

Perth and Kinross Council
Planning and Placemaking Committee – 22 February 2023
Report of Handling by Head of Planning & Development
(Report No 23/59)

PROPOSAL: S42 application to modify condition 3 (occupation of dwellings) of permission 17/00847/IPM

LOCATION: Land 250 metres south east of Wilmarean, Luncarty, Perth

Ref. No: [22/00869/IPM](#)
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 site benefits from planning permission in principle (PPP) for a mixed-use development (residential and employment) along with associated infrastructure, access, landscaping, drainage, SUDS and open space. Application 17/00847/IPM relates.
- 2 The site is situated along the southern boundary of Luncarty, some 4.5 miles north of Perth. The site extends to 45.6 hectares and is predominantly arable farmland. Broadleaved trees, hedgerows and tall vegetation are present along the field margins whilst a narrow burn runs to the southwest, outside the site boundary. Immediately north of the site is all residential, whilst the eastern boundary of the site fronts onto the River Tay. Immediately west of the site is the Perth to Inverness rail line and beyond this the A9 trunk road. To the south is further agricultural land which contains an overhead power line.
- 3 The site slopes from the north, from approximately 27m AOD to approximately 16m AOD, to the south/southwest representing a gradient of approximately 2%. The site is also characterised by an upper and lower plateau, both of which are generally flat, but divided by a transition slope with a steeper gradient varying between 10% and 15%. Within the upper plateau there are two areas of higher ground in the form of rounded hills.
- 4 The site is currently accessed off the B9099 via Scarth Road and a minor private road runs along the majority of the northern boundary of the site which serves several properties, from which a road runs south connecting with the road which crosses the site centrally from east to west up to the boundary/banks of the River Tay. The road running north-south also provides

access to Denmarkfield, before again accessing the A9 over a railway bridge. Core paths run along these routes, connecting into the wider area and the path that runs parallel with the River Tay. Overhead power lines run north/south within the western part of the site and also parallel with the southern boundary, however, are outwith the site.

- 5 The site forms the majority (70%) of an allocated site (MU27) of 64 hectares in the Perth and Kinross Local Development Plan (LDP2) for both residential and employment use. The remainder of the allocation is under separate ownership (Wedge Homes Ltd). It is noted that since the original planning permission approval there has been a change to the Development Plan through LDP2 in 2019.
- 6 Section 42 of the Act (Town and Country Planning (Scotland) Act 1997 (as amended) relates to applications for planning permission to develop land which depart from conditions attached to an existing permission. The effect of granting permission via a Section 42 (S42) application is therefore such that a new and separate permission exists for the development with different (or no) conditions attached. The previous planning permission remains unaltered by, and is not varied by, the decision on the section 42 application.
- 7 The primary purpose of this S42 application seeks to vary condition 3 of the extant planning permission 17/00847/IPM. The MU27 allocation and associated site-specific requirements, as well as condition 3 of application 17/00847/IPM, recognise there is a need for an appropriate trigger to consider potential additional transport infrastructure requirements for the site. The key matter for this application concerns the timing under which this trigger for potential additional transport infrastructure should be considered.
- 8 The original wording of Condition 3 states: *Notwithstanding the terms of Condition 2, the maximum number of dwellings permitted to be occupied by 2024 is 300 dwellings. Furthermore, no more than 300 dwellings and 5 hectares of employment land, as may be approved by Matters Specified in Conditions application(s), shall be occupied in advance of a scheme for new road infrastructure solutions to distribute traffic from further development via transport networks, has been submitted to and agreed in writing by the Planning Authority. These solutions may take the form of one or a combination of: a vehicular connection to the A9 Trunk Road, a vehicular connection to the Cross Tay Link Road (CTLR) or alternative measures. The submitted scheme shall be supported by a new Transport Assessment (TA) with traffic modelling informed using observed traffic generation data from a minimum of 250 occupied residential units and include the timing for the delivery for the infrastructure improvements.*

Reason: In compliance with the allocation H27 of the Perth and Kinross Local Development Plan (2014); in the interests of local and trunk road traffic safety; and enhancing connectivity and integration with Luncarty and the wider area, all in the interests of good placemaking.

Pre-Application Consultation

- 9 The Pre-Application Consultation (PAC) requirements have been fulfilled in association with the submission of planning application 17/00847/IPM and there is no further PAC needed procedurally in relation to this S42 application.

National Policy and Guidance

- 10 The Scottish Government expresses its planning policies through The National Planning Framework 4, Planning Advice Notes (PAN), Creating Places, Designing Streets, National Roads Development Guide and a series of Circulars.

National Planning Framework 4

- 11 The revised draft 4 National Planning Statement was published on 8 November 2022 and approved at Parliament on 11 January 2023. In this instance the primary policies relevant seek to encourage, promote and facilitate an infrastructure first approach to land use planning. The survey work to date shows that the 520 units can be absorbed utilising existing infrastructure. This development proposal, therefore, accords with the principal intentions of this document.

Planning Advice Notes

- 12 The following Scottish Government Planning Advice Notes (PANs) and Guidance Documents are of relevance to the proposal:
- PAN 40 Development Management
 - PAN 75 Planning for Transport

Creating Places 2013

- 13 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

- 14 Designing Streets is the policy statement in Scotland for street design and changes the emphasis of guidance on street design towards place-making and away from a system focused upon the dominance of motor vehicles. It was created to support the Scottish Government's place-making agenda, alongside Creating Places.

National Roads Development Guide 2014

- 15 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

- 16 The Development Plan for the area comprises the Perth and Kinross Local Development Plan 2019.

Perth and Kinross Local Development Plan 2

- 17 The Local Development Plan 2 (2019) (LDP2) sets out a vision statement for the area and states that, “Our vision is of a Perth and Kinross which is dynamic, attractive and effective which protects its assets whilst welcoming population and economic growth.” It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
- 18 The principal relevant policies are, in summary;
- Policy 1A: Placemaking
 - Policy 1B: Placemaking
 - Policy 1C: Placemaking
 - Policy 60B: Transport Standards and Accessibility Requirements: New Development Proposals

LDP2 Allocation MU27 Luncarty South (Residential 589-760 with 5ha of employment land)

- 19 Site-Specific Developer Requirements
- A comprehensive Masterplan submitted at the time of any planning application to provide detailed information regarding the phasing the housing and economic development land.
 - The open space/landscape buffer which abuts the River Tay must be defined by a Flood Risk Assessment and protected from built development.
 - An updated full Transport Assessment that demonstrates the following:
 - The design of the road network will ensure multiple connections of the local road network.
 - No more than 350 units will be permitted to be occupied during this plan and until the impact on the local and strategic road network has been assessed which considers the southern connection to the A9 and Cross Tay Link Road and or further alternative measures to distribute traffic via the local network.
 - All access proposals are to the satisfaction of the Perth and Kinross Roads Authority.
 - Cycle paths, core paths and rights of way incorporated into masterplan and designed to improve active transport links between Luncarty and Perth.

- Enhancement of biodiversity and protection of riverbank habitats enhancing connectivity into the Green Network.
- Developer requirements for the enhancement of core paths and pedestrian connections into Luncarty and the wider network.
- Investigation of provision of a district heating system and combined heat and power infrastructure utilising renewable resources.
- Construction Method Statement to be provided for all aspects of the development to protect the watercourse. Methodology should provide measures to protect the watercourse from the impact of pollution and sediment so as to ensure no adverse effects on the River Tay SAC.
- Where the development of the site is within 30 metres of a watercourse an otter survey should be undertaken and a species protection plan provided, if required so as to ensure no adverse effects on the River Tay SAC.
- A desk based archaeological assessment of the site with a subsequent more detailed investigation if justified.
- An assessment of any commercially available mineral resource together with proposals to remove or protect from sterilisation by built development.

Other Policies

Placemaking Supplementary Guidance March 2020

- 20 The Council has prepared Placemaking Supplementary Guidance (2020) to support Policy 1 (Placemaking) of the Perth and Kinross Local Development Plan 2 (2019). It is to be used in the assessment of planning applications and to assist in the placemaking process.

Site History

- 21 The following history is of relevance.
- 22 **97/00614/FUL** Residential development (in outline). Refused 8 August 1997.
- 23 [14/00009/PAN](#) Residential development. Content of PAN Agreed 5 November 2014.
- 24 [15/00419/SCRN](#) Screening Opinion for mixed use development. Screening Opinion provided 24 March 2015 – EIA required.
- 25 [15/00511/SCOP](#) EIA Scoping Request for residential development. Scoping Opinion provided 30 April 2015.
- 26 [17/00847/IPM](#) Mixed use development comprising residential development, employment land, infrastructure including roads, footpaths, landscaping, drainage, open space and associated works. Approved 30 August 2019.
- 27 [21/01908/SCRN](#) Screening Opinion for proposed residential development. Screening Opinion provided 29 November 2021 – EIA required.

- 28 [22/00009/PAN](#) Residential development, access, landscaping, SUDS and associated works (allocated site MU27). Content of PAN agreed 10 March 2022.
- 29 [22/00727/SCOP](#) EIA Scoping Request for residential development. Scoping Opinion provided 26 May 2022.

CONSULTATIONS

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

External

- 31 **Luncarty, Redgorton and Moneydie Community Council:** Object to the proposal on the basis that the revised traffic survey undertaken in April 2022, was taken at a post Covid time, and is, therefore, not representative of the true picture as it was done at a time when the population are still in a state of flux regarding working practices.
- 32 **Transport Scotland:** No objection subject to condition.

Internal

- 33 **Transport Planning:** No objection provided specific conditions are applied to address transport and pedestrian safety requirements.
- 34 **Environmental Health (Contaminated Land):** No objections.
- 35 **Planning and Housing Strategy:** Any proposal to alter condition 3 should reflect the LDP2 site requirement on limiting the occupation of the site to 350 units within the lifetime of the plan.
- 36 **Contributions Officer:** The current Section 75 requires to be updated as the agreement does not have a “future proofing” clause to accommodate for subsequent changes to the development, covering Section 42 applications or renewal of permission and other related planning changes. A minute of variation requires to be undertaken to include this clause within the agreement.

Representations

- 37 Eight representations were received. The main issues raised within the representations are:
1. Contrary to Development Plan Policy
 2. Road Safety
 3. Traffic Congestion
 4. Loss of Trees
 5. Over Intensive Development
 6. Inappropriate Housing Density

7. Inappropriate Land Use
8. Noise Pollution
9. Out of Character with the Area

38 Points 1-3 are issues which are addressed in the Appraisal section of the report. Points 4-9, however, are not issues which are relevant to this application as the principle of large scale residential and employment development has been established through the approval of the extant planning permission (17/00847/IPM). The principle of the development is therefore well-established and is not reviewed as part of this S42 application.

ADDITIONAL STATEMENTS

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Screening Opinion	EIA Not Required
Environmental Impact Assessment (EIA): Environmental Report	Not Required
Appropriate Assessment	Habitats Regulations AA Not Required
Design Statement or Design and Access Statement	Not Required
Report on Impact or Potential Impact eg Flood Risk Assessment	<ul style="list-style-type: none"> • Transport Review

APPRAISAL

40 Section 42(1) of the Town & Country Planning (Scotland) Act 1997 (as amended) relates to applications for planning permission for the development of land without complying with conditions subject to which a previous permission was granted.

41 Section 42(2) requires that the Planning Authority shall consider only the question of the condition(s) subject to which planning permission should be granted, and:

- (a) If they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it would be granted unconditionally, they shall grant planning permission accordingly;
- (b) If they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

42 The determining issues in this case are whether the proposal complies with Development Plan policy or if there are any other material considerations which justify a departure from that policy. Currently the adopted Development Plan comprises the Perth and Kinross Local Development Plan 2 (2019). The relevant policy considerations are outlined in the policy section above and are considered in more detail below. In terms of other material considerations, this involves national policy and guidance, the Council's other approved policies,

supplementary guidance, statutory consultees and additional statements submitted.

Principle

- 43 The principle of large scale residential and employment development has been established through its allocation (MU27) in the LDP2 and through the approval of the extant planning permission (17/00847/IPM). The principle of the development is therefore well-established and is not reviewed as part of this S42 application. It is noted that since the original planning permission approval there has been a change to the Development Plan through TAYplan 2016 and LDP2 in 2019. The changes of most relevance to this application within the Development Plan are:
- No more than 350 units will be permitted to be occupied during this plan and until the impact on the local and strategic road network has been assessed which considered the southern connection to the A9 and Cross Tay Link Road and or further alternative measures to distribute traffic via the local network.
- 44 For a point of clarity, the change in LDP2 specifies the maximum number of dwellinghouses to be occupied during this plan (2029) has been increased to 350 dwellings whereas the previous LDP (2014) specified a maximum number of 300 dwellinghouses.

Condition 3

- 45 The applicant's desire is to increase the permissible development threshold to 650 units in advance of a scheme for new road infrastructure solutions to distribute traffic from further development via transport networks. There has been an ongoing dialogue between the applicant's, their agents and the Planning Authority regarding the proposal to increase the threshold to 650 units.
- 46 As per the PPP application, a new Primary Access Road constructed near the existing junction of the B9099 /Scarth Road is proposed to access the site. This will involve the realignment and improvement of the initial section of Scarth Road (which will form part of the new Primary Access Road). An assessment of the B9099/ New Primary Access Road was undertaken as part of the Transport Assessment (TA) and it indicated that it would operate near its theoretical maximum capacity with 650 dwellings.
- 47 To provide a background to the 300 unit threshold, as specified in condition 3 of the extant consent, Transport Planning's assessment of the TA and Employment Land Sensitivity Test was that in terms of junction modelling, a Ratio of Flow to Capacity (RFC) of 0.85 was considered to be the upper limit of acceptable junction performance. At an RFC of 0.85 or above, the junction operation would be compromised. The report concluded that the traffic flow from 650 housing units and 5ha of employment land on the B9099/Primary Access Road junction was above an RFC of 0.85 and thus the junction could not accommodate this additional traffic generation of the original proposal

- 48 The TA recommended 630 housing units with 5ha of employment land (Office – 2500m², Industrial – 5000m² and Storage – 5000m²), resulting in an RFC of 0.848 (AM peak period). This showed the B9099/Primary Access Road junction operating at the upper limit of capacity. It also shown that between the 08:45 – 09:15 periods there would be 5 vehicles queuing at this junction. No assessment of this impact on the new junction with Scarth Road was provided. Given its close proximity to the southbound slip road onto the A9, Transport Planning considered there would be potential for conflict. The junction assessment also highlighted the potential for major road arm blocking to occur, thereby further compromising the operation of the new junction.
- 49 The assessment of the PPP application went on to say that any additional development (either additional residential or business) traffic would result in the junction operating above capacity and that there is also the matter of future traffic growth beyond the LDP limit of 300 dwellings, which would see the junction over capacity within a short period of time (informed from the stated RFC in the TA of 0.848 at completion year of 2033). For further development beyond the 300 to be acceptable a link south to the proposed Cross Tay Link Road (CTLR) or A9 would likely be required.
- 50 The site was originally reviewed and found to be acceptable by Transport Scotland and PKC Transport Planning with conditional control in the extant PPP limiting the number of dwellinghouses to 300 units and 5 hectares of employment land in advance of a scheme for new road infrastructure solutions to distribute traffic from further development via transport networks being submitted and agreed in writing by the Planning Authority.

Roads and Access

- 51 In progressing this S42 application, a methodology for a transport review to support the assessment of any increased threshold to assess impacts on local roads (B9099) as well as the strategic routes of Inveralmond roundabout was submitted. A revised traffic assessment was undertaken to identify the impact of the Covid pandemic and opening of the A9 dualling between Luncarty and Pass of Birnam. The assessment identified that traffic volumes through Luncarty have decreased significantly and that the proposed Main Road/Development Access junction could support the development of 650 dwellinghouses and 5ha of employment land while operating well within capacity.
- 52 It is noted within the objections received, comments in relation to the potential long lasting impact of Covid-19 on travel patterns and traffic generation. The Council's Transport Planning team have provided comments in agreement with this insofar as such behaviour change has yet to be established in the long term or indeed of its permanent nature at current observed levels. At this time, the data to make such predications, sustaining such behaviour change at its current level to 2033, is not of a sufficiently robust nature and could lead to the B9099/Scarth Road junction performing poorly due to capacity issues caused by the development of 650 dwellings and 5 hectares of employment land. As such, the Council's Transport Planning team commissioned a study

to review the capacity of the junction in relation to the impact of the development and previous, existing, and forecasted traffic patterns.

- 53 Observed pre Covid-19 traffic flows from 2016 were used as a base year and industry standard traffic growth applied up to 2033. The assessment also utilised a 6-metre wide (new primary access to the development) minor arm road onto the B9099 to assess junction capacity.
- 54 The assessment concluded that the existing junction, with appropriate upgrades, would support an upper limit of 520 dwellings and 5ha of employment land. This is less than the 650 dwellings sought through the S42 application.
- 55 Comments have also been submitted on behalf of the landowner of the remaining part of the site. The response raises how the determination of this application could impact on the development of the remainder of the site and that the issue of phasing of any additional transport infrastructure mitigatory measures should be considered as a site-wide issue.
- 56 Notwithstanding the technical capacity of the junction to serve the development, the phasing/timing and associated delivery mechanism(s) of any additional transport infrastructure mitigatory measures is also an important consideration. This is particularly the case where the site has split ownership and the development parcels are being progressed separately. Most of the allocation falls under the remit of this application. The additional section of land under separate ownership is currently being progressed separately (see 22/00727/SCOP & 22/00009/PAN).
- 57 In terms of dwelling numbers, the application site has permission for an upper limit of 650 dwellings with the remainder of the site's capacity (as identified in LDP2) of 760 to be delivered in the other part of the site, indicatively up to 110 dwellings and subject to detailed assessment at the planning application stage.
- 58 The Council's Strategy and Policy Team have provided comments which are of important note. The response comments that if the current consented area was allowed to proceed on the basis of 650 units without the need for further additional transport mitigatory measures this could result in adverse impacts for the delivery of the wider MU27 site. Shifting the burden of any additional transport mitigatory measures wholly on to the remainder of the site (controlled by the other landowner) would potentially render this part of the site unviable. In addition, due to the location/layout of the site and the existing transport network, the area of the site under separate ownership is required to connect into the applicant's development to access the public road network. As such, there is no obvious additional link in from this part of the site into the existing road network to the north. Any additional road access connecting the site in to the A9/CTLR roundabout(s) to the south would therefore be outwith the control of the other landowner, as far as practically known.
- 59 The response further comments that additional transport mitigatory measures that would benefit the connectivity of the site and help to mitigate the impact

of the development on the local area is a site-wide issue, with resultant costs likely to be high. Therefore, a joint approach to deliver infrastructure requirements associated with the entirety of MU27 is advocated in line with the comprehensive masterplanning approach required by LDP2. To consider the site as individual developments runs the risk of not being able to deliver the required transport infrastructure measures for the wider site with an over-reliance on the primary access route at the north.

- 60 Taking into consideration the information submitted by the applicant and also the views of PKC Transport Planning and Strategy and Policy there are a lot of unknowns in respect of Covid recovery, the A9 dualling and the CTRL. As such it is considered that a pause and review is required to allow for further modelling and traffic counts to be undertaken to assess the impact on the local road network and strategic network.
- 61 In view of this and in order to progress the application, PKC Transport Planning team do not object to the proposal subject to the condition no more than 520 dwellings and 5 hectares of employment land as may be approved by Matters Specified in Conditions application(s) shall be occupied in advance of a scheme for new transport infrastructure solutions to distribute and/or reduce traffic from further development via transport networks, has been submitted and agreed in writing by the Planning Authority (condition 3). This is less than the 650 dwellings sought through the S42 application, however, for reasons mentioned above is considered to be the most in which the Planning Authority can offer support.
- 62 Furthermore, limiting the occupation of the site to 350 units within the lifetime of the plan reflects the LDP2 site requirement. The applicants and their agent have been advised of this.

Developer Contributions

- 63 No change to developer contributions through amending Condition 3 of planning permission 22/00869/IPM. The terms of S75 and associated contributions will not change.

Economic Impact

- 64 The economic impact from this proposal is anticipated to be limited.

LEGAL AGREEMENTS

- 65 The current Section 75 requires to be updated as the agreement does not have a “future proofing” clause to accommodate for subsequent changes to the development, covering Section 42 applications or renewal of permission and other related planning changes. A minute of variation requires to be undertaken to include this clause within the agreement.

DIRECTION BY SCOTTISH MINISTERS

- 66 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

- 67 To conclude, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, the proposal is considered to comply with the approved TAYplan 2016 and the adopted Local Development Plan 2 (2019). Account has been taken account of the relevant material considerations and none has been found that would justify overriding the adopted Development Plan.
- 68 Accordingly the proposal is recommended for approval subject to the following conditions.

A RECOMMENDATION

Approve the application subject to the following direction and conditions:

Direction

1. 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 (22/00869/IPM) with the substitution of the period of 3 years referred to in each of those subsections, with the period of 20 years.

Conditions and Reasons for Recommendation

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.

2. The submitted masterplan, site layout plan and indicated scale of development, of up to 650 dwellings and 5 hectares of employment land, are purely indicative and are hereby not approved.

Reason: The application is for planning permission in principle only at this stage and an appropriate level of development, layout and design shall be determined through applications for the Approval of Matters Specified in Conditions.

3. Notwithstanding the terms of Condition 2, the maximum number of dwellings permitted to be occupied by 2029 is 350 dwellings. Furthermore, no more than 520 dwellings and 5 hectares of employment land, as may be approved by Matters Specified in Conditions application(s), shall be occupied in advance of a scheme for new transport infrastructure solutions to distribute and/or reduce traffic from further development via transport networks, has been submitted to and agreed in writing by the Planning Authority, in consultation with Transport Scotland as the trunk roads authority. The solution may be a vehicular connection to the Cross Tay Link Road (CTLR) or an alternative measure. The submitted scheme shall be supported by a new Transport Assessment (TA) with traffic modelling informed using observed traffic generation data from a minimum of 250 occupied residential units and include the timing for the delivery for the infrastructure improvements.

Reason: In compliance with the allocation MU27 of the Perth and Kinross Local Development Plan 2 (2019); in the interests of local and trunk road traffic safety; and enhancing connectivity and integration with Luncarty and the wider area, all in the interests of good placemaking.

4. 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 in Condition') have been submitted to and approved in writing by the Planning Authority. The specified matters include:

- (i) a detailed 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;
- (iii) the siting, design, height and external materials of all buildings or structures;
- (iv) the details of all roads, footpaths, cycleways, core path connections throughout the development;
- (v) details of any screen walls/fencing to be provided (including any acoustic barriers);

- (vi) measures to maximise environmental sustainability through design, orientation and planting or any other means;
- (vi) details of all landscaping, structure planting and screening associated with the development of each site;
- (vii) the lighting of all streets and footpaths;
- (viii) the layout of play areas and the equipment to be installed;
- (ix) full details of the proposed means of disposal of foul and surface water from the development;
- (x) details of car charging points to be provided within the development; and
- (xi) A minimum 40% of dwellings shall incorporate swift bricks and bat roost bricks at eaves height.

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.

5. As part of any application for Approval of Matters Specified in Conditions, as set out in Condition 4(i), a phasing strategy (supported by appropriate plans) shall be submitted to and approved in writing by the Planning Authority. The phasing strategy shall have regard to the requirements of Condition 3 and include and demonstrate the following details:

- (i) The timing and number of dwellings to be developed in each phase;
- (ii) The timing of delivery of infrastructure, open space and landscaping;
- (iii) When the first 2 hectares of employment land will be fully serviced; and
- (iv) When the remaining 3 hectares of employment land will be fully serviced.

For the avoidance of doubt "fully serviced" is land subdivided ready for building by individual occupiers. The individual plots shall be served by surfaced roads and footpaths, surface and foul drainage (with connecting tails into the curtilage of each plot), and water, gas/electricity and telecom ducting to the edge of (or in footpath next to) individual plots.

Reason: To ensure the implementation and completion of the employment land component of the proposal as this is the element of the proposed development which the Planning Authority considers will bring economic and social benefits to the area.

6. No work shall start on the relevant parts of the site unless the trees to be retained as identified in the submitted surveys have been 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.

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

7. All existing rights of way, core paths within or adjacent to the completed development shall at all times be protected and remain operational during the construction phases.

Reason: In the interest of sustainable transportation.

8. Development shall not commence until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of archaeological investigation which has been submitted 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 during each phase 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.

9. As part of any application for Approval of Matters Specified in Conditions, as set out in Condition 4, a noise assessment shall be submitted to demonstrate acceptable internal noise levels of 35 dB within all dwellings taking into account mitigation from any acoustic barriers or other such mitigation proposed.

Reason: In the interests of residential amenity.

10. Prior to the commencement of development of each phase an updated Construction Environmental Management Plan (CEMP) must be submitted for the approval of the Planning Authority. The measures outlined in the updated CEMP shall be adhered to at all times during the construction period.

Reason: In the interests of protecting environmental quality and of biodiversity; to ensure no adverse impact on River Tay and its Special Area of Conservation designation.

11. The times of construction should be limited to Monday to Friday 07.00 to 19.00, Saturday 08.00 to 13.00 with no noise generating work on a Sunday.

Reason: In the interests of residential amenity.

12. The applicant must provide a suitable trespass proof fence of at least 1.8 metres in height adjacent to Network Rail's boundary and provision for the fence's future maintenance and renewal should be made. Details of the proposed fencing shall be submitted to the Planning Authority for approval before development is commenced and the development shall be carried out in full accordance with such approved details.

Reason: In the interests of public safety and the protection of Network Rail infrastructure.

13. All surface or foul water arising from the development must be collected and diverted away from Network Rail Property. Any Sustainable Urban Drainage Scheme shall not be sited within 10 metres of the railway boundary and should be designed with long term maintenance plans which meet the needs of the development. Details of the design and construction of any drainage scheme shall be submitted to the Planning Authority for approval before development is commenced. The development shall be carried out in full accordance with such approved details.

Reason: To protect the stability of the adjacent railway cutting and the safety of the rail network.

14. A detailed Protected Species Survey, including breeding birds and ecological surveys, shall be submitted as part of any application for approval of Matters Specified by Condition submitted for approval under Condition 4 of this permission. The surveys shall include appropriate mitigation to protect 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).

15. The conclusions and recommended action points within the supporting Environmental Impact Assessment (EIA) and hereby approved shall be fully adhered to, respected and undertaken as part of the construction phase of development.

Reason: In the interests of employing best practice ecology and to ensure there is no adverse impact on any protected species.

16. No site clearance or removal of vegetation, including trees and shrubs will take place between 1st March and 31st 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).

17. A scheme detailing measures to protect animals from being trapped in open excavations and/or pipe and culverts shall be submitted for the written approval of the Planning Authority. 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. Thereafter, the approved scheme

shall be implemented for the duration of the construction works of the development hereby approved.

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

18. No part of the development shall be occupied until a comprehensive Green Travel Plan (GTP) that sets out proposals for reducing dependency on the private car has been submitted and approved in writing by the Planning Authority, after consultation with Transport Scotland. The GTP will have particular regard to provision for walking, cycling and public transport access to and within the site and will identify the measures to be provided (including the provision of new and/or enhanced public transport services), the system of management, monitoring, review, reporting and the duration of the plan.

Reason: to be consistent with the requirements of Scottish Planning Policy (SPP) and PAN 75 Planning for Transport

19. Details of the lighting within the site shall be submitted for the approval of the Planning Authority, in consultation with Transport Scotland, as the Trunk Roads Authority. Thereafter, the development shall be completed in accordance with the approved scheme.

Reason: To ensure that there will be no distraction or dazzle to drivers on the trunk road and that the safety of the traffic on the trunk road will not be diminished.

20. There shall be no drainage connections to the trunk road drainage system.

Reason: To ensure that the efficiency of the existing drainage network is not affected.

21. As part of the first application for the Approval of Matters Specified in Condition an updated District Heating Feasibility Study for the whole site shall be submitted in writing for the approval of the Planning Authority to assess the technical feasibility and financial viability of heat network/district heating for this site, identifying all available sources of heat (either within the site or offsite) and other factors such as where land will be safeguarded for future district heating infrastructure.

The accompanying Design and Access Statement or other document as agreed by the Council should show/demonstrate how the findings of the feasibility study has been incorporated into the finalised design and layout of the proposal.

Reason: To identify future district heating opportunities for the development.

22. Prior to the occupation of the first dwelling all matters regarding access, car parking, public transport facilities, walking and cycling facilities, the road layout, design and specification (including the disposal of surface water) shall be in accordance with the standards required by the Council as Roads

Authority (as detailed in the National Roads Development Guide) and to the satisfaction of the Planning Authority.

Reason: In the interests of road safety; to ensure that a satisfactory standard of road and footpath is provided timeously in the interest of the amenity of the residents.

23. Prior to the commencement of works on the development, the applicant shall submit for the written approval of the Planning Authority 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) arrangements for liaison with the Roads Authority regarding winter maintenance;
 - d) emergency arrangements detailing communication and contingency arrangements in the event of vehicle breakdown;
 - e) 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;
 - f) arrangements for cleaning of roads affected by material deposited from construction sites associated with the development;
 - g) 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;
 - h) details of information signs to inform other road users of construction traffic;
 - i) arrangements to ensure that access for emergency service vehicles are not impeded;
 - j) monitoring, reporting and implementation arrangements; and
 - k) arrangements for dealing with non-compliance.

The TMS as approved shall be strictly adhered to during the entire site construction programme all to the satisfaction of the Council as Planning Authority.

Reason: In the interests of road safety.

24. As part of any application for the Approval of Matters Specified in Condition, all schemes of hard and soft landscaping works shall be submitted to the Local Planning Authority.

Details of the schemes shall include:

- (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;
- (iv) 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;
- (ix) a woodland management plan;
- (x) separation distances between residential buildings and edge trees;
- (xi) separation distances between residential buildings and existing woodland.

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.

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.

25. Any planting which, within a period of 5 years from the completion of the approved phase of 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.

26. As part of any application for the Approval of Matters Specified in Condition, full drainage calculations and the final layout and depth of the proposed SUDS ponds and associated infrastructure to be agreed in writing with the Council as Planning Authority, in consultation with Perth and Kinross Council Flooding Team. 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.

27. The development shall be in accordance with the requirements of Development Plan policy and Perth & Kinross Council's Supplementary Guidance in relation to affordable housing.

Reason: To ensure that the development approved makes a contribution towards provision of affordable housing, in accordance with Development Plan policy and Supplementary Guidance.

28. The development shall be in accordance with the requirements of Development Plan policy and Perth & Kinross Council's Supplementary Guidance in relation to primary education infrastructure.

Reason: To ensure that the development approved makes a contribution towards increasing primary school provision, in accordance with Development Plan policy and Supplementary Guidance.

29. The development shall be in accordance with the requirements of Development Plan policy and Perth & Kinross Council's Supplementary Guidance in relation to transport infrastructure.

Reason: To ensure that the development approved makes a contribution towards improvements of transport infrastructure, in accordance with Development Plan policy and Supplementary Guidance.

30. Prior to the commencement of development mitigation measures for the full length of Scarth Road are to be submitted and agreed to the satisfaction of the Planning Authority to accommodate additional traffic generation. The agreed detail shall thereafter be implemented prior to the completion of development.

Reason: In the interests of road safety and residential amenity.

31. Scarth Road and Fairview are not to be used for construction traffic. Construction access to be taken from the new Primary Access Road, which will require to be developed first.

Reason: In the interests of road safety and residential amenity.

B JUSTIFICATION

The proposal is considered to remain broadly in accordance with the Development Plan overall and there are no material considerations which justify refusal of the planning application.

C PROCEDURAL NOTES

The existing Section 75 tied to planning permission 17/00847/IPM is required to be updated and/or modified as the agreement does not have a “future proofing” clause to accommodate for subsequent changes to the development, covering Section 42 applications or renewal of permission and other related planning changes. Consent shall not be issued until the Section 75 Agreement has been modified, signed and registered to take account of this application. The legal agreement should be concluded and completed within 4 months of the date of any Committee approval. Failure to conclude a legal agreement within 4 months will result in the planning application being re-assessed and could be ultimately recommended for refusal under delegated powers.

D INFORMATIVES

1. 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.
2. The applicant is advised that in terms of Sections 56 of the Roads (Scotland) Act 1984 he/she/they must obtain from the Council, as Roads Authority, consent to open an existing road or footway prior to the commencement of works. Information on junction types, requirements for Vehicular Access consents (VA1) and application forms are available at www.pkc.gov.uk/vehicleaccess. Advice on the disposal of surface water should be sought at the initial stages of design from Scottish Water and the Scottish Environment Protection Agency.
3. The applicant is advised that in terms of Sections 21 of the Roads (Scotland) Act 1984 he/she/they must obtain from the Council as Roads Authority Road Construction Consent (RCC) 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 Environmental Protection Agency. Please note that a fee is chargeable for the processing of RCC applications.
4. The applicants are advised that they must apply to the Roads Authority for construction consent to form a new street. Please contact The Construction and Maintenance Manager, The Environment Service, Perth and Kinross Council, Pullar House, Perth.
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.

6. 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
7. The Council's Community Waste Adviser in the Environment Service should be contacted to clarify the bin storage and recycling requirements for the development.
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. The applicant is reminded that, should any protected species be present a licence may be required from NatureScot 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.
10. The Council shall be immediately notified in writing if any ground contamination is found during construction of the development, and thereafter a scheme to deal with the contamination shall be submitted to, and agreed in writing by, the Council as Planning Authority.
11. The applicant should be aware that any proposal for noise or vibration sensitive use adjacent to the railway may result in neighbour issues arising. Every endeavour should be made by the applicant in relation to adequate protection of the uses contained within the site.
12. The proximity and type of planting proposed are important when considering a landscaping scheme. Leaf fall in particular can greatly impact upon the reliability of the railway in certain seasons. Network Rail can provide details of planting recommendations for neighbours.
13. Where trees/shrubs are to be planted adjacent to the railway boundary these should be positioned at a minimum distance from the boundary which is greater than their predicted mature height. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary.
14. Buildings should be situated at least 2 metres from Network Rail's boundary. The applicant must ensure that the construction and subsequent maintenance of proposed buildings can be carried out without adversely affecting the safety of, or encroaching upon, Network Rail's adjacent land.

15. Construction works must be undertaken in a safe manner which does not disturb the operation of the neighbouring railway. Applicants must be aware of any embankments and supporting structures which are in close proximity to their development.
16. Details of all changes in ground levels, laying of foundations, and operation of mechanical plant in proximity to the rail line must be submitted to Network Rail's Asset Protection Engineer for approval prior to works commencing on site. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. by a "possession" which must be booked via Network Rail's Asset Protection Engineer and are subject to a minimum prior notice period for booking of 20 weeks.
17. The developer is advised to contact Sophie Nicol, Archaeologist to discuss terms of reference for work required Tel 01738 477027.
18. For guidance on cycle paths please see Sustrans Design Manual Handbook for cycle-friendly design (drawings on P21-22).
19. Please consult the Street Naming and Numbering Officer, The Environment Service, Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth PH1 5GD.
20. Any structures & all walls/embankments that act singly or together to support a carriageway or footpath & retain over 1.5m fill will require Technical Approval.
21. The applicant is advised that any proposed signage will require a further application to be submitted for advertisement consent unless it benefits from express consent as per the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984.
22. This development will require the 'Display of notice while development is carried out', under Section 27C(1) of the Town and Country Planning Act 1997, as amended, and Regulation 41 of the Development Management Procedure (Scotland) Regulations 2013. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. In accordance with Regulation 41 the notice must be:
 - Displayed in a prominent place at or in the vicinity of the site of the development
 - Readily visible to the public
 - Printed on durable material.
23. The applicant should be aware of the requirements of the Council's Environment and Regulatory Services in relation to waste collection from the site and should ensure adequate measures are provided on site to allow for the collection of waste.

Background Papers: 8 letters of representation
Contact Officer: Gillian Peebles
Date: 10 February 2023

DAVID LITTLEJOHN
HEAD OF PLANNING & DEVELOPMENT

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