

Perth and Kinross Council
Planning & Development Management Committee – 12 February 2020
Report of Handling by Head of Planning & Development (Report No. 20/44)

PROPOSAL: Erection of 59 dwellinghouses and 8 flats, formation of drainage infrastructure, landscaping and associated works

LOCATION: Land at Pitdownies Farm, Manse Road, Milnathort

Ref. No: [19/00522/FLM](#)

Ward No: P8 - Kinross-shire

Summary

This report recommends refusal of the application for the erection of 59 dwellinghouses, 8 apartments and associated infrastructure on land at Pitdownies off Manse Road Milnathort. The site is allocated for housing within the Perth and Kinross Local Development Plan 2019 under site reference H48.

The development is considered to be contrary to the relevant provisions of the Development Plan and there are no material considerations that justify setting aside the Development Plan.

BACKGROUND AND DESCRIPTION OF PROPOSAL

- 1 The site measuring 5.2 hectares is located at the western edge of Milnathort village with housing to the east and south-east, the M90 motorway to the north-west and Back Burn to the south-west. The site which currently provides grazing land is split into two distinct levels with field accesses to the upper level via Manse Road and the lower level via Curlers Crescent.
- 2 In the Kinross Area Local Plan 2004 the site was designated an allocated housing site. It was also allocated for residential use in the Local Development Plan 2014 (LDP). In the recently adopted Perth & Kinross Local Development Plan 2 (LDP2) this allocation has been continued (Site H48) with an indicative density range of 38-60 dwellings. Planning Permission in Principle (PPP) (07/00442/OUT) for residential development was granted in March 2008. Since the initial approval the time limit for the submission of the detail and for the commencement of development has been varied and approved under subsequent applications 11/01537/IPM, 13/00436/IPM, 15/00240/IPM and 18/00838/IPM.
- 3 The applicant, Springfield Homes, has however chosen to apply for full planning application for 59 dwellings and 8 flats, rather than applying for the Approval of Matters Specified by Condition (AMSC). The proposed development consists of the following:

Open Market

- 22 x 3 bedroom dwellinghouses
- 26 x 4 bedroom dwellinghouses
- 3 x 5 bedroom dwellinghouses

Affordable Housing

- 2 x 2 bedroom dwellinghouses
- 6 x 2/3 bedroom dwellinghouses
- 4 x 1 bedroom apartments
- 4 x 2 bedroom apartments

Infrastructure

- 2 access roads
- SUDs pond
- Open space
- Play area
- Woodland and core path

- 4 Following a requested change in the submitted plans, vehicular access to the site, following construction, is proposed via both Curlers Crescent and now Manse Road with pedestrian/cycling access also proposed from Manse Road to the core path along the northern boundary of the site.

ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

- 5 Directive 2011/92/EU (as amended) requires the 'competent authority' (in this case Perth and Kinross Council) when giving a planning permission for large-scale projects to do so in the knowledge of any likely significant effects on the environment. The Directive therefore sets out a procedure that must be followed for certain types of project before 'development consent' can be given.
- 6 This procedure, known as Environmental Impact Assessment (EIA), is a means of drawing together, in a systematic way, an assessment of a project's likely significant environmental effects. The EIA Report helps to ensure that the importance of the predicted effects, and the scope for reducing any adverse effects, are properly understood by the public and the relevant competent authority before it makes its decision.
- 7 An EIA screening exercise (18/02233/SCRN) was carried out in January 2019 for residential development, open space and associated infrastructure works. It concluded that EIA was not required.

PRE-APPLICATION CONSULTATION

- 8 Due to the scale of the proposal it is classed as a Major development in terms of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. As a detailed planning application was submitted the applicant was required to undertake formal pre-application consultation (PAC) with the local community. The content of the Proposal of Application Notice

(PoAN) was approved in December 2018 and a public consultation was held at Orwell Parish Church in Milnathort on 24 January 2019.

- 9 Public comment during the PAC process, as outlined in the PAC Report, related to:

- Shortage of a range of house types;
- Increasing pressure on local facilities;
- Road network capacity and parking limitations; and
- Flood risk.

- 10 The PoAN was reported to the Planning and Development Management Committee commented on 13 February 2019 (Report: 19/43). Members noted the report and made comment on:

- Particular attention to be paid to the education capacity of Milnathort Primary School;
- Ensure a consultation response is received from NHS Tayside and/or Integrated Joint Board with regard to the available capacity for the provision of primary health care in the Kinross/Milnathort area;
- The phasing of development is important, and details should be made available;
- Ensure full engagement with roads on the implications of the proposal on the local road network particularly with regard to the construction of the development alongside the construction of an adjacent residential development at Pace Hill;
- Ensure any density increase complies with LDP policies whether LDP or LDP2; and
- Ensure cognisance is taken of the implications of the amount of development happening in Kinross including the speed of development.

NATIONAL POLICY AND GUIDANCE

- 11 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

- 12 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

- 13 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.
- 14 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
 - Affordable Housing: paragraphs 126 -131
 - Valuing the Natural Environment: paragraphs 193 – 218
 - Maximising the Benefits of Green Infrastructure: paragraphs 219 – 233
 - Managing Flood Risk and Drainage: paragraphs 254 – 268
 - Promoting Sustainable Transport and Active Travel: paragraphs 269 - 291
- 15 The following Scottish Government Planning Advice Notes are likely to be of relevance to the proposal:
- PAN 2/2010 Affordable Housing and Housing Land Audits
 - PAN 3/2010 Community Engagement
 - PAN 1/2011 Planning and Noise
 - PAN 40 Development Management
 - PAN 51 Planning, Environmental Protection and Regulation
 - PAN 60 Planning for Natural Heritage
 - PAN 61 Planning and Sustainable Urban Drainage Systems
 - PAN 63 Waste Management Planning
 - PAN 65 Planning and Open Space
 - PAN 67 Housing Quality
 - PAN 68 Design Statements
 - PAN 75 Planning for Transport
 - PAN 77 Designing Safer Places
 - PAN 79 Water and Drainage
 - Planning and Waste Management Advice (July 2015)

Designing Streets 2010

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

Creating Places 2013

- 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.

National Roads Development Guide 2014

- 18 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

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

TAYPlan Strategic Development Plan 2016-2036

- 20 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.”

- 21 The following policies of TAYplan 2016 are of particular importance in the assessment of this application.

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

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

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

- Policy 1: Placemaking
- Policy 2: Design Statements
- Policy 5: Infrastructure Contributions
- Policy 6: Settlement Boundaries

- Policy 14B: Open Space within New Developments
- Policy 15: Public Access
- Policy 17: Residential Areas
- Policy 20: Affordable Housing
- Policy 23: Delivery of Development Sites
- Policy 25: Housing Mix
- Policy 26: Archaeology
- Policy 27A: Listed Buildings
- Policy 32: Embedding Low and Zero Carbon Generating Technology in New Developments
- Policy 38A: International Nature Conservation Sites
- Policy 38B: National Designations
- Policy 38C: Local Designations
- Policy 40B: Trees, Woodland and Development
- Policy 41: Biodiversity
- Policy 42: Green Infrastructure
- Policy 46: Loch Leven Catchment Area
- Policy 52: New Development and Flooding
- Policy 53: Water Environment and Drainage
- Policy 54: Health and Safety Consultation Zone
- Policy 56: Noise Pollution
- Policy 57: Air Quality
- Policy 58: Contaminated Land and Unstable Land
- Policy 60: Transport and Accessibility Requirements

LDP 2019 Allocation – Site Reference H48

- 23 The site area for the allocation is 3.0 hectares, with an indicative allocated range of 38-60 dwellings. The Site-Specific Developer Requirements are:

- Flood Risk Assessment and Drainage Impact Assessment;
- Water margin enhancement and minimum 6m buffer strip along Back Burn;
- Road access to be formed from both Manse Road and Curler's Crescent; and
- Noise attenuation measures. Provision of woodland screen planting along the western edge of Milnathort including multi-user core path.

SITE HISTORY

- 24 The following planning history is of relevance.

[04/02375/FUL](#) Erection of 64 dwellinghouses. Application withdrawn June 2005.

[07/00442/OUT](#) Proposed residential development with associated landscaping, car parking, infrastructure and community woodland with footpath links (in outline). Application approved March 2008.

[11/00004/PAN](#) Proposal of Application Notice (PoAN) for modification of Condition 2 of planning consent 07/00442/OUT to extend the time limit for the submission of matters specified in conditions to five years. Content of PoAN approved April 2011.

[11/01537/IPM](#) Modification of planning condition 2 (07/00442/OUT) to extend the time limit. Application Approved January 2012.

[13/00436/IPM](#) Modification of conditions 2 and 3 of planning permission 07/00442/OUT to extend the time limit. Application approved July 2013.

[15/00240/IPM](#) Variation of conditions 1 and 2 of permission 13/00436/IPM (modification of 07/00442/OUT residential development) to allow additional time for the submission of applications for the approval of matters specified in conditions, and the commencement of development. Application approved May 2015.

[18/00338/IPM](#) Application under Section 42 of the Town and Country Planning (Scotland) Act 1997 to develop land without complying with Conditions 1 and 2 of planning permission 15/00240/IPM (modification of 07/00442/OUT residential development). Application approved August 2018.

[18/00014/PAN](#) Proposal of Application Notice (PoAN) for residential development, landscaping and associated works. Content of PoAN approved December 2018.

18/02233/SCRN EIA Screening request for residential development, open space and associated infrastructure works. Decision Issued January 2019 confirming that EIA was not required.

CONSULTATIONS

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

External

- 26 **Scottish Environment Protection Agency (SEPA)** - No objection to the proposal.
- 27 **Transport Scotland** - No objection to the proposal subject to road safety conditions.
- 28 **Scottish Water** - No objection to the proposal.
- 29 **National Health Service Tayside (NHST)** - No objection to the proposal. However, request that there is consideration for contributions to be made towards providing additional clinical accommodation within Kinross Medical Practice.

- 30 **Perth and Kinross Heritage Trust** - No objection but advise that site is in an area of moderate archaeological potential, so requires a condition to investigate and record this.
- 31 **INEOS FPS Ltd** - No objection as no impact on their pipeline infrastructure.
- 32 **Milnathort Community Council** - Object to the proposal on the grounds of numbers, density, providing only one vehicular access, traffic congestion and pressure on local schools and medical centre.

Internal

- 33 **Community Greenspace** - Supportive of the public open space, core path upgrade, additional tree planting and location of proposed play area.
- 34 **Environmental Health** - Following additional noise assessment and the provision of an acoustic bund at the north eastern corner there is no objection on noise. There are no air quality concerns.
- 35 **Land Quality** - No response received.
- 36 **Structures and Flooding** - No objection of flood risk and drainage grounds subject to a drainage condition.
- 37 **Transport Planning** - No objection to the proposal.
- 38 **Development Negotiations Officer** - Financial contributions are required towards Milnathort Primary School and an affordable housing contribution of 16 units on-site.
- 39 **Biodiversity/Tree Officer** - Whilst no objection in principle further requested information has not been submitted and is outstanding.
- 40 **Strategy and Policy** - Initially raised concern about the lack of a second vehicular access and higher density as per the site-specific criteria in the LDP. The second vehicular access has been addressed but the proposed density remains an issue.
- 41 **Community Waste** - No objection to the proposal.

REPRESENTATIONS

- 42 The following issues were raised in the 168 representation(s) received:
- Contrary to Development Plan
 - Cumulative impact with other developments
 - Too high density/housing numbers and design is out of character with area
 - Segregate site from village
 - Traffic congestion and road safety

- Flood risk
- Adverse impact on infrastructure – roads, parking, nurseries, schools, health centre, dentists, foul water etc.
- Should be accessed via the A911
- Too close to M90
- Impact on foul water infrastructure
- Overlooking and privacy
- Loss of green and open space
- Impact on wildlife habitat and damage to existing trees
- Impact on Loch Leven
- Increased pollution (including noise)
- Loss of light and light pollution
- Lack of employment opportunities in area. Houses just for commuters

43 These issues are addressed in the Appraisal section of the report. The following matters were raised that are not material to the determination of a planning application:

- Devalue of property
- Lack of developer donation to the community including School Parents Association, Milnathort in Bloom etc.
- Damage to existing properties

ADDITIONAL STATEMENTS

44	Environment Statement	Not Required
	Screening Opinion	Submitted
	Environmental Impact Assessment	Not Required
	Appropriate Assessment	Not Required
	Design and Access Statement	Submitted
	Reports on Impact or Potential Impact	<ul style="list-style-type: none"> • Flood Risk Assessment • Design & Access Statement • Drainage Assessment • Archaeology Assessment • Landscape and Visual Impact Assessment • Borehole Report; • Habitat Survey • Geo-environmental Investigation • Noise Report • Air Quality Assessment • Tree Report • Landscape Plan

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

Principle

- 46 The principle of residential development of the site is well established through the allocation in LDP2 (and Local Development Plans since 2004) and numerous Planning Permissions in Principle permissions since 2007. In addition, TAYplan Policy 1 – Locational Priorities seeks to focus most development to the region's principal settlements. Milnathort is identified as a Tier 2 Settlement with the potential to make a major contribution to the regional economy but will accommodate a smaller share of the additional development.
- 47 The principle of residential development is thus established. It is, however, necessary to undertake an assessment of the detail of this proposal.

Design and Layout

- 48 The applicant has submitted a supporting Design & Access Statement, as required for an allocated site under LDP2 - Policy 2 and Supporting Planning Statement. A high number of representations object to the proposal on the basis that the number of units (67) exceeds the higher end of the capacity range (38-60 units) in the LDP2 site allocation.
- 49 Policy 1D – Placemaking in LDP2 advises that allocated housing sites have a indicative capacity range identified. LDP2 further advises that proposals outside this range will be considered where they are adequately justified by the applicant and when any associated impacts upon: infrastructure, open space and residential amenity can be successfully addressed. The proposed development of 67 units proposes a wide mix of unit sizes, ranging from 1 bedroom apartments to 5 bedroom detached units with the highest percentage 4 bedroom dwellings.
- 50 The majority of proposed rear gardens are in excess of the Council's minimum standards and will not compromise daylight or privacy of each other or any of the existing dwellings immediately adjacent to the site boundary. The proposed number of units can be physically accommodated within the site, and woodland is also proposed, as is enhanced core path provision, a SUDs pond, open space and a play area. However, the proposed layout contains pinch-points whereby the residential amenity, including privacy of several dwellings and flats, will be adversely affected. The proposed layout results in a close relationship between Plots 39 and 49 with Plot 38. The distance from the centre of the closest upper floor bedroom of Plot 39 to the nearest point of the mutual boundary Plot 38 is approximately 6.2m. Based on the same relative locations, the distance from Plot 49 to Plot 38 is approximately 8.0m (the obscured window of the bathroom of Plot 49 is approximately 6.2m). The window-to-

window distance from Plot 39 to Plot 49 is approximately 22.8m which would meet the guidance standard of 18m; however, this line of sight does cross over the garden ground of Plot 38 – resulting in views from the houses on Plots 39 and 49 in to the garden of Plot 38. Therefore, whilst the maximum distances for two of these plots meets the 18m standard, the layout would result in overlooking of Plot 38. The window-to-window distance from Plot 49 to Plot 38 is 17.5m, which is slightly below the 18.0m standard. This, together with the distance from the house on Plot 49 being 8.0m, would result in overlooking of the house and garden at Plot 38. This relationship causes overlooking between these plots, with Plot 38 being particularly affected. Even accounting for the difference in levels, this raises unacceptable overlooking and privacy issues due the distances and overbearing proximity between these houses. Plots 37, 38, 39 and 49 are positioned in such a way that garden sizes are reduced and due to level changes may make some garden area unusable, although they are still in excess of placemaking standards.

- 51 The introduction of the required second vehicular access from Manse Road has, however, resulted in some of the proposed flats to the north of the site having little usable and private amenity away from the road. The total rear and private amenity ground for both blocks of flats (A9-A12 and A13-A16) is approximately 175sqm, equating to 22sqm per flat (assuming the area is accessible for all units). Unlike dwellinghouses, there is no specific guidance for amenity space for flats, however, a reasonable area of ground should be provided, allowing for sitting out, bin storage and clothes drying. In this context is considered that the area provided is not suitable to fulfil this function and is therefore unacceptable. The situation is most acute for block A9-A12, which has significantly tighter grounds, fronts closer to the proposed road and backs on to the required noise attenuation bund.
- 52 Overall, it is considered that the residential amenity of these 8 properties will not be to a standard that can be supported by the Planning Authority. These layout deficiencies serve to highlight the fact that the proposal is 7 dwellinghouses above the maximum threshold specified in the LDP allocation and no justification has been made by the applicant to support a scale of development that would not provide the required residential amenity standards. Therefore, the proposal does not accord with LDP Policy 1D.
- 53 Beyond the areas discussed above, the proposed layout provides a reasonable design solution for the site; with open space at the entrance off Curlers Crescent, including a play area, further areas to the northwest and southwest and paths linkages throughout. In terms of the proposed design of each house type, there is an acceptable range of designs and materials, reflective of recent developments elsewhere in Perth and Kinross. Finishing materials are dry dash render with slate grey flat concrete tile roofs and grey uPVC window frames which is also acceptable. No Phasing Plan has been submitted with the application as it will be built out as one development.
- 54 However, for the reasons outlined above, the density and siting of some of the proposed development will have an unacceptable impact on the residential amenity of new occupiers in terms of too small usable garden areas and overlooking and privacy issues. These are not of a standard that would be in

accordance with LDP Policy 1 – Placemaking. This also addresses the comment raised by members when the PoAN was reported to committee on 13 February 2019 that the proposed density should comply with the LDP.

Landscape and Visual Amenity

- 55 A Landscape and Visual Impact Assessment (LVIA) supports the application. LDP Policy 39 - Landscape requires consideration of development and land use change to have regard to distinctive characteristics and to maintain and enhance landscape qualities.
- 56 The location and setting of the proposed development was considered through the LDP2 allocation process. It fits well with the existing settlement pattern of housing within the immediate area and no landscape features of significant importance will be lost. The proposal offers opportunities to enhance the visual context, with the additional of structure planting on the northwest boundary with the M90 and planting adjacent to the substation to the north and existing properties to the east. There is an improvement of the core path network, where path MTHT/135 would be routed through a woodland area separated from the M90.
- 57 Visually the proposed development will not be readily seen from within most of the area included within the 2km study area within the applicant's LVIA. It is noted however that development will be visible in some areas, particularly close to the development – including local streets and the M90. It is considered that these views do not cause adverse landscape or visual impact.
- 58 The proposed entrance to the development from Curer Crescent will be visible as the current grassland will be replaced by a road and open space on either side. The proposed dwellings are set back from the end of Curlers Crescent so as to retain some openness. Initially, the view from the location is adverse but once the open space and trees mature a more attractive setting will be created than at present. People using the enhanced Core Path MTHT/135 (as amended by the proposal) will also see the development at close range. The development is unlikely to be visible from Manse Road, except at its northern end, where pedestrian and cycling access is proposed.
- 59 From the south-west, the proposed development will be visible from the A91 Stirling Road, on the approach into Milnathort from the east. In the short term this impact will give rise to adverse effects, however, this will reduce over time as the proposed tree planting matures.
- 60 Overall, the LVIA concludes that the effects of the proposed development on local landscape character and visual amenity will be limited. While it is clear some landscape and visual impact will occur, the findings of the LVIA are supported. The proposal therefore will not cause unacceptable landscape or visual impacts and complies with LDP Policy 39 – Landscape.

Residential Amenity

- 61 Residential amenity requires to be considered under LDP Policy 1 – Placemaking and Policy 17 – Residential Areas. Policy 1D requires consideration of impacts from housing developments on itself and to also consider associated impacts on infrastructure and open space. The residential amenity within the proposed development has been discussed previously and found that 8 of the proposed properties are likely to have inadequate residential amenity.

Existing Residential Amenity

- 62 Any development will have some impact on the residential amenity in an area and it is the role of the Planning Authority to ensure the impact is acceptable. The submitted traffic assessment estimates approximately 35 vehicle trips generated in the AM & PM peak periods. This equates to a 2% increase in traffic on the local road network in particular Manse Road. This is deemed by Transport Planning to have minimal impact on existing traffic flow in the area. Consequently, it is considered that there would be a minimal impact on existing residential properties in the area. The proposal is therefore considered to comply with LDP Policy 17 – Residential Areas as the proposed use and impact is considered acceptable.
- 63 Specific LDP policies consider noise and air quality; Policy 56 and Policy 57 respectively. Addressing noise attention is also a specific requirement of the H46 allocation.

Noise

M90 Road Traffic

- 64 An Addendum Noise Assessment was submitted, following initial concerns by Environmental Health in relation to impact amenity of several gardens (for plots 12-21 and 32-36) along the western edge adversely affected by road traffic noise from the M90.
- 65 The Addendum addresses this impact by recommending mitigation in the form of an earth bund along the northern boundary of the site and the installation of close boarded fencing to garden boundaries. The proposal was subsequently revised to incorporate the bund and amended fences, which will now reduce the noise levels to an acceptable level of under 55db in all garden areas. Therefore, the bund and fences would satisfactorily address both the requirements of Policy 56 - Noise Pollution and the site specific requirement for noise attenuation for the M90 for garden areas without an adverse landscape and visual impact. There will be a changed landscape and visual impact arising from the introduction of this bund, which has not been assessed in the LVIA. However, it is considered that this would not create an adverse impact, given the slope of the ground, proposed dwellings and strategic tree planting proposed.

- 66 The Noise Assessment and Addendum advise that internal dwelling noise levels for 53 of the 67 properties would exceed the relevant British Standard guidance (BS:8233:2014) for daytime levels of 35db and 64 units would exceed the 30db night time level. The assessments propose mitigation in the form of windows being closed, with mitigation through low-sound reduction double glazed windows and trickle vents. This proposal would be acceptable, as confirmed by Environmental Health, subject to a planning condition securing suitable window and ventilation if planning permission is granted.
- Substation*
- 67 The Noise Assessment identified unacceptable noise levels for Plot A5 and A8 adjacent to the substation. The Addendum advises that to achieve acceptable night-time levels at Plot A8, this would require windows to be closed. Environmental Health state that this approach would not be acceptable.
- 68 Further consideration of this matter, the Addendum (Section 5) recommends mitigation measures, such as: the re-orientation of the houses on plots A5 and A8 by 90 degrees, so that gable ends are adjacent to the substation; and a 1.8 metre closed boarded fence be erected around the plot boundaries closest to the substation. With the addition of suitable window and ventilation specifications and these other measures, the calculated internal noise levels, with windows open at Plot A8, would now achieve the required night time level of 25dB.
- 69 The proposed layout changes, together with mitigation, will ensure a suitable amenity with respect to noise is provided internally for all properties. The proposal therefore addresses the requirements of LDP2 Policy 56 – Noise Pollution.

Air Quality

Construction

- 70 The submitted Air Quality Assessment (AQA) concludes that there are up to 30 high-sensitive receptors within 50m of the proposed earthworks, with a low to medium risk of dust impacts without mitigation in place during construction.
- 71 An updated AQA (Appendix E) recommends mitigation measures to reduce the risk of dust during construction and recommend these be included within a Construction Environmental Management Plan (CEMP) for the development. This would appropriately address the impacts, in accordance with LDP2 Policy 57.

Operational

- 72 The impact on air quality objective levels was assessed for the traffic generation from the proposed housing development and the existing M90 on future and existing sensitive receptors. The reports conclude that the overall significance on air quality with the development would be negligible and not significant. Environmental Health agree with this conclusion and thus the proposal is compliant with LDP Policy 55 – Air Quality Management Areas.

Roads and Access

- 73 A Traffic Assessment has been submitted which has been assessed by both Transport Scotland and the Council's Transport Planning team. Originally, the proposal proposed vehicular access from Curlers Crescent only and a multi-user path connecting at the top (north western) end of Manse Road. However, one of the site-specific criteria within the allocation in LDP2 is for a further vehicular access from Manse Road. This has now been provided by the applicant without the proposed dwelling numbers being affected.
- 74 Transport Scotland offer no objection, subject to specific conditions on: lighting, screening, drainage and a travel plan, all to ensure the integrity of the M90 motorway is not compromised.
- 75 Transport Planning's assessment notes the comments from objectors on the matter of construction traffic and should permission be granted recommends a condition to control such movements to minimise impact on traffic flows in conjunction with the nearby Pace Hill development. This addresses two of the comments raised by members when the PoAN was reported to committee on 13 February 2019.
- 76 In terms of road width and on-street parking, the current roads outwith the site are public and have no restrictions on vehicle type placed upon them. On-street parking also helps act as informal traffic calming, ensuring lower speeds in a residential area.
- 77 The traffic assessment estimates approximately 35 vehicle trips generated in the AM & PM peak periods. As stated in paragraph 62 this equates to be a 2% increase in traffic and deemed to have minimal impact on existing traffic flow in the area. Overall, the proposal is considered to be compliant with LDP Policy 60 - Transport Standards and Accessibility Requirements.

Public Access

- 78 LDP Policy 15 requires consideration of public access; development that would have an adverse impact on core paths will not be supported. The proposal seeks to re-route and better define Core Path MTHT/135 on the western boundary adjacent to the M90, within a proposed new woodland area. This proposal is supported by the Council's Community Greenspace team and considered to meet the objectives of this policy and the site-specific requirements for Site H48.
- 79 It is, however, unclear what the actual gradient of a 2-metre-wide core path along the western perimeter of the site will be. Based on the proposed levels there would be an approximate 12-metre (4.4%) drop in levels over approximately a 275-metre distance. Transport Planning have advised that the National Roads Development Guide recommend a gradient of any footpath should not exceed 5% with a nominal maximum of 8%. Should planning permission be granted Transport Planning have recommended conditional control to agree the final gradient.

Drainage and Flooding

- 80 A Flood Risk Assessment (FRA) and Drainage Assessment were submitted to address the requirement of Policy 52 and the site-specific requirement in this regard. Both documents have been examined by both SEPA and the Council's Structures and Flooding team.
- 81 The Council's Structures and Flooding team advises that there is a history of flooding in Milnathort, from both fluvial and pluvial sources, with a flood protection scheme in place along the Fochy Burn, downstream of the site. They consider the FRA is satisfactory and that the recommended Finished Floor Levels (FFLs) are acceptable (119.8m AOD minimum). This meets the Council's requirements of FFLs being set above the 1:200 year plus climate change, plus 600mm freeboard level.
- 82 SEPA and Structures and Flooding are generally satisfied with the proposed disposal of surface water from the site. Although the latter request that the final detailed design of the drainage is agreed with them, which could be addressed through a planning condition. The proposal therefore raises no concerns in respect of LDP Policy 52 – New Development and Flooding.

Waste Collection

- 83 A suitable location for the provision of a mini glass point is required, to complement the existing kerbside recycling services offered in the area. Again, this could be addressed through a planning condition.

Cultural Heritage

- 84 The site lies within an area considered to have moderate archaeological potential. This requires assessment against LDP Policy 26 - Archaeology. The submitted Archaeological Assessment concludes that there is potential for unrecorded features, for which a programme of investigative work prior to development should be considered.
- 85 PKHT agree with this conclusion and recommend a condition. This would assess the character, condition and significance of any archaeological deposits that may be present, and the extent to which the development will impact upon them. This will then inform a mitigation strategy, if required, to either preserve significant deposits within the development or for further archaeological works, consisting: excavation, post-excavation analysis and publication of results. The use of a planning condition would satisfactorily address the requirements of LDP Policy 26 - Archaeology.

Natural Heritage and Biodiversity

- 86 LDP Policy 38A - Environment and Conservation: International Nature Conservation Sites requires consideration for the possible impacts of development on internationally protected sites and Policy 40B - Forestry, Woodland and Trees: Trees, Woodland and Development requires the possible impact on trees from development to be considered. An Extended Phase 1

Habitat Survey and Tree Survey submitted has been assessed by the Council's Biodiversity Officer.

Loch Leven

- 87 Loch Leven is an internationally and nationally designated site located 1.8km away. It is a designated Special Protection Area (SPA), due to its importance for migratory birds and also a Ramsar site, being a wetland of international importance. It is nationally designated as a Site of Special Scientific Interest (SSSI) and is a National Nature Reserve. The submitted Habitat Survey demonstrates the proposed development will not adversely affect the integrity of Loch Leven and its qualifying interests and that an Appropriate Assessment is not required.
- 88 The site is physically connected to Loch Leven via the Fochy Burn. As such a Construction Method Statement (CMS) should be submitted to ensure the Burn will not be subject to any run-off or sedimentation. This could be controlled by way of a pre-commencement condition and included in the CEMP.
- 89 In addition, leaving a wide buffer strip and retaining as much of the current riparian vegetation as possible is recommended, and this is outlined in the submitted Habitat Survey and can be controlled by way of a condition.

Trees

- 90 The Council supports proposals which protect existing trees, especially those with high natural, historic and cultural heritage value. The submitted Tree Survey is considered robust and concludes that to accommodate the proposed development, two hawthorn trees require to be felled along with 0.02Ha of an existing tree group. The submitted Landscaping Scheme indicates that to mitigate this, 21 individual trees and 0.2Ha of structured tree planting will be provided and will significantly increase tree coverage on site. The Landscaping Scheme does include several Ash trees, which are now prohibited due to Ash Dieback disease in the UK. Thus, an alternative native species would be required. Overall though the proposed Landscaping Scheme is considered to meet the objectives of LDP Policy 40B - Forestry, Woodland and Trees: Trees, Woodland and Development.

Protected Species

- 91 The submitted Habitat Survey concludes that the site has low potential to be used by European Protected Species and is also of low habitat diversity and biodiversity value. However, there is an area of marshy grassland that requires further investigation. Such information has not been submitted and assessed.
- 92 A number of biodiversity enhancing measures are recommended in the Extended Phase 1 Survey, but it is unclear from the wider submission whether these are to be implemented. The Council's Biodiversity Officer recommends a Site Biodiversity Action Plan, outlining biodiversity enhancing measures that will be implemented, to be submitted to the Planning Authority to further assess these matters. The recommendations included in Sections 4 of both the Tree

Survey and Extended Phase 1 Survey Report should be incorporated into this Biodiversity Action Plan. To date this has not been submitted for assessment.

Breeding Birds

- 93 Swifts have been recorded in the area and are a Scottish Government priority species, protected under the Environmental Liability Directive. This development could positively contribute towards swift conservation by incorporating swift bricks into the properties secured by condition.

Health Provision

- 94 When the PoAN was reported to committee on 13 February 2019, Members requested the NHST to be consulted. In addition, a high number of public representations refer to the capacity of local infrastructure and the local health centre. In their consultation response, NHST do not object to the application, however, they indicate a potential impact on the local GP practice and have requested a developer contribution to be considered.
- 95 Particularly NHST and Tayside Health Care and Social Partnership (HCSP) indicate concern over the longer-term sustainability of services in the area. They cite that, with an increase of population and service demand over the next few years, accounting for the cumulative impact of other residential development within the catchment, further patient numbers could present difficulties on what is already a busy GP practice in Milnathort. They advise that they are considering the possibility of recruitment in the future, to address this issue. However, it must be noted that staff recruitment and any difficulties associated to that is outwith the remit of the planning system to address, however, an assessment of the impact of the proposed development on infrastructure is a material consideration. This issue is discussed below.
- 96 The site is allocated in LDP2 for between 38 and 60 dwellings and NHST were formally consulted during the plan-making process. However, neither NHST or the HCSP provided detailed feedback at the time of the site being allocated within LDP2 (or during the approval of the extant PPP) on what the impact will be on the local infrastructure would be and likely developer contribution that would be required to mitigate this. As such, whilst there may be an impact on the local health care infrastructure, although this has not been set out in a manner which clearly quantifies an infrastructure deficit, the opportunity to seek developer contribution towards healthcare infrastructure provision for the extent of development defined in the LDP2 allocation has been missed and it would not be reasonable to now seek this retrospectively. Conversely, the potential impact arising from the additional 7 units, over the LDP2 range maximum of 60 units only, would provide opportunity to consider a contribution towards community infrastructure provision, as this has not been tested/resolved through the plan process. However, as the recommendation is for refusal, it is not necessary to consider this matter further at this stage. In any case, any contributions would be limited as they could only be applied to the 7 affected units. This matter would need to be addressed, using an appropriate methodology, should the application be approved.

- 97 It is recognised that NHST have identified potential effects on the Kinross Medical Centre that would arise from the development. However, for the reasons discussed above, it is appropriate to consider this matter within the parameters of LDP2 and the plan process. The development of the site should be assessed based on the requirements of LDP2 Policy 5 and the H48 Site Specific Requirements and, within the identified capacity range, it is not considered appropriate to seek developer contributions for health infrastructure.

Developer Contributions

- 98 LDP Policy 5 - Infrastructure Contributions requires consideration of the individual or cumulative impact of new development on infrastructure and facilities and to secure contributions to address this impact where the development exacerbates impacts or generates additional need. The proposal requires a primary education contribution (Milnathort Primary School) to help facilitate any required expansion. This would equate to a total contribution of £324,615 (50.25 units at £6,460 each). This addresses one of the comments raised by members when the PoAN was reported to committee on 13 February 2019.
- 99 In addition to a requirement for 16 Affordable Housing units on site, a commuted sum (£14,250) equal to 0.75 of an affordable housing unit is also required. A Section 75 Legal Agreement would cover these issues and future maintenance of the proposed open space and play area.

Economic Impact

- 100 The impact to the local economy both during construction and occupation will be reasonable with additional available expenditure on local facilities and services.

LEGAL AGREEMENTS

- 101 Should planning permission be granted, the decision notice shall not be issued until such time as the required Developer Contributions have been secured or paid in full.
- 102 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 contribution, 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.

DIRECTION BY SCOTTISH MINISTERS

- 103 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

- 104 To conclude, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, there is a conflict with one site-specific criteria in the allocation, in that the number of dwellings is higher than the maximum number specified in the LDP and no adequate justification for the higher number of dwellings has been provided by the applicant.
- 105 The resultant impact of the higher density is that the residential amenity of some of the properties would be adversely affected with privacy and overlooking issues for some of the dwellings and a lack of amenity space for some of the proposed flats. In addition, certain biodiversity information requested the Councils Biodiversity Officer remains outstanding. Therefore, it is considered that the proposed development would conflict with the Development Plan and thereby not supportable.
- 106 Accordingly, the proposal is recommended for refusal.

RECOMMENDATION

Refuse the application for the following reasons:

- 1 The Proposal is contrary to the Perth and Kinross Local Development Plan 2 (2019) Policy 1 – Placemaking, as the proposed scale of development would be an overdevelopment of the site and would result in an unacceptable impact on the proposed residential amenity available to occupants of Plots 38, A9, A10, A11, A12, A13, A14, A15 and A16. Further, no information has been provided to justify a scale of development that does not provide the required residential amenity standards.
- 2 The proposal is contrary to the Perth and Kinross Local Development Plan 2 (2019) Policy 41 – Biodiversity in failing to provide a suitably up to date Habitat Survey and associated Biodiversity Action Plan.

B JUSTIFICATION

The proposal fails to fully accord with the Development Plan and there are no material considerations to justify a departure from the Development Plan.

Background Papers: 168 letters of representation
Contact Officer: Steve Callan Ext 75337
Date: 30 January 2020

DAVID LITTLEJOHN HEAD OF PLANNING & DEVELOPMENT

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