- 47 No objection received.

#### **National Grid Plant Protection Team**

- 48 No objection received.

#### **Perth and Kinross Heritage Trust (PKHT)**

- 49 No objection.

**Royal Society of Protection of Birds R S P B**

50 No objection received.

**Scottish Environment Protection Agency (SEPA)**

51 No objection.

**Scottish Government Planning Decisions Team**

52 No objection received.

**Scottish Water**

53 No objection.

**Scottish Natural Heritage (SNH)**

54 No objection received.

**Sport Scotland**

55 No objection.

**Tay Salmon Fisheries Board**

56 No objection received.

**The Scottish Government**

57 Consultation request acknowledged.

**Transport Scotland**

58 No objection on basis all salient trunk road conditions attached to the original permission are included in any future permission.

**INTERNAL**

**Biodiversity Officer**

59 No objection.

**Community Greenspace**

60 No objection received.

**Community Waste Advisor - Environment Service**

61 No objection received.



### **Development Negotiations Officer**

62 No objection.

### **Environmental Health**

63 No objection.

### **Strategy and Policy**

64 No objection subject to the wording specifics of the amended condition to remain consistent with the policy intentions of the development plan in respect of achieving carbon reduction.

### **Structures and Flooding**

65 No objection.

### **Transport Planning**

66 No objection.

### **REPRESENTATIONS**

67 No representations were received.

### **ADDITIONAL STATEMENTS**

68

|                                                |                                      |
|------------------------------------------------|--------------------------------------|
| Environment Statement                          | Addendum report submitted.           |
| Screening Opinion                              | Not Required, previously undertaken. |
| Environmental Impact Assessment                | Required                             |
| Appropriate Assessment                         | Not Required                         |
| Design Statement / Design and Access Statement | Not Required                         |
| Reports on Impact or Potential Impact          | Supporting statement submitted.      |

### **APPRAISAL**

69 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 2014.

## Principle

- 70 The principle of development has previously been established through the LDP allocation and the extant permissions and this cannot be considered directly as part of this application. The determining issue in this application is therefore, whether; the amendment of Condition 11 of planning permission 15/01109/FLM would be reasonable and consistent with the relevant provisions of the Development Plan; or if an exception to these provisions is justified by other material considerations. Since the approval of the 2015 application (15/01109/FLM) there has been a Development Plan change with the adoption of TAYplan 2016-2036 in October 2017. Notwithstanding this change, the overall principle of the development is still maintained under allocation H7 in the LDP 2014 and the extant permission.
- 71 LDP policy EP1 (Climate Change, Carbon Reduction and Sustainable Construction) has been consistently applied to larger strategic sites since the adoption of the LDP, where the build out rates are anticipated to be in excess of 10 years. The terms of condition 11 was therefore originally applied to ensure that, in the long term, continued carbon reduction measures were being delivered.
- 72 However, it has been demonstrated by the applicant that there are physical, technological and economic reasons which means that fully achieving Gold Active standard for all aspects of dwellinghouse construction is impractical. Fundamentally, the Gold Active building standard sought goes far beyond the intended remit of Policy EP1, in seeking advances in all aspects of construction, rather than a carbon reduction through low carbon technologies. which is within the town planning remit.
- 73 A change in policy approach is included in the Proposed LDP2, currently at Examination, which removes the requirements on which condition 11 is based. The Proposed LPD2 acknowledges that the extensive criteria to achieve Gold Standard under LDP Policy EP1 is currently undeliverable and extend beyond the intended remit of carbon reduction. The Proposed LDP2 now, in effect, seeks the removal of Policy EP1 on which condition 11 wording was based. The Scottish Government is objecting to this removal, and is seeking the inclusion of a new replacement policy to fulfil the provisions of Section 3F of the Town and Country Planning (Scotland) Act 1997 (as amended). Section 3F states:
- 74 *‘A planning authority, in any local development plan prepared by them, must include policies requiring all developments in the local development plan area to be designed so as to ensure that all new buildings avoid a specified and rising proportion of the projected greenhouse gas emissions from their use, calculated on the basis of the approved design and plans for the specific development, through the installation and operation of low and zero-carbon generating technologies.’*
- 75 In response to this position the Council have defended the proposal to remove the requirements of LDP Policy EP1 and no modification to the Proposed Plan

is directly being proposed by the Council. However, the Council has intimated that, if the Reporter considers that a new standalone policy is required to meet the requirements of Section 3F of the Town and Country Planning (Scotland) Act 1997 (as amended), it would suggest the insertion of a new policy under Section 3.2 to address this requirement by using the following text:

- 76 *‘Proposals for all new buildings will be required to demonstrate that at least 10% of the current carbon emissions reduction set by Scottish Building Standards will be met through the installation and operation of low and zero-carbon generating technologies. A statement will be required to be submitted demonstrating compliance with this requirement. The percentage will increase at the next review of the local development plan. This requirement will not apply to:*
- 1) alterations and extensions to buildings,*
  - 2) change of use or conversion of buildings,*
  - 3) ancillary buildings that stand alone and cover an area less than 50 square metres,*
  - 4) buildings which will not be heated or cooled, other than by heating provided solely for frost protection,*
  - 5) buildings which have an intended life of less than two years.’*
- 77 This issue is currently being considered at the Examination of LDP2, where the Reporter will consider what changes, if any, they will recommend to the Council before the LDP2 is adopted. The Reporter only considers the issues raised through objections to the Proposed LDP2. The Examination report is anticipated in July 2019.
- 78 The proposed amendment to condition 11 being sought is premature in this context; however, the only objection to the removal of Policy EP1 in the Proposed LDP2 was to not having a requirement for the percentage of the reduction in carbon emissions to be met through low carbon technologies to meet the requirements of Section 3F. It is therefore considered likely that the Reporter will require such a change to be made to meet this requirement, and in a manner similar to what the Council has intimated it would be willing to accept. As such, any amended condition should be based on this new requirement, which would ensure that any decision for approval here does not prejudice the Examination process. There is no objection to the principle of removing other elements of this policy from the Development Plan. We therefore already know that these matters will not form part of the Development Plan.
- 79 In assessing the current application, it is appropriate to consider the aforementioned as a material consideration. As noted, this condition has only been applied to strategic sites with a forecast long build out period. The wider terms of this condition and the original Policy EP1 are considered to be no longer fit for purpose; with current Scottish Building Standards only requiring the Bronze Standard to be achieved. This position is represented through the proposed amendment in Proposed LDP2. In this respect, the principle of seeking to amend the condition is considered acceptable and can be supported, albeit it does constitute a departure from the current LDP.

Simultaneously, the wording originally proposed by the applicant was not judged to go far enough for the terms of the proposed policy position. It is considered that a revised condition, to effectively futureproof the requirement in achieving progressive sustainability standards (through carbon reduction), in line with future Scottish Building Standards or any target set within the future LDP, is required. In consultation with the Strategy and Policy Team, the Council's Legal team and the applicant, it was agreed the wording of Condition 11 (retained as Condition 11 here) could be amended, to read as follows:

- 80 *For the avoidance of doubt, all domestic and non-domestic buildings to be erected shall deliver improvements in sustainability standards in accordance with Scottish Building Standards, and the percentage of the carbon emissions reduction required is to be met through the installation and operation of low and zero-carbon generating technologies as set out in the Development Plan.*
- 81 In adopting this wording it is considered that the new condition would retain the need to deliver this betterment now and for the duration of the current LDP. While it will also allow flexibility to adapt to changes in carbon reduction targets over the period of implementing the planning permission and be consistently applied against future Development Plan policy. It is acknowledged that this wording would not comply with the current LDP Policy EP1 objectives, other than the carbon reduction component. However, carbon reduction and the use of low and zero carbon technologies will still be consistently delivered and it is also anticipated with some confidence that a new LDP will be adopted by 2020 (which was the trigger date for the Gold Active standard) to deliver these objectives in the longer term. It is also considered that in adopting this approach it would not, crucially, prejudice the outcome of the Examination of LDP2.

### **Developer Contributions**

- 82 The Section 75 Legal Agreement for 15/01112/IPM and 15/01109/FLM secures the necessary infrastructure required in association with developing this site area. No further contributions are required and there is no specific reference to carbon reduction within the existing legal agreement.

### **Economic Impact**

- 83 In general terms, the 2015 ES concluded that none of the potential socio-economic and tourism impact that may arise would be significant. A prescribed requirement to meet Gold Active Sustainability standards for all buildings from 2020 has however been collectively agreed to be cost prohibitive and technically challenging at this stage and could not be readily achieved for mainstream houses as currently approved through planning permission 15/01109/FLM. Failure to deliver on these standards without formal agreement could consequently impact on the speed and volume of house sales on this development. This could also potentially conflict with the LDP commitment to deliver an effective housing supply and have a negative economic impact as a consequence.

## Other Matters

- 84 It is appropriate to consider and review other material considerations and associated conditions in the extant planning permission 15/01109/FLM.
- 85 The applicant has clarified that all of the mineral resource within this site area has now been extracted and the final stages of remediation of the extraction area are being progressed. On this basis, the original planning conditions 3, 4, 5, 20, 28, 30, 32 and 37 are therefore no longer required and it would no longer be necessary to apply these to any new permission granted here.
- 86 With the A9/A85 junction now a completed project, the requirement for suspensive condition 16 is no longer needed. On this basis, this can be removed from any new permission granted here.
- 87 Condition 18 is considered to be proportionately covered within the terms of the S.75 and on this basis could be omitted. However, Transport Scotland has requested in their consultation response that that it be applied. On this basis, it is considered appropriate to apply this condition to any new permission.
- 88 A number of the planning conditions from the extant permission have both a pre-commencement and a follow-up compliance requirement. Whilst it is understood that the pre-commencement elements have been agreed under the extant permission, these details were not submitted as part of this planning application. In the context that a new, standalone, permission would be issued here, it is considered appropriate to retain both the suspensive and compliance elements through any permission granted here. This affects the original conditions 8, 9, 10, 12, 13, 14, 15, 19, 21, 25, 27, 29, 31, 33, 34, 36, 38, 39, 45 and 46.
- 89 Following review, it is understood that the mechanism to deliver the structural landscaping between phases (existing condition 35) has been agreed as part of the Delivery Plan (existing condition 2). The intention of condition 35 is therefore now superfluous, and has already been addresses and accordingly it can be dropped from any future permission, provided proposed conditions 2 and 25 are carried forward as recommended.
- 90 Finally, a report was previously submitted and agreed in relation to condition 47(district heating feasibility). This report concluded that district heating was not viable or practically achievable and was not being pursued further. It is therefore not necessary to re-apply this condition.
- 91 It should be noted that, as a result of reviewing and updating the original conditions, the numbering sequence of conditions for planning permission 15/01109/FLM will naturally no longer apply to the recommendations within this report.

## **LEGAL AGREEMENTS**

- 92 The extant Legal Agreement is currently subject of a proposed variation relating to planning application 18/01800/IPM, regarding an amendment of condition 1 and 2. If planning permission should be granted here, a variation of the existing or updated S75 legal agreement will not be required in order to make reference to the new planning permission. It is however considered appropriate to ensure the extant legal agreement relationship is clarified through an informative.

## **DIRECTION BY SCOTTISH MINISTERS**

- 93 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**

- 94 To conclude, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, I have taken account of the Local Development Plan and associated material considerations, with the amended development proposal assessed to conflict with the current Development Plan. There is, however, sufficient material weight to support a policy departure; on grounds of the economic viability and the proposed policy amendment set out in the Proposed LDP2.
- 95 Accordingly the proposal is recommended for approval subject to the following conditions. These conditions address both the condition subject of the change sought, while retaining all other planning conditions from the extent permission that remain relevant and require to be attached to any new permission granted.

## **RECOMMENDATION**

### **Approve the application**

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

1. The proposed development must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed on the planning permission.

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

2. Prior to the implementation of this permission, a detailed delivery plan confirming the phased delivery of the site and construction works shall be

submitted and approved in writing by the Planning Authority. Once approved, the development shall proceed in accordance with the approved delivery plan, to the satisfaction of the Planning Authority.

Reason: In order to ensure the implementation and completion of the development components of the proposal to coincide with infrastructure delivery and to release the elements of the proposed development which the Planning Authority considers will bring economic and social benefits to the area.

3. The foul drainage serving this permission shall be drained to the mains sewerage system, the details of which shall be submitted to and approved in writing by the Planning Authority prior to its installation and in consultation with Scottish Water, Scottish Environment Protection Agency and Scottish Natural Heritage. The agreed foul drainage details shall thereafter be implemented to coincide with the occupation of the development.

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

4. Concurrent with the initiation of the development hereby approved and for the duration of construction, a temporary surface water treatment facility shall be implemented on site and maintained for the duration of the construction works. The temporary surface water treatment facility shall remain in place until the permanent surface water drainage scheme is implemented unless otherwise agreed in writing by the Planning Authority.

Reason: In the interests of best practise surface water management, bio-diversity, to avoid undue risks to public safety and flood risk.

5. Development associated with this permission shall not commence until a detailed and permanent sustainable urban drainage system (SUDS) has been submitted for the further written approval of the Planning Authority, in consultation with Scottish Environmental Protection Agency (SEPA) where necessary. The scheme shall be developed in accordance with the technical guidance contained in The SUDS Manual (C753) and the Council's Flood Risk and Flood Risk Assessments Developer Guidance, and shall incorporate source control. For the avoidance of any doubt the discharge of any surface water drainage shall be limited to the greenfield runoff rates as detailed in section 12.5.26 of the Environmental Statement (submitted in support of planning application 15/01109/FLM). Thereafter, all works shall be carried out in accordance with the agreed details and be operational prior to bringing the associated development phase into use.

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

6. Development associated with this permission shall not commence until the design of all new and existing culverts/bridges and associated features (such as screens) have been submitted to and approved in writing by the Planning Authority, in consultation with the Council's Structures & Flooding Team.

Thereafter, all works shall be carried out in accordance with the agreed details and be operational prior to the bringing the development into use.

Reason: In the interests of best practise surface water management, bio-diversity, to avoid undue risks to public safety and flood risk.

7. Prior to the implementation of this permission, full details of the finalised design of the replacement pond and sustainable urban drainage system (SUDS) pond affecting this phase of the development shall be submitted for the written approval of the planning authority, in consultation with SEPA. Thereafter, all work shall be carried out in accordance with the approved scheme. The finalised design will include details of how the SUDS and replacement pond will maintain hydrology, and how biodiversity from the old pond to the new pond will be translocated.

Reason: In the interests of best practise surface water management, bio-diversity, to avoid undue risks to public safety and flood risk.

8. Prior to the implementation of this permission, details of the proposed landscaping, planting, screening, open space and allotments scheme shall be submitted to the Local Planning Authority for approval. Details of the schemes shall include:

- a) Existing and proposed finished ground levels relative to a fixed datum point.
- b) Existing landscape features and vegetation to be retained.
- c) Existing and proposed services including cables, pipelines and substations.
- d) The location of new trees, shrubs, hedges, grassed areas and water features.
- e) A schedule of plants to comprise species, plant sizes and proposed numbers and density.
- f) The location, design and materials of all hard landscaping works including walls, fences, gates and any other means of enclosure.
- g) An indication of existing trees, shrubs and hedges to be removed.
- h) Details of areas of public open space.
- i) Details of areas for allotments.
- j) A programme for the completion and subsequent maintenance of the proposed landscaping, planting, screening, open space and allotments.

All soft and hard landscaping proposals shall be carried out in accordance with the approved scheme and shall be completed during the planting season immediately following the commencement of the development on that part of the site or such other date as may be agreed in writing with the Planning Authority.

Any planting which, within a period of 5 years from the completion of the development, in the opinion of the Planning Authority is dying, has been severely damaged or is becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted



Reason: To ensure the implementation of satisfactory landscaping proposals which will assist in local landscape integration and in the interests of the visual amenity of the area.

9. Prior to the implementation of this permission, details of the play park and sports pitches (equipment, specification) shall be submitted to the Planning Authority for written approval. Thereafter play parks and sports pitches shall be installed to accord with the approved details to coincide with the phasing of character areas which shall be agreed in writing with the Planning Authority.

Reason: To ensure the delivery of recreational facilities for the occupants of the development.

10. Prior to the implementation of this permission, a woodland management plan (covering a minimum of twenty years), including long term objectives, management responsibilities and maintenance schedules for all woodland areas within this part of the wider Bertha Park site shall be submitted to and approved in writing by the Planning Authority. Thereafter the woodland management plan shall be carried out as approved on implementation of the development hereby permitted unless otherwise approved in writing by the Planning Authority.

Reason: To ensure that the woodland areas are satisfactorily managed and maintained in the long term in the interests of the visual amenity of the area.

11. For the avoidance of doubt, all domestic and non-domestic buildings to be erected shall deliver improvements in sustainability standards in accordance with Scottish Building Standards. The percentage of the carbon emissions reduction required is to be met through the installation and operation of low and zero-carbon generating technologies, as set out in the Development Plan.

Reason: To ensure this development complies with the on-site carbon reductions required in Scottish Planning Policy and the Council's Development Plan at the time.

12. Prior to the implementation of this permission, a detailed plan of public access across the site including phasing (existing, during construction & upon completion) shall be provided for the written approval of the Council as Planning Authority and show:

- a) All existing paths, tracks & rights of way.
- b) Any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or curtilage, in relation to proposed buildings or structures.
- c) All paths & tracks proposed for construction, for use by walkers, riders, cyclists, all-abilities users, etc.
- d) Any diversions of paths - temporary or permanent- proposed for the purposes of the development
- e) The detailed specification of the proposed paths and tracks, along with how they will be constructed to avoid impacts on trees.

Reason: In the interest of sustainable transportation.

13. No more than 750 dwellinghouses are permitted to be occupied until the Cross Tay Link Road (CTLR) Improvement including the Tay Crossing, generally as proposed by Perth and Kinross Council as part of its 'Perth Transport Futures Project' transport strategy is agreed by the Planning Authority to constitute a 'committed project', in consultation with Transport Scotland.

For clarification the definition of a 'committed project' in relation to the CTLR project is as follows:

*"The CTLR becomes a committed project when all funding, land required for the scheme, statutory approvals, trunk road orders and consents are in place, a contractor appointed and construction on site has commenced".*

Reason: To ensure that the scale of development does not exceed that assessed by the original Transport Assessment (submitted with planning application 15/01109/FLM plan ref 15/01109/162) and to ensure that the scale of development is commensurate with the infrastructure required to support the development.

14. Prior to the implementation of this permission, appropriate mitigation measures shall be agreed to address the impact of the development at the Broxden Roundabout on the A9 trunk road. The nature of the mitigation shall either be physical improvements to these junctions in the form of traffic signals and widening of approaches or a financial contribution in lieu of the said physical works. The details of the physical works or the level of financial contribution required shall be agreed in writing with the Planning Authority in consultation with Transport Scotland.

Reason: To ensure that the scale of development does not exceed that assessed by the original Transport Assessment (submitted with planning application 15/01109/FLM, plan ref 15/01109/162) and to ensure that the scale of development is commensurate with the infrastructure required to support the development.

15. No development associated with this permission shall be implemented until a Construction Traffic Management Plan has been approved in writing by the Planning Authority in consultation with Transport Scotland. In particular the CTMP shall identify measures to control the use of any direct access onto the trunk road, including the existing priority access located on the northbound carriageway of the A9 north of Inveralmond Roundabout. Thereafter, all construction traffic associated with the development shall conform to the requirements of the agreed plan.

Reason: To mitigate the adverse impact of development traffic on the safe and efficient operation of the trunk road.

16. Prior to the implementation of this permission, the detailed specification for the emergency/secondary access arrangements to be put or remain in place between the Inveralmond Bridge and Bertha Lodge, along with implementation timescales shall be submitted to and approved in writing by the Planning Authority. The approved emergency/secondary access arrangements shall be thereafter installed in accordance with the agreed timescales and/or maintained to the satisfaction of the Planning Authority.

Reason: to ensure that the development proposals will not have a significant detrimental impact on the operation of the local road network.

17. Prior to the completion of the development, all watercourses on the site as referred to in the Flood Risk Assessment (FRA) (dated 18 June 2015, submitted in support of planning application 15/01109/FLM) shall be inspected and cleared of any impediments likely to create any obstruction to the free flow of water within the development and for 300m (or length otherwise agreed with the Planning Authority) upstream and downstream of the development phase; an inspection report along with details of works undertaken shall be submitted to the Planning Authority for written approval in consultation with the Roads Authority.

Reason: In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality and in accordance with the adopted development plan.

18. The Finished Floor Level of all properties shall be a minimum of 600mm above the 200 year flood level including 20% for Climate Change.

Reason: To reduce flood risk.

19. The overland flood routes of the dam breach analysis shall be maintained as open space to prevent any future development of the land. A minimum of a 5m Maintenance strip either side of the watercourse must be provided along all watercourses as referred to in the Flood Risk Assessment (FRA) (dated 18 June 2015, submitted in support of planning application 15/01109/FLM) within the extents of the proposed development.

Reason: To allow suitable access to the watercourse for maintenance purposes and to reduce flood risk.

20. Prior to the implementation of this permission, a Construction Environment Management Plan (CEMP), incorporating a Construction Method Statement (CMS), a Site Waste Management Plan (SWMP), a Drainage Management Plan (DMP) and Environmental Management Plan (EMP) detailing pollution prevention and control measures for all felling, construction and operation programmes will be submitted to and be approved in writing by the Planning Authority, in consultation with Scottish Environment Protection Agency and Scottish Natural Heritage. 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.

21. Prior to the implementation of this permission, an independent and suitably qualified ecologist shall be appointed as the 'Ecological Clerk of Works' (ECOW) for the site, by the developer and at the developer's expense. This appointment shall be subject to the prior written approval of the Planning Authority and detail the extent of inspections to be undertaken by the ECOW and how this relates to the delivery of the development. The ECOW shall oversee, on behalf of the Planning Authority, in consultation with Scottish Natural Heritage, the implementation of all ecology related planning conditions and how this relates to the development being constructed. The ECOW shall undertake a watching brief throughout the construction of the development and shall have the authority to stop operations or to alter construction methods should there be any works occurring which is having an adverse impact on the natural heritage.

The ECOW shall have responsibility for the following:

- a) Monitoring compliance with the mitigation works related to the development as set out in the Construction Environment Management Plan.
- b) Advising the developer on adequate protection of nature conservation interest on the site, including altering construction practices if existing practices are having an adverse impact on the natural heritage of the site.
- c) If any protected species are found on site, the Ecological Clerk of Works will ensure that work is suspended at that location and that a protected species protection plan is implemented.

The ECOW is required to notify the Planning Authority:

- d) If there has been a requirement to stop or alter works in relation to this condition.
- e) They are required to submit a report on their inspection for the review of the Planning Authority in consultation with Scottish Environment Protection Agency and Scottish Natural Heritage during construction operations.
- f) They will have the power to amend the Construction Method Statement, where required, with any amendments and measures to mitigate submitted to the Planning Authority.

Reason: In order to ensure that the appointed ECOW is suitably qualified and has a suitable job description and powers.

22. Prior to the implementation of this permission updated details of checking surveys for protected species or the nests of any breeding birds on the site shall be submitted to and approved in writing by the Planning Authority, in

consultation with Scottish Natural Heritage (SNH). The surveys shall be undertaken by a qualified ecologist, in accordance with the approved specification, in the last 6 months preceding site preparation and construction work commencing. A programme of any mitigation measures required as a consequence of the survey results, and a timetable for any such mitigation measures shall have been submitted to and approved in writing by the Planning Authority prior to any works associated with the development taking place. The programme of mitigation work shall be implemented as approved under the supervision of a qualified ecologist all to the satisfaction of the Planning Authority.

Reason: In the interests of protecting the natural heritage, to minimise the environmental impact of construction and operational activities resulting from the proposed development.

23. Prior to the implementation of this permission, a biodiversity monitoring strategy shall be submitted to, and approved in writing by the Planning Authority. The purpose of the strategy shall be to monitor the abundance and distribution of protected species over the period of the development. The content of the Strategy shall include the following.
- a) Aims and objectives of monitoring to match the stated purpose.
  - b) Identification of adequate baseline conditions prior to the start of development.
  - c) Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged.
  - d) Methods for data gathering and analysis.
  - e) Location of monitoring.
  - f) Timing and duration of monitoring.
  - g) Responsible persons and lines of communication.
  - h) Review, and where appropriate, publication of results and outcomes.

A report describing the results of monitoring shall be submitted to the Planning Authority at intervals identified in the strategy. The report shall also set out (where the results from monitoring show that conservation aims and objectives are not being met) how contingencies and/or remedial action will be identified, agreed with the local planning authority, and then implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The monitoring strategy will be implemented in accordance with the approved details.

Reason: In the interests of protecting the natural heritage, to minimise the environmental impact of construction and operational activities resulting from the proposed development.

24. Prior to the implementation of this permission, the trees to be retained as identified in the submitted surveys (forming part of planning permission

15/01109/FLM) shall be protected by suitable fencing in accordance with BS5837 2012 (Trees in Relation to Construction). The details of the protective fencing and its location shall be first submitted to and agreed in writing by the Planning Authority. 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 and no fire shall be lit in the position where the flames could extend to within 5 metres of foliage, branches or trunks.

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

25. Prior to the implementation of this permission, a detailed specification and planting scheme for the structural landscaping works between Phase 1 and 2 and Phase 1 and 3 along with implementation timescales shall be submitted to and approved in writing by the Planning Authority. Thereafter the approved structural landscaping works between Phase 1 and 2 and Phase 1 and 3 shall be installed to accord with the agreed timescales and maintained to the satisfaction of the Planning Authority.

Reason: In order to ensure a responsive and robust landscape framework is created between the phases of the site, including appropriate biodiversity and recreational opportunities.

26. Prior to the implementation of this permission, no further development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of archaeological works in accordance with a Written Scheme of Investigation which has been submitted by the applicant, and approved by the Planning Authority in consultation with Perth and Kinross Heritage Trust. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in consultation with Perth and Kinross Heritage Trust.

Reason: To safeguard any archaeological interest of the site.

27. Prior to the implementation of this permission, a site specific plan, detailing bin storage areas, kerbside collection locations and recycling facilities shall be submitted to and approved in writing by the Planning Authority and thereafter undertaken in accordance with the approved details. 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<br>(litres) | Width<br>(mm) | Height<br>(mm) | Depth<br>(mm) |
|----------------------|---------------|----------------|---------------|
| 240                  | 580           | 1100           | 740           |

Reason: In the interests of the sustainable disposal of waste.

28. Prior to the implementation of this permission, a strategy to ensure noise levels within dwellinghouses are considered reasonable internally (utilising dwelling layouts and appropriate double glazing with trickle vents) shall be submitted to the Planning Authority for written approval and thereafter implemented. The strategy shall include particular focus on the relationship of dwellings on either side of the Cross Tay Link Road (CTLR) within the site and to the sites southern boundary, beside the Inveralmond Industrial Estate.

Reason: To prevent disturbance from noise.

29. For any commercial kitchen, an effective ventilation system commensurate with the nature and scale of cooking to be undertaken shall be installed, operated and maintained, within the commercial areas, such that cooking odours are not exhausted into or escape into any neighbouring dwellings.

Reason: To prevent disturbance from noise and odour.

30. All plant or equipment including any ventilation system associated with operation of the commercial areas 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 20 between 2300 and 0700 hours daily, within any neighbouring residential premises, with all windows slightly open, when measured and/ or calculated and plotted on a rating curve chart.

Reason: To prevent disturbance from noise.

31. Commercial and Industrial deliveries shall be limited to Monday to Sunday 07.00 to 19.00 hours.

Reason: To prevent disturbance from noise.

32. Noise from any air source heat pump or other external residential plant 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 20 between 2300 and 0700 hours daily, within any neighbouring residential premises, with all windows slightly open, when measured and/ or calculated and plotted on a rating curve chart.

Reason: To prevent disturbance from noise.

33. For commercial and industrial areas all external lighting to be installed shall be sufficiently screened and aligned so as to ensure that there is no direct illumination of neighbouring land and that light spillage beyond the boundaries of the site is minimised.

Reason: To prevent disturbance from lighting.

34. Prior to the implementation of this permission, an evaluation or clarification of the sites potential to be affected by contamination by a previous use should be undertaken and as a minimum, a Preliminary Risk Assessment (Phase 1 Desk Study) will be submitted for consideration by the Council as Planning Authority. If the preliminary risk assessment identifies the need for further assessment, an intrusive investigation should be undertaken to identify;
- a) The nature, extent and type(s) of contamination on the site.
  - b) Measures to treat/remove contamination to ensure the site is fit for the use proposed.
  - c) Measures to deal with contamination during construction works.
  - d) Condition of the site on completion of decontamination measures.

Reason: To ensure the development is ready to receive development, to protect future users of the site and to protect the amenity of the environment.

35. Prior to the completion or bringing into use any part of the development, the agreed measures to decontaminate the site shall be fully implemented as approved by the Council as Planning Authority. Validation that the scheme has been fully implemented must also be submitted to the Council as Planning Authority before the development is brought into use or occupied.

Reason: To prevent harm to human health and pollution of the environment in accordance with the aims and objectives of the development plan.

## **B JUSTIFICATION**

The proposal is not considered to fully comply with the Development Plan; however, there are material considerations that justify a departure on this occasion as detailed in the Report above.

## **C PROCEDURAL NOTES**

None.

## **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. This development will require the 'Display of notice while development is carried out', under Section 27C (1) of the Town and Country Planning Act 1997, as amended, and Regulation 38 of the Development Management Procedure (Scotland) Regulations 2008. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. According to Regulation 38 the notice must be:
  - Displayed in a prominent place at or in the vicinity of the site of the development.
  - Readily visible to the public.
  - Printed on durable material.
5. The applicant is advised that to enable some of the negative suspensive conditions to be fulfilled works which are operational development may have to be undertaken out with the application site. These works themselves may require the submission of a planning application.
6. The developer is advised to contact Mr David Strachan, Archaeologist, Perth and Kinross Heritage Trust to discuss terms of reference for work required Tel 01738 477080.
7. 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.
8. The applicant is advised that in terms of Sections 21 of the Roads (Scotland) Act 1984 they must obtain from the Council as Roads Authority consent to construct a new road prior to the commencement of roadworks. Advice on the disposal of surface water must be sought at the initial stages of design from the Roads Authority, Scottish Water and the Scottish Environmental Protection Agency.
9. Please consult the Street Naming and Numbering Officer, The Environment Service, Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth PH15GD.
10. 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.
11. No work shall be commenced until an application for building warrant has been submitted and approved.

12. Ecologists shall be employed to undertake protected species surveys and provide advice and guidance where work is due to be undertaken close to sensitive areas, such as woodland, hedgerows and watercourses and waterbodies as agreed with planning authority.
13. Where works are within 50m of trees, woodland, hedgerows or waterbodies the ecologist shall undertake protected species surveys and identify any potential impacts, where appropriate protective fencing shall be erected prior to work commencing in such areas to the satisfaction of the planning authority.
14. Where protected species have been identified the ecologist shall provide guidance and advice to site staff on how to avoid disturbance of protected species.
15. Monitoring of the ecological interests identified on the site shall be undertaken by the ecologist where protected species have been identified and annual reports as described in BS42020:2013 shall be submitted to the planning authority to inform changes to abundance or locations of protected species.
16. The development shall be in accordance with the Council's 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. To comply with the Council's approved policy on affordable housing.
17. The applicant is reminded that the site is still subject of a Section 75 Legal Agreement, securing Developer Contribution requirements and other matters, as secured as part of planning permission 15/01112/IPM (subject of minded to approve application 18/01800/IPM). This permission continues to be tied by this legal agreement and the associated requirements will continue to apply.

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

The proposed development was determined by Perth & Kinross Council under the provisions of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 to be EIA development. In accordance with Regulation 29, notice of this decision is hereby given in respect of the following:

The application submitted an EIA Addendum dated April 2019. The public had the opportunity to participate in the decision making process through notification of the EIA Addendum was undertaken for premises on neighbouring land and it was publicised on the Planning Authority's website, in the Edinburgh Gazette and the Perthshire Advertiser.

The EIA Addendum provides a summary of the baseline, the information gathered to consider the likely significant effects on the environment and

details of environmental mitigation and monitoring that are to be incorporated in to the proposal. The Addendum considers the conclusions reached in the 2015 Environmental Statement (ES) and the conclusions reached in 2016 through the Supplementary Environmental Information (SEI) which were lodged in advance of determination of the original detailed permission. The following topics were covered in relation to the proposed amendment:

- Landscape/Townscape and Visual Assessment
- Traffic and Transport
- Air Quality
- Noise and vibration
- Nature Conservation and Ecology
- Socio-Economic and Tourism
- Ground Conditions, Drainage and Flood Risk
- Archaeology and Cultural Heritage
- Cumulative Effects.

The Addendum concludes that through the proposed amendment of the affected planning Condition 11, there would be no substantive effect on the conclusions reached through the 2015 ES or 2016 SEI.

The Planning Authority is satisfied that the EIA Addendum is up-to-date and complies with Regulation 5 and is therefore suitable for determination of the planning application.

The Planning Authority has considered the EIA Addendum Report, other environmental information and recommendation from the consultations bodies. It is concluded that the development will not give rise to any unacceptable significant environmental effects. In reaching this conclusion, regard has been given to environmental design and mitigation measures incorporated into the original proposal, as well as a regime for the ongoing monitoring measures for the construction and operation of the development.

In the absence of unacceptable and significant environmental impacts, and subject to the mitigation and monitoring measures secured through planning conditions and ongoing S75 control, the proposal is acceptable and can be approved.

Background Papers: None  
Contact Officer: Callum Petrie 01738 475353  
Date: 20 June 2019

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

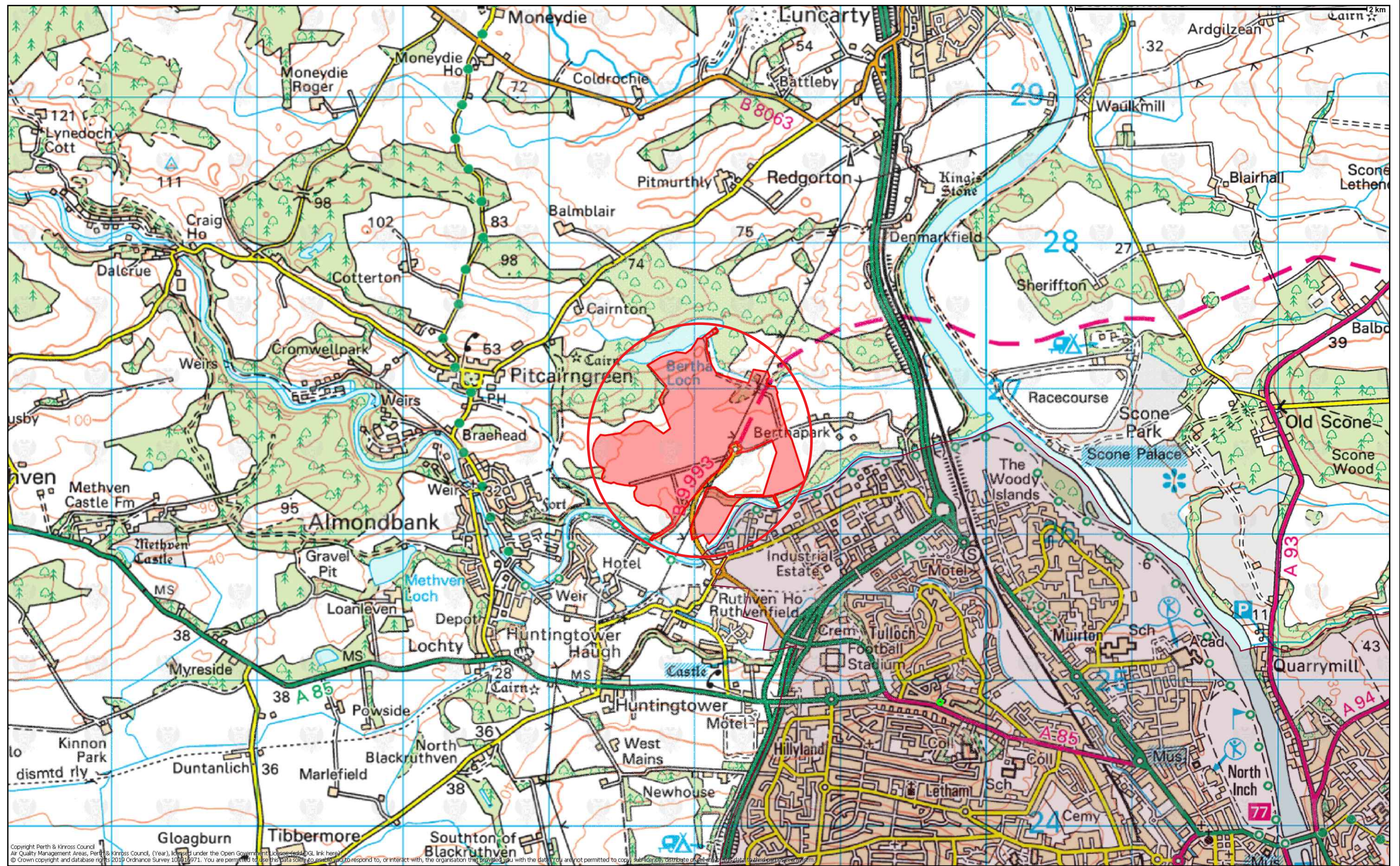
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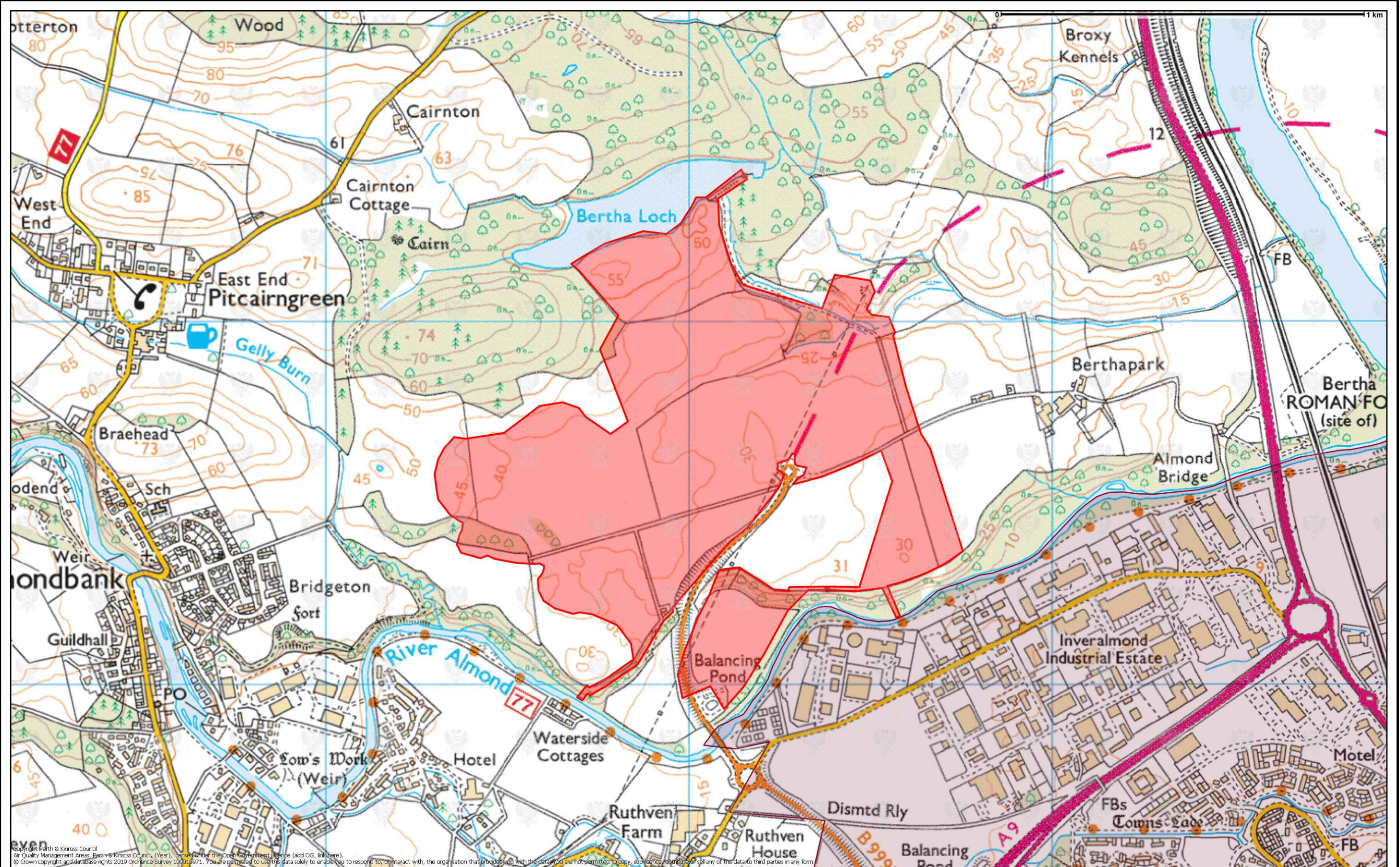
Land At Bertha Park











|                                                                                                                                                                                                                                                                                                                                       |                      |                                                                                       |                                                |                                                                                       |
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Perth and Kinross Council  
Planning & Development Management Committee – 3 July 2019  
Report of Handling by Head of Planning and Development (Report No. 19/199)

**PROPOSAL:** Alterations to site layout, siting of 11 additional caravans, formation of landscaping and associated works (in part retrospect).

**LOCATION:** Lochmanor Lodge Estate, Dunning, Perth PH2 0QN.

Ref. No: [19/00136/FLL](#)  
Ward No: P7 - Strathallan

### Summary

This report recommends approval of the application as the 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 comprises an existing caravan park on the east side of the B9141 to the north of Dunning. The site includes a small loch and an area of grassland, maintenance shed, garage and outbuildings. The site is bounded by the Duncrub Burn and farmland to the north, the B9141 to the west and farmland to the east and south. The site is screened by hedging along the roadside to the south west and partially screened by the trees along the northern, southern and eastern boundaries.
- 2 Planning permission was approved in July 2014 under 13/01780/FLL to increase the site capacity from 12 touring caravans up to 30 touring caravans and provide a new access to the site further to the north of the existing access. In 2014 a further application was approved under 14/01922/FLL for extension of the caravan park to provide a total of 30 chalet/lodge pitches in place of the touring pitches.
- 3 The site to date has 31 units in situ (one more than was granted permission) and has not been laid out in accordance with the 2014 permission. There has also been a recent history of withdrawn applications due to issues with the previous owner providing an as-built layout. The site has since been sold and the new owner now wishes to regularise the site layout for the existing 31 units and to seek an additional 10 caravans (therefore 11 additional caravans in total).
- 4 Therefore this proposal is for the site as currently laid out, with the addition of ten caravans, two in the northeast corner, five in the southwest corner, one in the central row and two to the east of the site office beside the loch.

Additional areas of planting are also proposed, in particular, where two unauthorised concrete bases have been installed. A new sewage treatment plant is also proposed to the west of the site office.

- 5 The application has been revised from the original submission to remove three caravans. One has been removed from the northeast corner which was overcrowded and two have been removed from the south boundary to reflect the previous approvals which reduced unit numbers along this edge.

## **NATIONAL POLICY AND GUIDANCE**

- 6 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**

- 7 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**

- 8 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.

- 9 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

### **Planning Advice Notes**

- 10 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

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

- 11 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**

- 12 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2016-2036 and the Perth and Kinross Local Development Plan 2014.

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

- 13 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.”*

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

### **Policy 2: Shaping Better Quality Places**

- 15 Seeks to deliver distinctive places by ensuring that the arrangement, layout, design, density and mix of development are shaped through incorporating and enhancing natural and historic assets, natural processes, the multiple roles of infrastructure and networks, and local design context.
- 16 Proposals should demonstrate that they contribute to infrastructure that supports active and healthy communities and incorporate design which is adaptable and resilient to a changing climate. There is also an emphasis on resource efficiency which should be achieved through renewable energy generation, high quality design and providing solutions for waste management.

## **Policy 6: Developer Contributions**

- 17 Seeks to ensure suitable infrastructure is in place to facilitate new development. Developer contributions shall be sought to mitigate any adverse impact on infrastructure, services and amenities brought about by development. This may include contributions towards schools, the delivery of affordable housing, transport infrastructure and facilities (including road, rail, walking, cycling and public transport), green infrastructure and other community facilities in accordance with the Scottish Government Circular 3/2012: Planning Obligations and Good Neighbour Agreements.

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

- 18 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. 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.”* It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
- 19 The principal relevant policies are, in summary;

### **Policy PM1A - Placemaking**

- 20 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**

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

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

- 22 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**

- 23 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 ED3 - Rural Business and Diversification**

- 24 Favourable consideration will be given to the expansion of existing businesses and the creation of new business. There is a preference that this will generally be within or adjacent to existing settlements. Outwith settlements, proposals may be acceptable where they offer opportunities to diversify an existing business or are related to a site specific resource or opportunity. This is provided that permanent employment is created or additional tourism or recreational facilities are provided or existing buildings are re-used. New and existing tourist related development will generally be supported. All proposals are required to meet all the criteria set out in the policy.

### **Policy ED4C - Caravan Sites, Chalets and Timeshare Development**

- 25 Favourable consideration will be given to new chalet and timeshare / fractional ownership developments where it is clear that these cannot be used as permanent residences and where they satisfy the criteria set out. There shall be no presumption in favour of residential development if any of the above uses ceases.

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

- 26 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 EP2 - New Development and Flooding**

- 27 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.

### **Proposed Perth and Kinross Local Development Plan 2 (LDP2)**

- 28 Perth & Kinross Council is progressing with preparation of a new Local Development Plan to provide up-to-date Development Plan coverage for Perth & Kinross. When adopted, the Perth & Kinross Local Development Plan 2 (LDP2) will replace the current adopted Perth & Kinross Local Development Plan (LDP). The Proposed Local Development Plan 2 (LDP2) was approved at the Special Council meeting on 22 November 2017.
- 29 The representations received on the Proposed LDP2 and the Council's responses to these were considered at the Special Council meeting on 29 August 2018. The unresolved representation to the Proposed Plan after this period is likely to be considered at an Examination by independent

Reporter(s) appointed by the Scottish Ministers, later this year. The Reporter(s) will thereafter present their conclusions and recommendations on the plan, which the Council must accept prior to adoption. It is only in exceptional circumstances that the Council can elect not to do this.

- 30 The Proposed LDP2 represents Perth & Kinross Council's settled view in relation to land use planning and as such it is a material consideration in the determination of planning applications. It sets out a clear, long-term vision and planning policies for Perth & Kinross to meet the development needs of the area up to 2028 and beyond. The Proposed LDP2 is considered consistent with the Strategic Development Plan (TAYplan) and Scottish Planning Policy (SPP) 2014. However, the outcome of the Examination could potentially result in modifications to the Plan. As such, currently limited weight can be given to its content where subject of a representation, and the policies and proposals of the plan are only referred to where they would materially alter the recommendation or decision.

### **SITE HISTORY**

- 31 [13/01780/FLL](#) Change of use of agricultural land to form extension to caravan park including an additional 18 pitches and landscaping Application Approved at Development Management Committee - Decision Issued 21 July 2014
- 32 [14/01922/FLL](#) Change of use of agricultural land to form extension to caravan park including an additional 18 pitches, new access and landscaping to provide a total of 30 chalet/lodge pitched with associated works and landscaping Application Approved at Development Management Committee - Decision Issued 10 June 2015
- 33 [17/00409/FLL](#) Siting of 12 caravans/chalets, 3 show caravans/chalets for a temporary period and associated works - Application Withdrawn 24 August 2017
- 34 [18/00151/FLL](#) Siting of an additional 12 caravans, landscaping and associated works - Application Withdrawn 2 November 2018
- 35 [19/00068/FLL](#) Alterations to site layout, siting of 8 lodges and an additional 5 caravans, formation of landscaping and associated works (in part retrospect) - Application Withdrawn 5 February 2019

### **CONSULTATIONS**

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

#### **External**

##### **Dunning Community Council**

- 37 The Community Council have no objection to the development proposed within the site. They maintain concerns however with the current speed limit on the B9141, the junction with the A9 and the lack of a footpath link to the village.

### **Scottish Water**

- 38 No objection to proposal

### **Internal**

### **Commercial Waste Team**

- 39 No comments on proposal current waste provision adequate

### **Structures And Flooding**

- 40 Flood Risk Assessment submitted no objection to proposal

### **Environmental Health (Noise Odour)**

- 41 No objection to proposal

### **Transport Planning**

- 42 No objection to proposal

### **Development Negotiations Officer**

- 43 Contribution required towards Transport Infrastructure

### **Perth And Kinross Heritage Trust**

- 44 No archaeological mitigation is required in this instance

## **REPRESENTATIONS**

- 45 The following points were raised in the 12 representations which includes a letter from Dunning Community Council:

- Contrary to Development Plan
- Visual impact
- Overdevelopment
- Lack of parking
- Access to path around loch
- Noise
- Loss of view
- Objection to definition as a caravan
- Restricted access for emergency vehicles
- Inadequate private drainage system
- Speed limit on B9141 should be reduced
- Development should not be approved until A9 improvements undertaken
- Footpath improvements
- No objection to lodges on prepared bases

- 46 These issues are addressed in the Appraisal section of the report with the exception of the loss of a view which is not considered to be a material planning consideration.

## **ADDITIONAL STATEMENTS**

47

|                                                |                               |
|------------------------------------------------|-------------------------------|
| Environment Statement                          | Not Required                  |
| Screening Opinion                              | Not Required                  |
| Environmental Impact Assessment                | Not Required                  |
| Appropriate Assessment                         | Not Required                  |
| Design Statement / Design and Access Statement | Submitted – Design Statement  |
| Reports on Impact or Potential Impact          | Submitted – Flood Risk Report |

## **APPRAISAL**

- 48 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 2014. 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**

- 49 The application site is located out with the settlement boundary of Dunning. The principle of extending the site is considered under Policy ED3 - Rural Business and Diversification and Policy ED4 - Caravan Sites, Chalets, and Timeshare Developments.
- 50 Policy ED3 Rural Business and Diversification supports the expansion of existing rural businesses through the provision of jobs and visitor accommodation. Policy ED4C covers the expansion of existing caravan parks where the development does not constitute either overdevelopment of the site or its setting.
- 51 The principle of holiday accommodation use has been established on the site and the principle of extending the park is acceptable and is in accordance with Policy ED4 of the Development Plan. The density reflects the existing spacing of the units on the site and there is adequate remaining amenity space within the site. The proposal is therefore not considered to be an overdevelopment of the site.



## Design and Layout

- 52 The application seeks to formalise the existing unauthorised layout of the site for 31 caravans and to site a further 10 caravans. The 2014 approval was for a generously spaced development with the access road meandering around the site and areas of landscaping between caravans focused on supplementing the southern boundary. However in reality, the site has been laid out in a more rigid arrangement along two linear access tracks with large amounts of gravelled areas and little soft landscaping. The layout complies with the site licence and whilst not as spacious as was originally granted permission, is considered to be an acceptable layout with sufficient space between units. The development as now proposed is considered to reflect the current site layout and the site is considered to be able to accommodate the development.
- 53 It is clear from visiting the site that a considerable amount of work would be required to lay the site out as previously approved this would include relocating a number of occupied lodges and realigning the access road.
- 54 The former site owner, until he sold the site, continued to lay the site out as per the current spacing required under the caravan site licence and did not follow the 2014 planning approval.
- 55 As already described, eleven new caravans are proposed one of these already being in situ. The caravans proposed are two different sizes consisting of double and single units. The double units measure 6.09m x 12.2m and 4.25m in overall height while the singles measure 3.8m x 12.2m and 3.5m in overall height. Whilst the proposed structures are defined as caravans under the Caravan Sites Act 1968 the units have the appearance of a lodge and are proposed to be clad in timber with a tiled roof and will accommodate two bedrooms, an en-suite, separate shower room and a kitchen/lounge area.
- 56 Two caravans are proposed at the entrance to the site adjacent to the loch in line with the existing office. They will be adjacent to one existing lodge which is located to the west of the loch and currently sits on its own. The units are considered acceptable here as they are to be located in line with the site office, they extend no further than existing built development and follow the current form of units arranged around the loch.
- 57 To the north east of the site there is a small wedge of land contained by the north and east site boundaries and the loch. Two lodges and an access track are proposed in this area angled to be side on to the loch to achieve a suitable access and adequate spacing. This area is currently underused and has not been landscaped. The proposed development within this area is considered acceptable as it continues the theme of loch side units in the application site and is visually contained.
- 58 In the southwest corner of the site three concrete bases have already been laid out by the previous owner. Within this area four units were originally proposed. This corner benefits from mature planting and again the spacing

proposed reflects the existing site density. The caravans laid out in these areas are formed around a small open space which features a number of fruits trees which are to be retained. I consider the development of five units here to be acceptable.

- 59 One single caravan is proposed in place of a small shed in the middle row of lodges which reflects the layout and spacing in this middle row. I consider this position to be a logical place for a unit.
- 60 Two concrete bases have been laid along the southern boundary of the site and, due to previous concerns about the spacing and the previous committee decision to reduce the numbers along this boundary, these two bases will not now be developed. This is to try and mitigate the unauthorised layout which has been completed along this row which was not in accordance with the spacing and landscape proposal previously approved. In discussions with the landscape architect it was considered that instead of removing the bases which would be extremely disruptive, holes could be drilled into the concrete for drainage and then the bases slightly built up with soil and planted. A condition will be added ensure the proposed landscaping in this area is agreed and completed (Condition 4).
- 61 In light of my assessment above, the proposal is considered to comply with policy PM1 and the design criteria outlined in policy ED3 and ED4 of the LDP as the design, density and siting of the caravans is considered to respect the character and amenity of the place.

### **Open/Amenity Space**

- 62 The sites function is to provide holiday accommodation only and there are no on-site facilities or activities for guests. The site follows the spacing guidelines for caravans with an acceptable amount of amenity space provided between each lodge.
- 63 The site has a small loch located to the north of the site. It has been noted that access around this loch is important to users of the site. The plans detail how this path can be accommodated with the new units in situ. There is an area of open space to the northwest of the site and two other smaller areas to the southwest around a small orchard and another area to the end of the central row. It is considered that the proposal complies with policy ED4 of the LDP as the density and siting of the caravans would not constitute an overdevelopment of the site.

### **Landscape and Visual Amenity**

- 64 The caravan site is within the countryside and has a more open aspect to the south. The previous proposal was to space the units further apart and introduce some planting however the site boundary as laid out forms a straight row with the planting contained in a low raised bed.
- 65 The agent has submitted a viewpoint assessment as the boundary has matured since the last submission. The assessment shows the park from

various locations out with the site in summer and winter. The pictures show that the existing boundary provides a good amount of screening. It is considered that the siting of further caravans along the southern boundary with the low nature of the buildings and the timber finish proposed will not have a detrimental impact on the visual amenity of the area.

- 66 Additional planting within the site and along the boundary has been proposed and will be secured by condition (Condition 4 & 5).

### **Residential Amenity**

- 67 There is an existing dwelling to the west of the caravan site which was previously within the site ownership. Whilst no longer in the ownership of the applicant, the 2014 application approved a lodge adjacent to this dwelling and this application does not seek to alter the position of this caravan.

The next nearest dwelling is located 30 metres across the public road and is sufficiently distant to avoid any detrimental impact on residential amenity.

The proposal is therefore considered to comply with the requirements of policies PM1A and B and ED3 where they refer to residential amenity.

### **Noise**

- 68 The day to day activities associated with the holiday use will result in noise within the site however it would not be considered to be a high generator of noise. The adjacent units are of the same use type (holiday accommodation) as the proposed caravans which ensures the proposal complies with LDP Policy EP8.

### **Site Licence**

- 69 An updated site plan has been submitted to Environmental Health confirming that all existing site licence conditions will continue to be met through the siting of the additional units.

### **Roads and Access**

- 70 Policy TA1B of the LDP requires new development to be well served and easily accessible by all modes of transport. Given the rural nature of the site, it is considered that the majority of users of the site will travel by car. The site has parking provided for each caravan and a visitor parking area already exists beside the office. The current access to the site approved under the previous application has been constructed and provides improved visibility to and from the site. The access arrangements to the public road are also acceptable for emergency vehicles to enter and exit the site.
- 71 Dunning Community Council has requested that the applicant provides a suitable footpath between the site and Dunning village and that no further development is approved until the speed limit is lowered on the B9141 and the A9 junction improvements are complete.

- 72 In relation to the footpath, it is considered that this request is not justified in this case given the excessive distance from the site to the village. The lowering of the speed limit is also not in the control of Planning and would need to be considered by the relevant Roads section of the Council. The site is located out with the Auchterarder A9 Contributions Boundary and 2.5km from the junction with the A9 (this junction also does not fall within the Auchterarder Contributions Area). It cannot be justified that all occupants of 11 new units would use this junction to access the site and it is also considered that the increase of the site by 11 units would not justify restricting the development until any junction upgrades are complete. It should be noted that as part of this approval transport infrastructure contributions are being sought which is covered in a subsequent section.
- 73 Transport Planning note that the forward visibility looking south (left) at the new access for the estate, which was approved under the 2014 planning permission, does not meet the recommended standard for a 60mph road. However, vehicles approaching the site on the B9141 will likely be travelling at speeds considerably less than 60mph, due to the double bend in the road immediately prior to the estate access. The boundary wall is at an appropriate height and any trees or scrub behind the wall should be regularly maintained to achieve sufficient visibility. Transport Planning confirm that they have no objection to the current access arrangement.

### **Drainage and Flooding**

- 74 The submission details that the existing septic tank will be removed and replaced by a new sewage treatment plant to be located to the east of the site office. The agent has confirmed that discussions have taken place with SEPA and they have obtained a CAR licence. The licence states that this is for a population equivalent of 186. This population equivalent is more than sufficient for the 41 units. A condition will be added to ensure that the system is installed prior to the occupation of any further lodges (Condition 3).
- 75 A Flood Risk Assessment (FRA) has been submitted to include the 1:1000 flood risk at the site, and this confirms no development within this flood extent. Consequently SEPA and the Council's Structures & Flooding section are satisfied with the proposals.

### **Waste Collection**

- 76 The existing site has waste facilities which are considered acceptable for the increased capacity.

### **Developer Contributions**

- 77 The Council Transport Infrastructure Developer Contributions Supplementary Guidance requires a financial contribution towards the cost of delivering the transport infrastructure improvements which are required for the release of all development sites in and around Perth.

- 78 Eleven additional permanent caravans are proposed on site. This type of development is considered as holiday homes in terms of the guidance and are included under the residential development rate. The trip rates associated with Holiday Homes are lower than normal residential properties so the contribution will be applied at the Affordable Housing rate of £1,319 per unit. The agent has not indicated how this payment is to be made through the options will be to pay upfront or sign a Section 75 Legal Agreement for delayed payment.
- 79 No other contributions are required in respect of education or affordable housing as the caravans will be conditioned for holiday use only (Condition 2).

### **Economic Impact**

- 80 The siting of 11 caravans will offer additional holiday accommodation resulting in increased employment opportunities and boost the local and regional economy.

### **LEGAL AGREEMENTS**

- 81 The agent has not confirmed as yet whether the transport contribution would be paid upfront or secured by entering into a legal agreement and clarification of this will need to be sought.

### **DIRECTION BY SCOTTISH MINISTERS**

- 82 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**

- 83 To conclude, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, I have taken account of the Local Development Plan and material considerations and in this case I am content that the development proposed does not conflict with the Development Plan.
- 84 Accordingly the proposal is recommended for approval subject to the following conditions.

## **RECOMMENDATION**

### **Approve the application**

#### **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. The development hereby approved shall be used solely for holiday accommodation and shall not be occupied as the sole or main residence of any occupant to the satisfaction of the Council as Planning Authority.

Reason - In order to clarify the terms of the permission; to control and restrict the use of the units.

3. Prior to the occupation of any further units the new sewage treatment plant shall be installed to the satisfaction of the Council as Planning Authority

Reason – To ensure the system is installed.

4. Prior to the commencement of any further development on the site a detailed landscaping and planting scheme for the two concrete bases not to be developed on the southern boundary shall be submitted for the further written agreement of the Council as Planning Authority. The scheme shall include details of the height and slopes of any mounding or recontouring of the site, full details of all hard landscaping proposals including materials and installation methods and, species, height, size and density of trees and shrubs to be planted. The scheme as subsequently approved shall be carried out and completed within the next planting season (October to March). The scheme as agreed and implemented shall thereafter be maintained to the satisfaction of the Council as Planning Authority with any planting which fails 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.

5. The landscaping and planting scheme which is hereby approved shall be completed within the first available planting season (October to March) after the date of this decision notice. The approved scheme shall thereafter be maintained to the satisfaction of the Council as Planning Authority, with any planting which fails 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.

## **B JUSTIFICATION**

The proposal is in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

## **C PROCEDURAL NOTES**

Permission shall not to be issued until the Section 75 Agreement relating to transport infrastructure contributions has been completed and signed or the required contribution has been paid upfront.

The contributions shall be paid within 28 days or 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 having to be re-assessed through failing to comply with the associated developer contributions policy and may ultimately 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. As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
3. An application for Building Warrant may be required.
4. The applicant should be advised that the caravans are required to be licensed under the terms of Section 1 of the Caravan Sites and Control of Development Act 1960 and therefore an application should be made to the Environmental Health if planning consent is approved.
5. 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.

Background Papers: 12 letters of representation

Contact Officer: Joanne Ferguson 01738 475320

Date: 20 June 2019

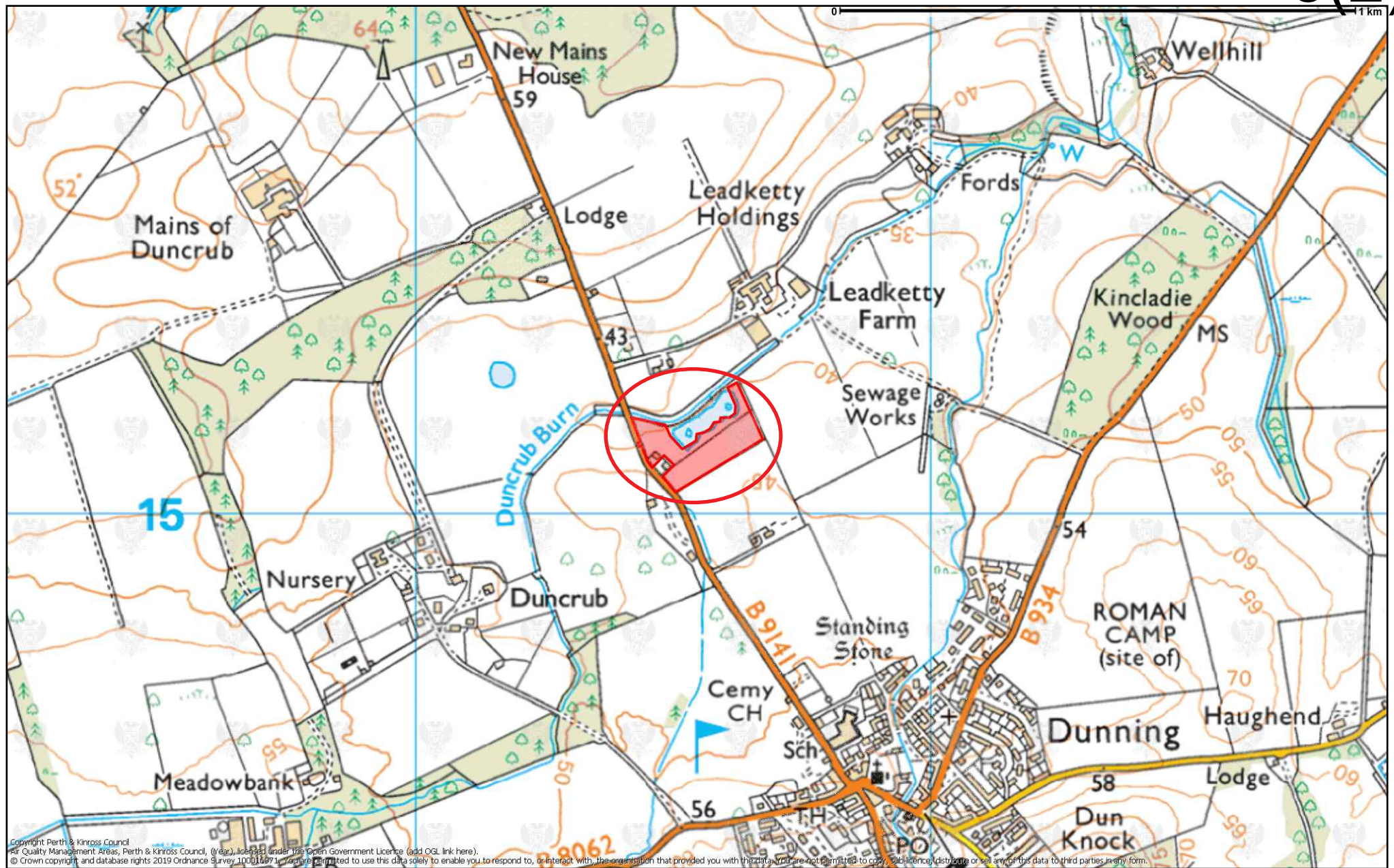
**DAVID LITTLEJOHN**  
**HEAD OF PLANNING & DEVELOPMENT**

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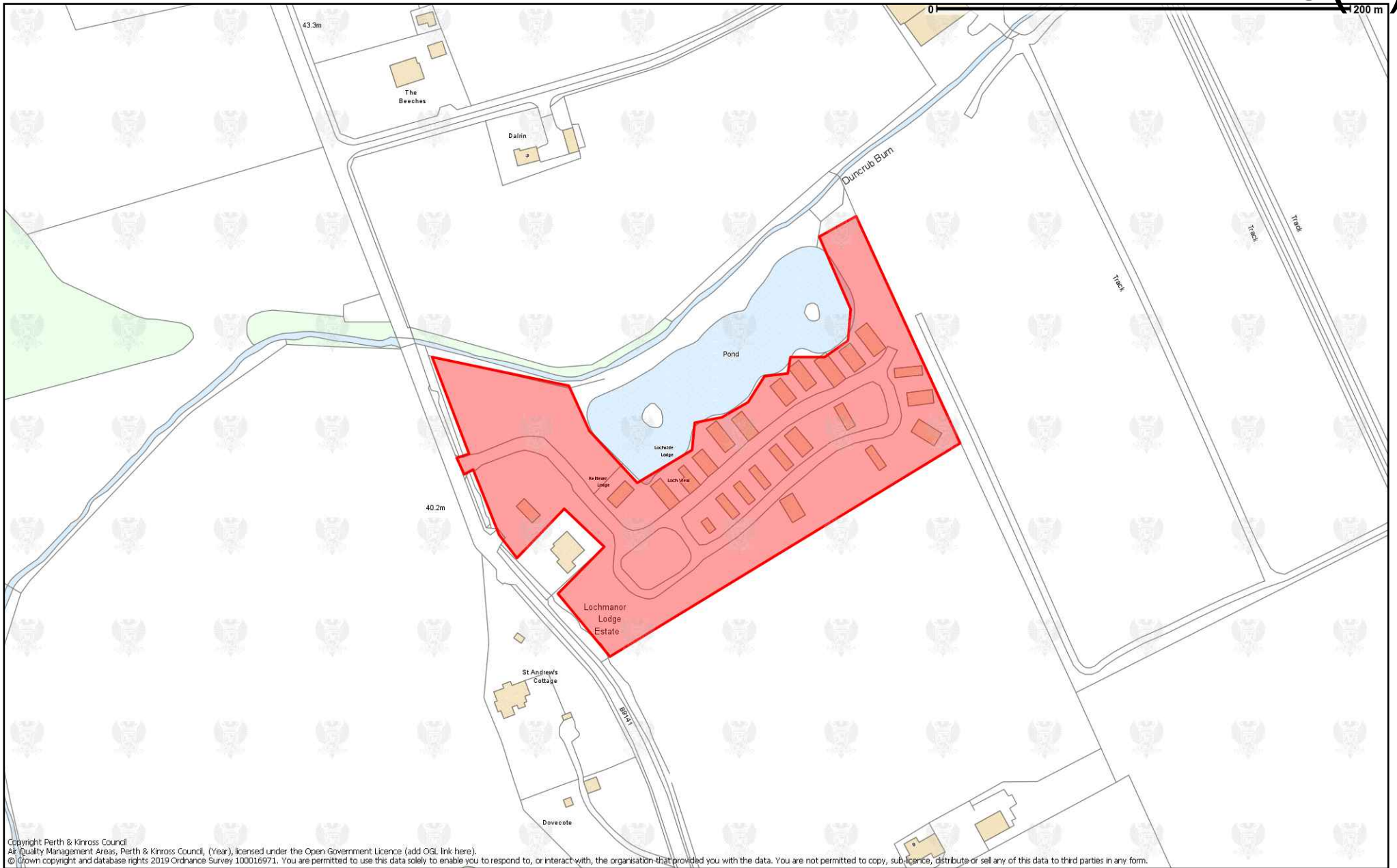
19/00136/FLL

Lochmanor Lodge Estate Dunning Perth









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Perth and Kinross Council  
Planning & Development Management Committee – 3 July 2019  
Report of Handling by Head of Planning and Development (Report No. 19/200)

**PROPOSAL:** Erection of a garden building.

**LOCATION:** Asgiobal, Inchtute, Perth, PH14 9RN

Ref. No: [19/00591/FLL](#)

Ward No: P1 - Carse Of Gowrie

### Summary

This report recommends approval of the application as the 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 is seeking permission for the erection of a garden building in an area of garden ground on the edge of a shared driveway at Asgiobal, 4 Brewlands, Inchtute. The site relates to a two storey residential property known as Brewlands which is divided into four residential units and located within the Inchtute Conservation Area. The proposals relate to the west wing of the cruciform shaped building. The property is surrounded by a mix of residential properties.
- 2 The garden ground associated with this property is disjointed from the residential amenity, being across a shared driveway to the north west of the dwellinghouse. Planning permission was previously obtained for the erection of a double garage (13/00983/FLL) on the edge of this area of garden ground and the intention is to erect a garden building, adjoining its northern gable. It should be noted that amended elevational drawings were submitted as the details of the existing garage doors differed from what is present on site.

### PRE-APPLICATION CONSULTATION

- 3 The proposed development is not classed as a Major development in terms of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. Therefore the applicant was not required to undertake not any formal pre-application consultation with the local community.

## **NATIONAL POLICY AND GUIDANCE**

- 4 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.

- 5 Of specific reference to this application is:

### **Scottish Planning Policy 2014**

- 6 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.

- 7 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
- Listed Buildings: paragraph 141
- Conservation Areas: paragraph 143

### **Planning Advice Notes**

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

- PAN 40 Development Management
- PAN 77 Designing Safer Places

## **DEVELOPMENT PLAN**

- 9 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2016-2036 and the Perth and Kinross Local Development Plan 2014.

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

- 10 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.”*

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

### **Policy 2: Shaping Better Quality Places**

- 12 Seeks to deliver distinctive places by ensuring that the arrangement, layout, design, density and mix of development are shaped through incorporating and enhancing natural and historic assets, natural processes, the multiple roles of infrastructure and networks, and local design context.

### **Policy 9: Managing TAYPlans Assets**

- 13 Seeks to respect the regional distinctiveness and scenic value of the TAYplan area through safeguarding the integrity of natural and historic assets; including habitats, wild land, sensitive green spaces, forestry, water environment, wetlands, floodplains (in-line with the Water Framework Directive), carbon sinks, species and wildlife corridors, and also geo-diversity, landscapes, parks, townscapes, archaeology, historic battlefields, historic buildings and monuments; and by allowing development where it does not adversely impact upon or preferably enhances these assets.

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

- 14 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. 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.”* It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
- 15 The principal relevant policies are, in summary;

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

- 16 In identified areas, residential amenity will be protected and, where possible, improved. Small areas of private and public open space will be retained where they are 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 PM1A - Placemaking**

- 17 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 adaptation.

### **Policy PM1B - Placemaking**

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

### **Policy HE3A - Conservation Areas**

- 19 Development within a Conservation Area must preserve or enhance its character or appearance. The design, materials, scale and siting of a new development within a Conservation Area, and development outwith an area that will impact upon its special qualities should be appropriate to its appearance, character and setting. Where a Conservation Area Appraisal has been undertaken the details should be used to guide the form and design of new development proposals.

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

- 20 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 PM3 - Infrastructure Contributions**

- 21 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.

### **Proposed Perth and Kinross Local Development Plan 2 (LDP2)**

- 22 Perth & Kinross Council is progressing with preparation of a new Local Development Plan to provide up-to-date Development Plan coverage for Perth & Kinross. When adopted, the Perth & Kinross Local Development Plan 2 (LDP2) will replace the current adopted Perth & Kinross Local Development Plan (LDP). The Proposed Local Development Plan 2 (LDP2) was approved at the Special Council meeting on 22 November 2017.
- 23 The representations received on the Proposed LDP2 and the Council's responses to these were considered at the Special Council meeting on 29 August 2018. The unresolved representation to the Proposed Plan after this period is likely to be considered at an Examination by independent



Reporter(s) appointed by the Scottish Ministers, later this year. The Reporter(s) will thereafter present their conclusions and recommendations on the plan, which the Council must accept prior to adoption. It is only in exceptional circumstances that the Council can elect not to do this.

- 24 The Proposed LDP2 represents Perth & Kinross Council's settled view in relation to land use planning and as such it is a material consideration in the determination of planning applications. It sets out a clear, long-term vision and planning policies for Perth & Kinross to meet the development needs of the area up to 2028 and beyond. The Proposed LDP2 is considered consistent with the Strategic Development Plan (TAYplan) and Scottish Planning Policy (SPP) 2014. However, the outcome of the Examination could potentially result in modifications to the Plan. As such, currently limited weight can be given to its content where subject of a representation, and the policies and proposals of the plan are only referred to where they would materially alter the recommendation or decision.

### **SITE HISTORY**

- 25 [13/00983/FLL](#) Erection of a garage. Application Approved, 18 July 2013 – delegated decision

### **CONSULTATIONS**

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

#### **External**

- 27 No external consultations required

#### **Internal**

#### **Development Negotiations Officer**

- 28 No developer contributions required.

### **REPRESENTATIONS**

- 29 Eight letters of representations were received from 7 households. The following points were raised in the representation(s) received:

- Visual impact
- Overlooking
- Loss of light/overshadowing of garden ground
- Over intensive development
- Contrary to development plan policy
- Excessive height

- Inappropriate land use
- Loss of open space
- Inappropriate housing density
- Scale, design, materials and prominent location is out of character with the Inchtute Conservation Area and residential area
- Precedent
- Negative impact on the setting of the listed building to the north of the site
- The foundations of the proposed building are complete, despite a clear declaration in the application that no work has started
- The applicant has failed to make reference to all existing 'garden buildings' and apply for retrospective planning permission for existing unauthorised

30 The above issues are addressed in the Appraisal section of the report with the exception of the unauthorised garden building which is not a matter for this application. It is acknowledged the garden building referred to does not benefit from planning permission, however, it is at the discretion of the Council whether Enforcement action will be taken. The existing and proposed site plans were amended to show the location of the structure.

31 The issues below were also identified in representations but are not material considerations in the assessment of this planning application:

- Loss of view
- Excessive storage/potential change of use
- Devalue neighbouring property
- Common access is restricted

## **ADDITIONAL STATEMENTS**

32

|                                                |              |
|------------------------------------------------|--------------|
| Environment Statement                          | Not Required |
| Screening Opinion                              | Not Required |
| Environmental Impact Assessment                | Not Required |
| Appropriate Assessment                         | Not Required |
| Design Statement / Design and Access Statement | Not Required |
| Reports on Impact or Potential Impact          | Not Required |

## **APPRAISAL**

33 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 2014. 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.

- 34 Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 also required that in considering whether to grant planning permission for development which affects a listed building or its setting, special regard shall be paid to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. In addition section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 is pertinent which requires the Planning Authority to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

### **Principle**

- 35 In terms of land use policies, the key policies are contained within the Local Development Plan 2014. Within the LDP, the site falls within the Inchture Conservation Area in addition to potentially affecting the setting of category C listed buildings to the north of the site, therefore, Policy HE3A - Conservation Areas and Policy HE2: Listed Buildings are directly applicable.
- 36 In addition to this, Policies RD1: Residential Areas and PM1A and B: Placemaking of the Local Development Plan seek to ensure that all new developments do not have an adverse impact on the amenity or character of existing areas.
- 37 For reasons mentioned throughout this report, the proposed garden building is considered to be compliant with the relevant provisions of the aforementioned Local Development Plan. The proposed building is considered to be compatible with neighbouring land uses and residential amenity is not considered to be compromised.

### **Design and Layout**

- 38 The footprint of the building measures approximately 36 square metres which is split up between a garden room and covered decking. The garden room itself measures 3.4 metres by 6 metres and the overall structure will reach a height of 4.7 metres to the ridge. Windows are proposed on the north elevation facing into the garden.
- 39 Having visited the site it was evident that the base for the proposal was already in situ. On the basis of my observations, I consider the area retained after development, which measures approximately 75 square metres, could provide an adequate level of space associated with the accommodation provided. Overall, I do not consider the proposal to be overdevelopment of the plot.

- 40 I have no immediate concerns with the proposal. The location, scale, design and materials of the proposed development are compatible with the host building and surrounding area.

### **Landscape**

- 41 The proposal will have no negative impact on the wider landscape setting as it is set within existing garden ground and relates visually to residential properties.

### **Residential Amenity**

- 42 The juxtaposition of existing residential properties and associated garden ground is such that there is a degree of intervisibility over garden ground. I am content that the development will not exacerbate this and that it can be accommodated without resulting in any significant overlooking or overshadowing to any residential property.
- 43 Objectors have raised concerns that the use of the garden building as storage is excessive and there is a potential change of use due to the Applicant's current business. There is no evidence to suggest this building will be used for business purposes. A condition will be attached to ensure the building is used solely for residential use which is directly associated with the existing residential use of the main dwellinghouse and for no other purpose or use.

### **Visual Amenity**

- 44 I note concerns have been raised in respect of the visual impact of the proposal and the potential for a precedent being set, however, I consider the proposal is in keeping with the character of development in the area. Garden structure are evident throughout the surrounding area and as such the proposal will not set a precedent. The proposed height, position and finishing materials will result in a structure which is in keeping with its surroundings. Glimpse views will be possible from Main Street, however, the proposed building will obscure views of the existing garage. Whilst the proposed development is located within the Conservation Area the use of non-traditional materials is fairly prevalent in this part of the village and encouragingly the proposed dark grey shingles for the roof are an acceptable alternative to slate. Additionally the proposed development would not detrimentally impact the setting of the nearby listed buildings.
- 45 I am satisfied that the proposed design and scale of the proposal is appropriate and has no detrimental impact on the visual amenity of the area. As such the proposal is considered to be in accordance with policies PM1A and B of the LDP.

### **Roads and Access**

- 46 As the proposal is for a domestic garden building associated with the main dwellinghouse it is not expected to generate any additional traffic and as a

consequence would be acceptable in relation to the existing access arrangements.

### **Drainage and Flooding**

- 47 The proposal raises no issues in terms of drainage or flooding matters.

### **Conservation Considerations**

- 48 Policy HE2 and HE3a of the LDP requires the impact of any development on character and setting of a listed building and Conservation Area to be assessed. The proposed development is located an approximate distance of 20 metres away from the nearest listed building (The Forge) and its proposed grey/brown colour will allow it to integrate successfully into its surroundings thereby negating any impact on the setting of adjacent listed buildings. Furthermore, its location will restrict long distance public views from Main Street of the northern gable of the existing garage
- 49 The works proposed are not considered to have an adverse impact on the setting of the Conservation Area and listed buildings. As such I consider the proposal to be consistent with the requirements of Policies HE2 and HE3a of the LDP.

### **Developer Contributions**

- 50 No developer contributions are required in this instance.

### **Economic Impact**

- 51 The economic impact of the proposal is likely to be minimal and limited to the construction phase of the development.

### **LEGAL AGREEMENTS**

- 52 None required.

### **DIRECTION BY SCOTTISH MINISTERS**

- 53 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**

- 54 To conclude, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, I have taken account of the Local Development Plan and

material considerations and in this case I am content that the development proposed does not conflict with the Development Plan.

- 55 Accordingly the proposal is recommended for approval subject to the following conditions.

## **RECOMMENDATION**

### **A Approve the application**

#### **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. The development hereby approved shall be used solely for purposes ancillary to the domestic enjoyment of the dwellinghouse and shall not be sold, let or occupied separately at any time.

Reason - In order to safeguard the residential amenity of the area.

### **B JUSTIFICATION**

The proposal is in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

### **C PROCEDURAL NOTES**

None.

### **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. An application for Building Warrant may be required.

Background Papers: 8 letters of representation  
Contact Officer: Gillian Peebles 01738 475330  
Date: 05 June 2019

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

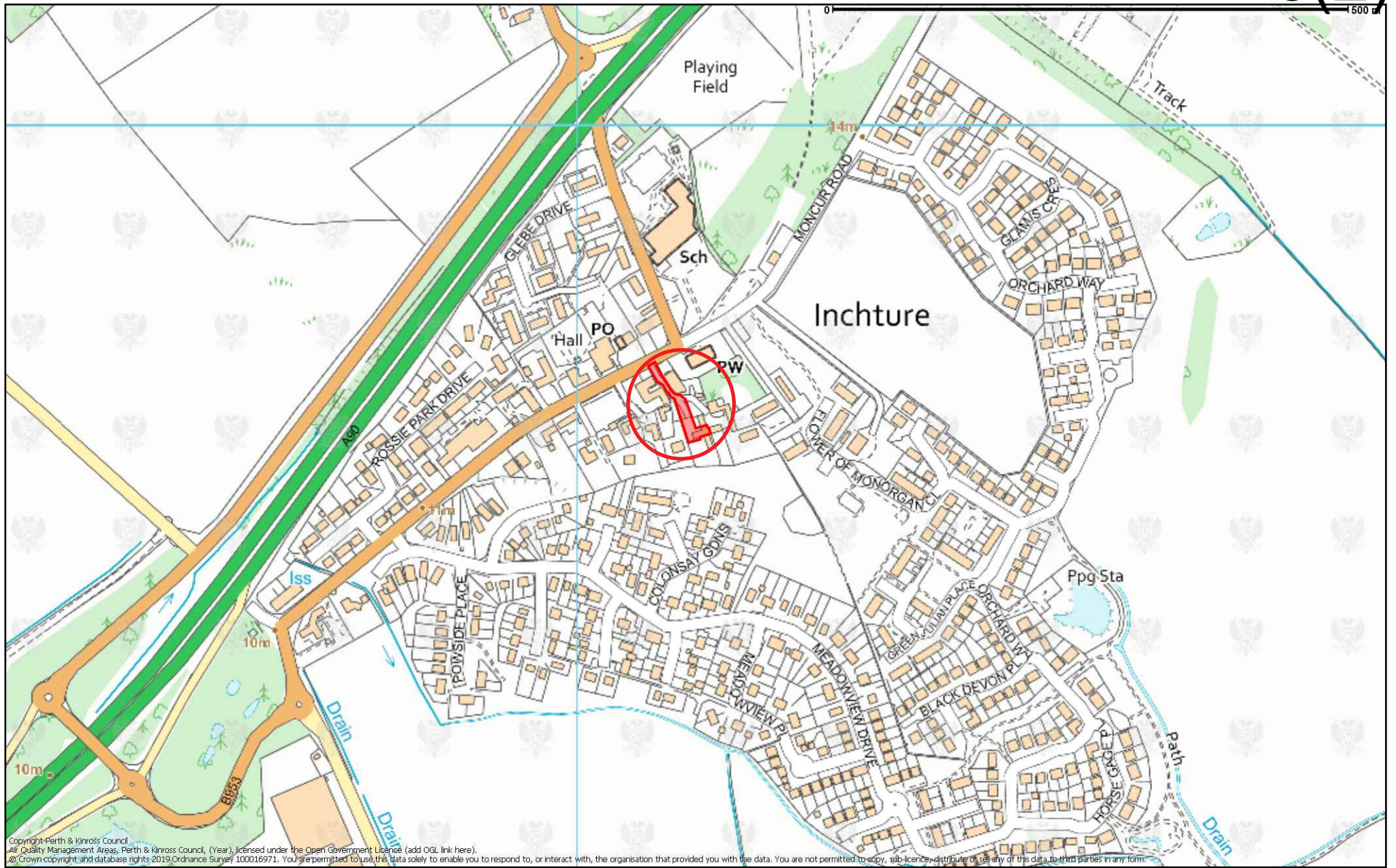
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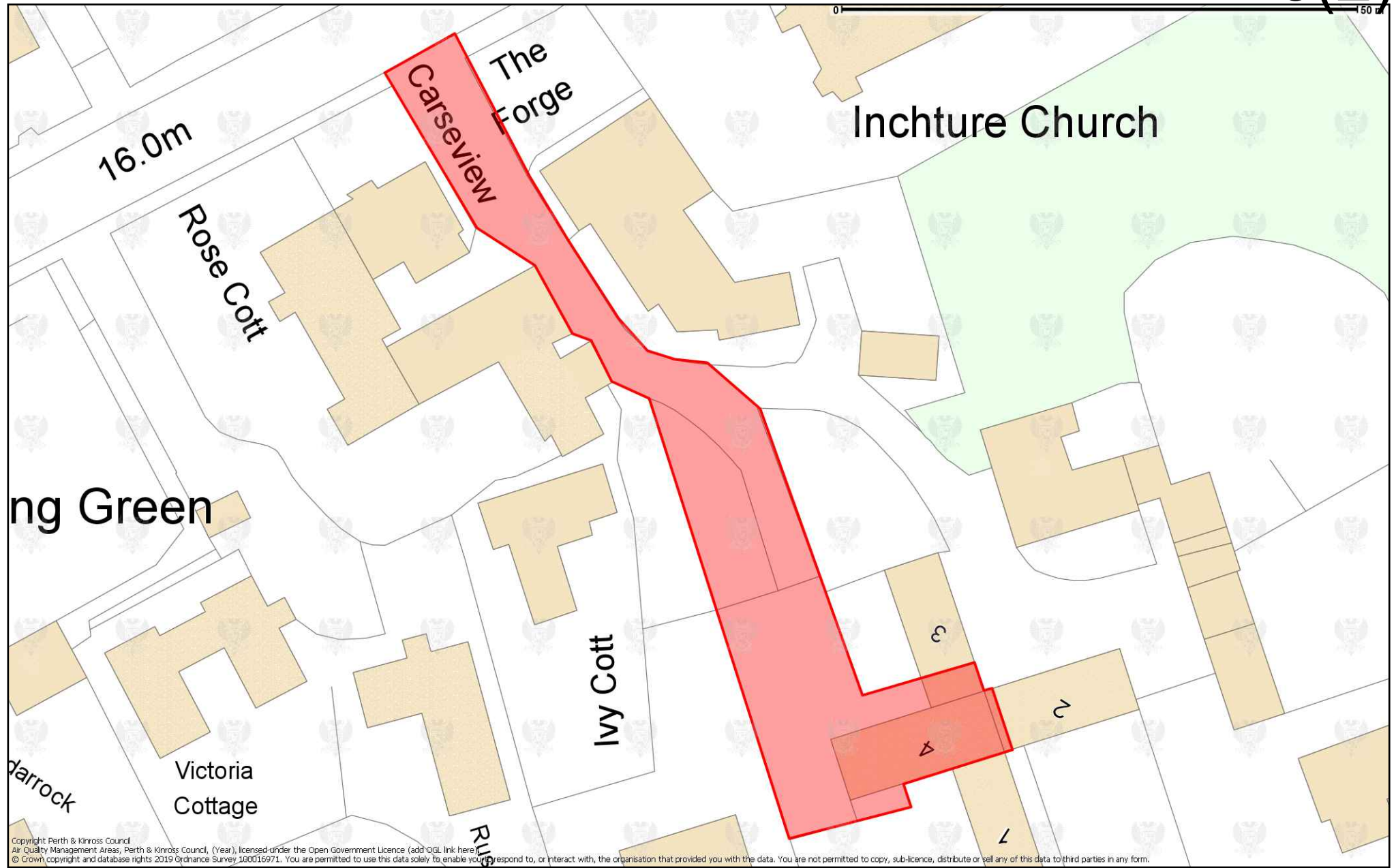
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Perth and Kinross Council  
Planning & Development Management Committee – 3 July 2019  
Report of Handling by Head of Planning and Development (Report No. 19/201)

**PROPOSAL:** Alterations to street layout including hard landscaping, soft landscaping, street furniture, car parking and associated works.

**LOCATION:** The Square, Aberfeldy.

Ref. No: [19/00657/FLL](#)  
Ward No: P4 - Highland

### Summary

This report recommends approval of a detailed planning application for various works to the town square in Aberfeldy as the 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 This planning application seeks to obtain detailed planning permission for improvement works to Aberfeldy's town square. The square is located within the centre of Aberfeldy, and currently contains a series of formal parking areas and four roughly triangular shaped areas of small paved areas of public space which are located adjacent to the A827, Old Crieff Road and Burnside Lane – all of which run through the centre of the square. The proposal is for new hard and soft landscaping, the introduction of new street furniture, revised parking arrangements and other design related works such as flush kerbing. In support of the proposal a detailed design statement has been submitted which outlines in detail the scope of the proposed works, the aims and objectives of the proposal, reasoning behind the design that has been brought forward and the extent of the public / business community engagement which has taken place to date.
- 2 The proposal has been the result of 4 years of extensive collaborative working between Perth and Kinross Council, Aberfeldy Small Business Association and Aberfeldy Community Council with the aim of revitalizing the square into a more flexible public space that can be used for more musical and cultural events in the centre of the town – similar to what takes place in the centre of Perth. To facilitate this vision, a number of existing fixed parking spaces are to be replaced with more generic paved spaces which will be equipped with new multi-purpose power points and lowered kerbs / flush paving.
- 3 The key components of the development are the total resurfacing of the non-road areas, new lighting features, the re-configuration of parking spaces, soft

landscaping and new street furniture. The street furniture proposed includes an information board, seats, pedestrian handrails, bollards and cycle racks. An option has been suggested that some of the proposed seats may be 'light' benches which would be illuminated in soft colours. In terms of surface water drainage, the existing arrangements will remain and are unaffected by the proposal. In terms of parking provision, the proposal will reduce the parking provision within The Square from 21 spaces to 7 (including disabled spaces), a reduction of 14 formal parking spaces.

- 4 At the southern end of the square is an attractive water fountain, which is a listed structure (category C). The fountain is to be retained and is physically unaffected by the proposed works.

## **NATIONAL POLICY AND GUIDANCE**

- 5 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**

- 6 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**

- 7 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.
- 8 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

## **Planning Advice Notes**

- 9 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

## **Creating Places 2013**

- 10 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.

## **Designing Streets 2010**

- 11 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.

## **National Roads Development Guide 2014**

- 12 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**

- 13 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2016-2036 and the Perth and Kinross Local Development Plan 2014.

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

- 14 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.”*

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

#### **Policy 9 – Managing TAYPlan’s assests**

- 16 This policy (amongst other things) seeks to safeguard the historic assets of the TAYPlan region.

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

- 17 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. 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.”* It is the most recent statement of Council policy and is augmented by Supplementary Guidance.

- 18 The site is located within the town centre of Aberfeldy, which is within the towns Conservation Area and within the setting of a number of listed buildings. To this end, the following policies are applicable to this proposal,

#### **Policy PM1A - Placemaking**

- 19 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**

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

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

- 21 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 HE3A - Conservation Areas**

- 22 Development within a Conservation Area must preserve or enhance its character or appearance. The design, materials, scale and siting of a new development within a Conservation Area, and development outwith an area that will impact upon its special qualities should be appropriate to its



appearance, character and setting. Where a Conservation Area Appraisal has been undertaken the details should be used to guide the form and design of new development proposals.

### **Policy RC1 - Town and Neighbourhood Centres**

- 23 Class 1 (retail) uses will be supported in identified town and neighbourhood centres commensurate with the role of the centre within the established retail hierarchy. Use Classes 2 & 3, leisure, entertainment, recreation, cultural and community facilities will also be encouraged in ground floor units provided they contribute to the character, vitality and viability of the retail core and satisfy the criteria set out. Use of pavement areas for restaurant/cafes/bars is acceptable in the prime retail area. Housing and other complementary uses are encouraged on the upper floors.

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

- 24 Perth & Kinross Council is progressing with preparation of a new Local Development Plan to provide up-to-date Development Plan coverage for Perth & Kinross. When adopted, the Perth & Kinross Local Development Plan 2 (LDP2) will replace the current adopted Perth & Kinross Local Development Plan (LDP). The Proposed LDP2 was approved at the Special Council meeting on 22 November 2017.
- 25 The representations received on the Proposed LDP2 and the Council's responses to these were considered at the Special Council meeting on 29 August 2018. The unresolved representation to the Proposed Plan after this period is likely to be considered at an Examination by independent Reporter(s) appointed by the Scottish Ministers, later this year. The Reporter(s) will thereafter present their conclusions and recommendations on the plan, which the Council must accept prior to adoption. It is only in exceptional circumstances that the Council can elect not to do this.
- 26 The Proposed LDP2 represents Perth & Kinross Council's settled view in relation to land use planning and as such it is a material consideration in the determination of planning applications. It sets out a clear, long-term vision and planning policies for Perth & Kinross to meet the development needs of the area up to 2028 and beyond. The Proposed LDP2 is considered consistent with the Strategic Development Plan (TAYplan) and Scottish Planning Policy (SPP) 2014. However, the outcome of the Examination could potentially result in modifications to the Plan. As such, currently limited weight can be given to its content where subject of a representation, and the policies and proposals of the plan are only referred to where they would materially alter the recommendation or decision.
- 27 There are no policies or proposals within the LDP2 which affect the recommendation or decision of this application.

## **OTHER COUNCIL GUIDANCE**

### **Aberfeldy Conservation Area Appraisal 2008**

- 28 This appraisal is a management tool which helps to identify the special interest and changing needs of Aberfeldy Conservation Area. It serves as supplementary planning guidance to the Local Development Plan. The appraisal provides the basis for the development of a programme of action that is compatible with the sensitivities of the historic area and can enable the Local Authority to fulfil its statutory duties to protect and enhance that particular area.
- 29 Within the appraisal there are several specific references to The Square, and these are.
- 30 Para 4.6 relates to the historic context of Aberfeldy and 'The Square was planned and laid out as a public space in 1806. It became the focus for commercial and public buildings and is characterised by the varied architecture of its banks and hotels. The former Temperance Hotel, now the Co-op, retains its 1898 cast-iron shopfronts. The former Birks Cinema introduces an unusual Art Deco element to the space.
- 31 Para 4.14 relates to Spaces, and states that 'The main civic open space in the town centre is The Square, which is square in plan and laid out in a semi-formal manner. The Square is the visual focus of the commercial centre of the town and links with four main streets, namely Dunkeld Street, Chapel Street, Bridgend/Bank Street and Crieff Road. The main feature in the square is the Fountain, which was presented to the town in 1885 by the Marquis of Breadalbane.
- 32 Para 7.1 relates to Public Realm Audit, and states that 'Street furniture in Aberfeldy is generally of standard 'off-the-shelf' design, such as lamp standards, litter bins and benches. The Square has been hard landscaped in recent times with defined parking and pedestrian spaces using concrete setts and paviers. The main feature of The Square is The Fountain. Street furniture here includes specially designed assemblies for hanging flower baskets; curved benches; pedestrian finger posts; cast iron bollards and standardised litter bins. There are also two transplant trees planted recently.
- 33 Para 15.3 also identifies The Square as an area for a possible enhancement scheme where there is an opportunity for enhancement by carrying out environmental improvements.

## **SITE HISTORY**

- 34 None relevant to this proposal.

## **CONSULTATIONS**

- 35 As part of the assessment of the planning application, the following bodies were consulted:

### **External**

#### **Aberfeldy Community Council**

- 36 Offer support for the proposal, but acknowledge the issues regarding parking provision but consider it manageable. They also consider the movement of construction traffic and access to existing business during the construction phase as key areas of local interest.

#### **Kenmore Community Council**

- 37 Objects to the proposal on the grounds of the proposed loss of parking provision.

#### **Glen Lyon & Loch Tay Community Council**

- 38 Objects to the proposal on the grounds of lack of communication regarding the project, parking concerns and road safety concerns.

#### **Perth & Kinross Heritage Trust**

- 39 No objection to the proposal in terms of the impact on local, unscheduled archaeology.

### **Internal**

#### **Transport Planning**

- 40 No objection to the proposal in terms of parking provision and other road related matters.

#### **Structures & Flooding**

- 41 No objection to the proposal in terms of the surface water arrangements, which are to remain the same as they presently are

#### **Environmental Health**

- 42 No objection proposal in relation to noise, lighting or air quality issues.

## **REPRESENTATIONS**

- 43 Twenty seven letters of representations have been received, of which all are objecting to the proposal. The main issues raised within the letters of objections are:

- Timing of the proposed works
- Impact on Conservation Area and Listed Buildings
- Inappropriate land use
- Lack of parking provision including loss of existing parking provision
- Impact on local business/economy and tourism trade
- Lack of Electric Vehicle Charging units

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

### **ADDITIONAL STATEMENTS**

|                                                |                                      |
|------------------------------------------------|--------------------------------------|
| Environment Statement                          | Not Required                         |
| Screening Opinion                              | Not Required                         |
| Environmental Impact Assessment                | Not Required                         |
| Appropriate Assessment                         | Not Required                         |
| Design Statement / Design and Access Statement | Submitted                            |
| Reports on Impact or Potential Impact          | Details of Parking survey submitted. |

### **APPRAISAL**

45 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 2014. 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, primarily the Aberfeldy Conservation Area Appraisal.

### **Public Involvement / Engagement**

- 46 Public engagement on the proposed works commenced in September 2013, following dialogue with Aberfeldy Community Council and Aberfeldy Small Business Association (ASBA). The first public consultation took place in October 2014, with a community charrette taking place in the spring of 2015. One of the key priorities that emerged from the public charrette was the desire to enhance the environment of The Square and to create a sense of place.
- 47 Since then, the Council has been working closely with Aberfeldy Community Council and ASBA to explore options with the vacant former co-op building (now occupied), and funding opportunities to maximise the enhancement of the impact of the works.

- 48 A final consultation with the community was undertaken in October 2017 in response to criticism around a lack of parking in Aberfeldy, and the initial proposals. Ahead of that the consultation the Council undertook a further parking survey and engaged with Aberfeldy Community Council. The results of the survey and the information collated from the Community Council showed there to be sufficient capacity at other parking areas in the town that could be used to cater for visitors to Aberfeldy, and to compensate for the proposed loss of spaces in The Square. The survey also suggested that there was a high turnover rate with on-street parking.

### **Principle**

- 49 The proposed development relates to physical alterations to improve the appearance of The Square, with no formal change of use proposed as part of the proposal. The principle of environmental improvements to The Square was identified within the Aberfeldy Conservation Area Appraisal, and raised as one of the key priority outcomes for the town in the community charrette which took place in 2014/2015. It is therefore clear that the enhancement of The Square is a clear aspiration for both the Council and the Community. The key issues for this proposal are whether or not the physical changes are acceptable in terms of the impact on the historic visual amenity and residential amenity of the area, and whether the changes to (reduction of) existing parking provision within The Square are acceptable.

### **Visual Amenity / Impact on Historic Environment**

- 50 Within the letters of representation, concerns have been expressed regarding the impact that the proposal will have on the visual amenity of the area, which is protected by its Conservation Area status, and also by being within the setting of a number of listed buildings - including the water fountain at the southern side of The Square. It is generally accepted that the existing square is in poor condition, and that it does not contribute positively to the character or appearance of the wider Conservation Area. The area of The Square was also identified within the Conservation Area Appraisal as a potential area for an environment improvement scheme. The proposed works are therefore a welcome opportunity to enhance the character and environment of The Square, which is the focal point of the town centre.
- 51 The greatest impact on the appearance and character of the area will be the proposed new hard surfaces. To create new spaces which are accessible to all, new pavers are proposed to be laid across the expanded open space areas on both sides of the public roads. The surface of the public road is not proposed for change. The proposed pavers will be stone, with the type of stone, their size, pattern and unit sizes carefully selected so that they will complement the colour and texture of the existing surrounding buildings. The details submitted indicate the proposed use of a mix selection of Scottish whin and Caithness stones and selected others, for both paving and kerbs. Samples of all the hard materials have been made available for inspection, and are considered to be acceptable and of a suitable quality for this sensitive area. .

- 52 In terms of other physical matters, the impact of the proposed street furniture will be minimal in the context of the wider development, and subject to clarification on some of the items (including any illuminated seats), will not have an adverse impact on the historic amenity of the area. The submitted details of the proposed furniture include stainless steel and timber benches, stainless steel railings and cycle racks. In principle this is considered acceptable. Additional litter bins and an information board are proposed of a similar design to those located on Perth High Street, but a condition will ensure these details are acceptable (Condition 3)
- 53 The proposed new paving will surround the existing fountain, but will not affect the original base of the fountain. Accordingly, listed building consent is not required for the proposed works.
- 54 In light of the above, the proposed works are considered to be in accordance with Policies HE2 (listed buildings) and HE3 (Conservation Areas), all of which seek to ensure that the setting of listed buildings are protected, and that the character and appearance of Conservation Areas are protected or improved by new developments. In addition to this, the proposed works meet with the recommendations of the Conservation Area Appraisal which identifies The Square as a potential opportunity for enhancement.

### **Residential Amenity**

- 55 Whilst one of the main purposes of the square improvements is to increase the public usage of The Square, it is unlikely that the residential amenity of surrounding residential properties will be adversely affected by the proposed additional public usage. My colleagues in Environmental Health have commented on the proposal, and have raised no concerns in relation to either noise or air quality issues.

In terms of light nuisance, new lighting at ground level and within the proposed replacement trees is proposed. The lighting proposed is soft lighting, which will be designed and positioned in such a way that light spillage to adjacent properties will not occur. Within a town centre, lighting is a common feature. I have no objection to the proposed lighting subject to the new lighting being aligned so that there is no direct illumination of neighbouring properties and that spillage beyond the paved areas is minimised. (Condition 2).

### **Roads and Access**

- 56 Within the letters of representations concerns have been raised regarding the reduction in parking provision, and the impact that reduction may have on both people working within The Square and its locality, and also visitors coming into the town. There are currently 21 parking spaces within The Square, including 1 designated disabled space. It is proposed to reduce the number of spaces to 7 spaces – 5 regular spaces, 1 large space and one designated disabled space.

- 57 The proposed square enhancements have been subject to extensive discussions between relevant stakeholders for over 4 years and the feedback received from local business, residents and visitors to the proposals have generally been positive towards the proposal. After considering all the options available and taking into account the feedback from the stakeholders including the results of a Parking Survey undertaken in 2017, the loss of 14 spaces from the square is considered to be acceptable. It is considered that the loss is justified as a result of the existing level of parking provision on nearby streets as well as both Moness Terrace Car Park and Chapel Street Car Park -both of which are only within a few minutes' walk away from The Square. Parking provision is also available at the Breadalbane Campus which is slightly further away.
- 58 This position is reflective of the position taken by Aberfeldy Community Council in their consultation response to the current proposal.

### **Drainage and Flooding**

- 59 In terms of drainage matters, the existing surface water drainage arrangement is to remain and my colleagues in the Structures and Flooding team have no objection to this. In terms of flooding matters, the proposal raises no issues.

### **Waste Collection**

- 60 The proposed development will have no adverse impact on the bin presentations arrangements of existing residents and existing commercial premises as all existing arrangements are unaffected by the proposal.

### **Trees and Biodiversity**

- 61 There are two existing medium sized trees within the square which are proposed to be replaced by two sweetgum trees, which are medium sized trees which will provide long lasting autumn colour. The two existing trees are a Himalayan birch and an Alder. The existing Himalayan birch is planted into a tree pit that is raised above the surrounding paved area. In order to create a flush paved area, the raised tree pit will need to be reduced in level which in turn will have an adverse impact on the long term health of the tree as the surface roots will be damaged/removed to accommodate the new levels. Its removal (and replacement) is therefore considered to be both necessary and acceptable.
- 62 In terms of the existing Alder, this tree is considered to be inappropriate for this location. Its canopy is dense and shades the eastern side of The Square, and once the tree is fully grown, it will be too large for The Square and will eventually block light to the adjacent properties. Another consideration for the replacement of both trees was that the combination of both existing trees offered little seasonal interest to The Square, the proposed trees will provided this by virtue of its autumn colours.

- 63 Accordingly, I have no objection to the proposed tree replacements. The new trees will complement the improved sense of place within The Square, and the matching species will also help to provide a sense of balance and continuity to the appearance of the enhanced square.

### **Timing of the Construction**

- 64 The majority of the letters of representation raise concerns regarding the proposed timing of the construction of the project, which is currently timetabled for summer 2019. All development projects have some degree of disturbance, and it is envisaged that there will be some disturbances for local business, residents and visitors during the construction phase. Any disruption will be kept to a minimum, and the long term benefits for the local community are considered to outweigh any consequences of the construction. Whilst the timing of the works are not a planning matter, the Council's project delivery team have advised that they will continue to liaise with the key stakeholders regarding timings and interim arrangements during the construction phase. A traffic management plan will be prepared for the development and will be secured by condition (Condition 4).

### **Electric Vehicle (EV) Charging Units**

- 65 Within some of the letters of representation, a concern has been raised regarding the lack of EV charging units for electric vehicles. The possible provision of charging points in this location would be available to install the technology if deemed appropriate by the Council. However, there are currently four EV charging points located in Moness Terrace Car Park, a few minutes' walk from the Square. I would suggest that this is a more appropriate location for specialised EV charging points than in The Square which, on completion of the development, would have less formal parking spaces and the potential restrictions that would be placed on 1 or 2 of those available spaces to EV charging I would consider to be inappropriate.

### **Local Archaeology**

- 66 The Square has two entries on the Perth & Kinross Historic Environment Record, one of which relates to a military road (MPK17862) the other to the square itself (MPK10601). Remains related to the military road are significant, and may survive below the existing ground surface however they are also likely to have suffered truncation and disturbance previously through re-surfacing, installations of services/utilities, installation of street furniture etc. As the current proposal is mainly re-surfacing with limited areas of slightly deeper disturbance, the potential impact on any surviving remains of the military road is considered to be low. The PKHT have reviewed the proposals and agree with this position. It is therefore not considered necessary for any additional work on archaeological investigations.

### **Developer Contributions**

- 67 Due to the nature of the proposed development, there is no requirement for any Developer Contributions.



## **Economic Impact**

- 68 The overall proposal is considered to have a positive impact on the town centre, which in turn would be of benefit to the local economy.

## **LEGAL AGREEMENTS**

- 69 None required.

## **DIRECTION BY SCOTTISH MINISTERS**

- 70 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**

- 71 To conclude, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, I have taken account of the Local Development Plan and material considerations and in this case I am content that the development proposed does not conflict with the Development Plan.
- 72 Accordingly the proposal is recommended for approval subject to the following conditions.

## **RECOMMENDATION**

### **A Approve the planning application, subject to the following conditions**

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. All external lighting shall be sufficiently screened and aligned so as to ensure that there is no direct illumination of neighbouring land and that light spillage beyond the boundaries of the site is minimised to a degree that conforms to requirements to meet the Obtrusive Light Limitations for exterior Lighting Installations for Environmental Zone –E3 contained within Table 2 of the Institute of Light Engineers Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2011.

Reason – In the interest of protecting the visual and residential amenity of the area.

3. Prior to the commencement of the development hereby approved, final details of the type of benches to be sited (illuminated or not), litter bins and the information board, shall submitted to and agreed in writing by the Council as Planning Authority. The scheme as agreed shall thereafter be implemented in full to the satisfaction of the Council as Planning Authority.

Reason – In the interest of protecting the visual amenity of the area.

4. Prior to the commencement of the development hereby approved, details shall be submitted for the further written agreement of the Council as Planning Authority, (in consultation with the Roads Authority) of a Construction Traffic Management Scheme and a Site access management plan. Thereafter, the approved schemes shall be strictly adhered to during the entire site construction programme, to the satisfaction of the Council as Planning Authority.

Reason – In order to co-ordinate traffic movements associated with the construction phase during the construction.

## **B JUSTIFICATION**

The proposal is in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

## **C PROCEDURAL NOTES**

None.

## **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. Records indicate that at least part of the proposed development site lies within a radon affected area where the measurement/monitoring of radon gas and the installation of mitigation measures may be required. Further

information on radon gas and the associated reports that can be obtained is available at [www.ukradon.org](http://www.ukradon.org) and at <http://shop.bgs.ac.uk/georeports/>.

Background Papers: 27 letters of representation  
Contact Officer: Andy Baxter 01738 475339  
Date: 20 June 2019

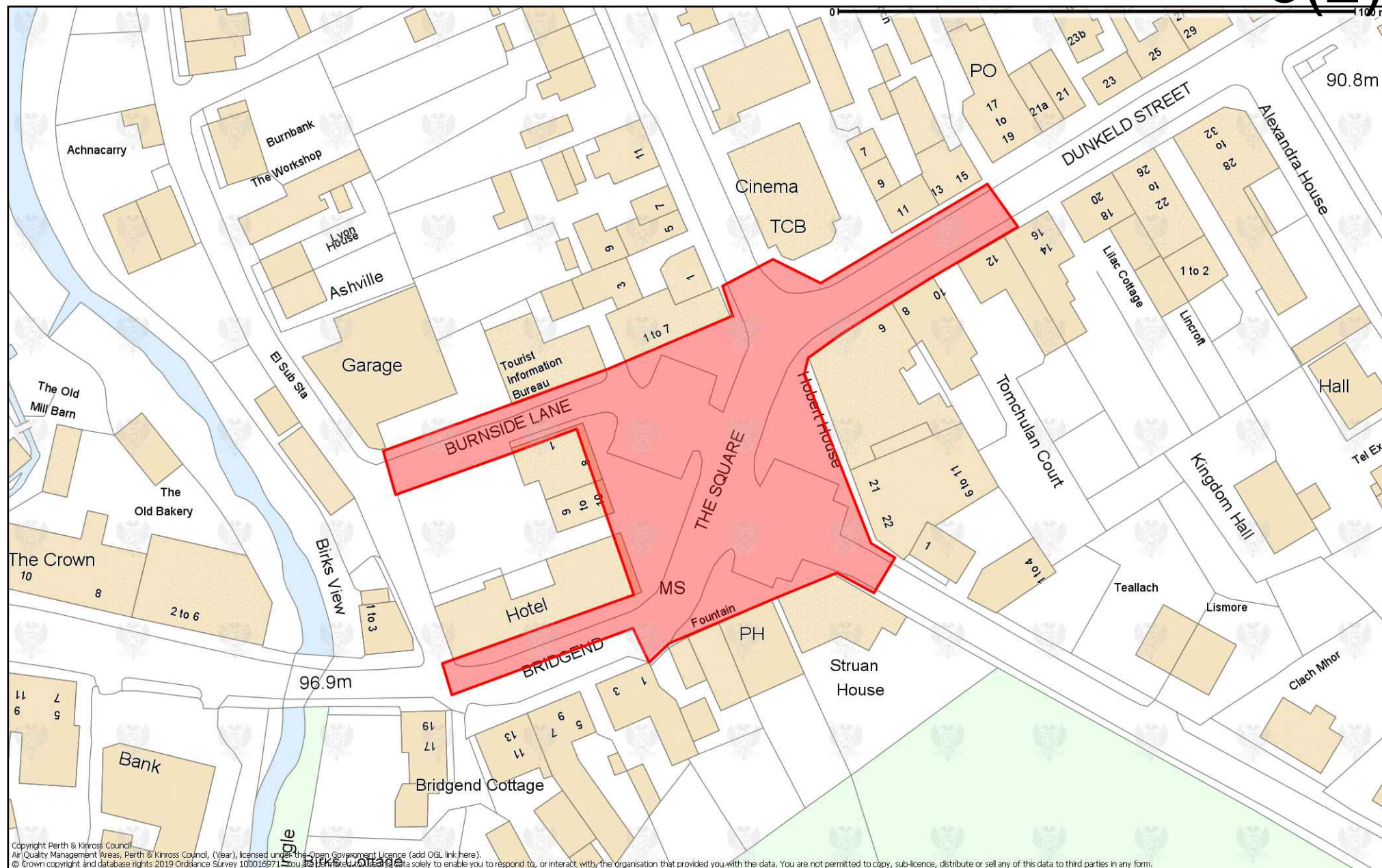
**DAVID LITTLEJOHN**  
**HEAD OF PLANNING & DEVELOPMENT**

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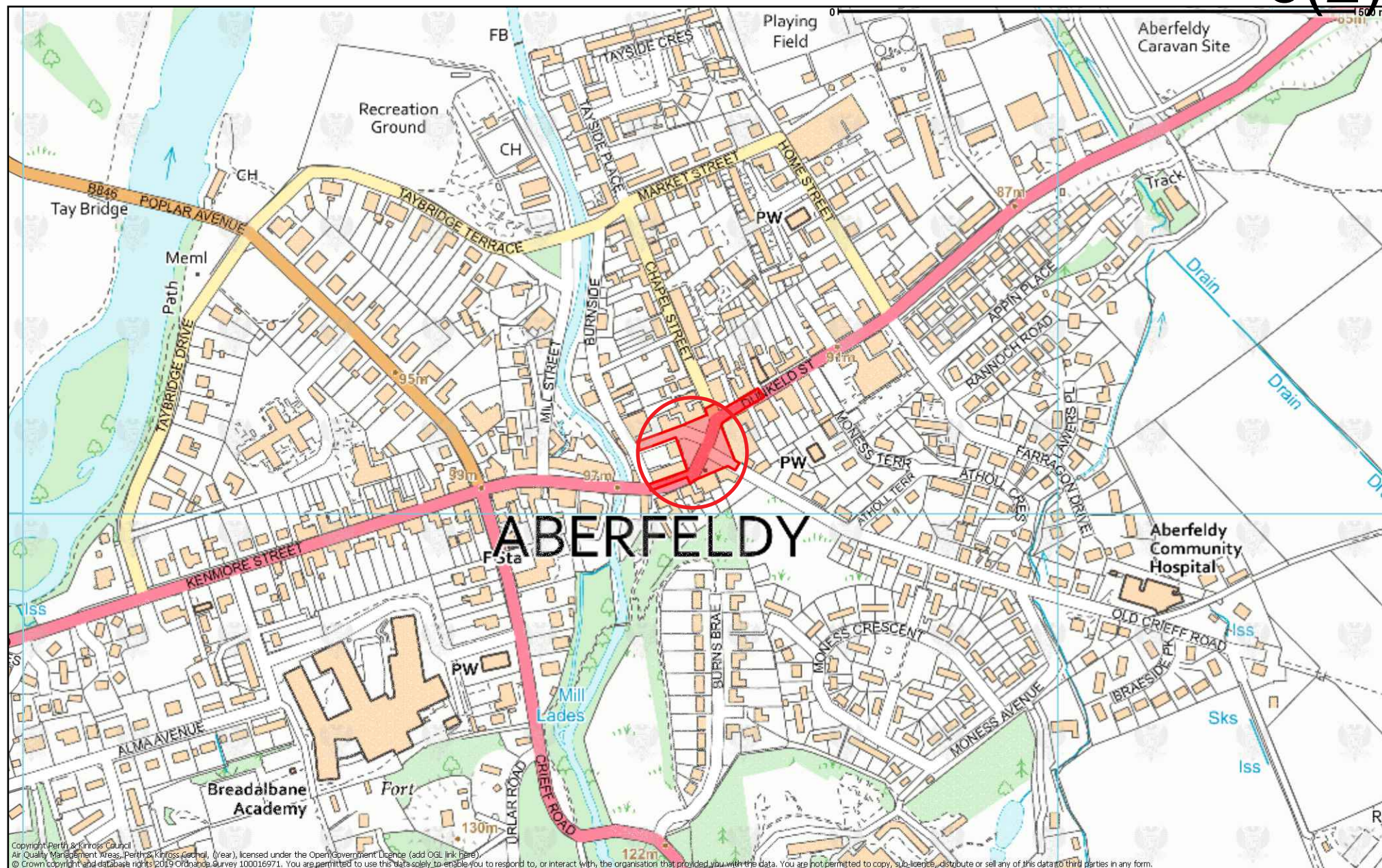
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