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Council Building
2 High Street
Perth
PH1 5PH

3 July 2018

A Meeting of the **Planning and Development Management Committee** will be held in the **Council Chamber, 2 High Street, Perth, PH1 5PH** on **Wednesday, 04 July 2018** at **10:00**.

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

BERNADETTE MALONE
Chief Executive

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

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

Members:

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

Planning and Development Management Committee

Wednesday, 04 July 2018

AGENDA

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

- 1 WELCOME AND APOLOGIES**
- 2 DECLARATIONS OF INTEREST**
- 3 DEPUTATIONS**
- 4 MINUTE OF MEETING OF THE PLANNING AND DEVELOPMENT MANAGEMENT COMMITTEE OF 6 JUNE 2018 FOR APPROVAL AND SIGNATURE (copy herewith) 5 - 14**
- 5 APPLICATIONS FOR DETERMINATION**
- 5(1) MAJOR APPLICATIONS**
- 5(1)(i) 17/00961/AMM - BLAIRGOWRIE - ERECTION OF 117 DWELLINGHOUSES, GARAGES AND ASSOCIATED WORKS (APPROVAL OF MATTERS SPECIFIED IN CONDITIONS (AMSC) 10/01360/IPM), LAND OFF MAPLE PLACE, BLAIRGOWRIE 15 - 40**

This report has been withdrawn from the Agenda.
- 5(1)(ii) 17/01371/MWM - ESSENDY - APPLICATION UNDER SECTION 42 OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 TO DEVELOP LAND WITHOUT COMPLYING WITH CONDITION 1 OF PLANNING PERMISSION PK920831 (EXTRACTION OF SAND AND GRAVEL), MARLEE QUARRY, ESSENDY, BLAIRGOWRIE Report of Handling by Interim Development Quality Manager (copy herewith 18/227) 41 - 66**
- 5(1)(iii) 18/00338/IPM - MILNATHORT - 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), LAND AT PITDOWNIES FARM, MANSE
ROAD, MILNATHORT**

Report of Handling by Interim Development Quality Manager
(copy herewith 18/228)

- 5(1)(iv) 18/00412/AMM - EAST HUNTINGTOWER - ERECTION OF 43 DWELLINGHOUSES, FORMATION OF SUDS POND, LANDSCAPING AND ASSOCIATED WORKS (MATTERS SPECIFIED IN CONDITIONS 16/01348/IPM (PHASE 1)), LAND 100 METRES WEST OF GLOVER ARMS, EAST HUNTINGTOWER, PERTH** **67 - 96**
- Report of Handling by Interim Development Quality Manager
(copy herewith 18/229)

5(2) LOCAL APPLICATION

- 5(2)(i) 18/00540/FLL - BALADO - FORMATION OF ACCESS ROAD, TURNING HEAD, SOAKAWAY, INSTALLATION OF LPG TANKS AND ASSOCIATED WORKS, LAND 110 METRES SOUTH EAST OF BEUFIELD, BALADO** **97 - 116**
- Report of Handling by Interim Development Quality Manager
(copy herewith 18/230)

5(3) PROPOSAL OF APPLICATION NOTICE (PAN)

- 5(3)(i) 18/00003/PAN - DUNNING - RESIDENTIAL DEVELOPMENT, LANDSCAPING, SUDS POND ASSOCIATED WORKS, LAND NORTH EAST OF DUNNING BOWLING GREEN, STATION ROAD, DUNNING** **117 - 130**
- Report of Handling by Interim Development Quality Manager
(copy herewith 18/231)

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6 JUNE 2018

PLANNING AND DEVELOPMENT MANAGEMENT COMMITTEE

Minute of meeting of the Planning and Development Management Committee held in the Council Chamber, Ground Floor, Council Building, 2 High Street, Perth on Wednesday 6 June 2018 at 10.00am.

Present: Councillors R McCall, B Brawn, H Anderson, B Band, M Barnacle, H Coates, T Gray, I James, A Jarvis, W Robertson (substituting for L Simpson), R Watters and W Wilson.

In Attendance: A Belford, D Salman, L Reid, N Brian, A Condliffe, and J Scott (all Housing and Environment); L Aitchison, G Fogg and D Williams (Corporate and Democratic Services).

Apologies: Councillors E Drysdale and L Simpson.

Councillor R McCall, Convener, Presiding.

The Vice-Convener led discussion on all items.

. **WELCOME AND APOLOGIES**

The Convener welcomed everyone present to the meeting, and apologies were noted as above.

. **DECLARATIONS OF INTEREST**

There were no Declarations of Interest in terms of the Councillors' Code of Conduct.

. **MINUTES**

The minute of meeting of the Planning and Development Management Committee of 9 May 2018 (Arts. 249-253) was submitted, approved as a correct record and authorised for signature.

. **DEPUTATIONS**

There were no Declarations of Interest in terms of the Councillors' Code of Conduct.

APPLICATIONS FOR DETERMINATION

(1) Major Applications

- (i) **18/00430/FLM – PERTH – Erection of 62 dwellinghouses and associated works (change of house type to include sunrooms for plots 10001-10043, 10070-10071 and 10075-10091), land at Bertha Park, Perth – Springfield Priorities PLC**

Resolved:

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

Conditions

1. The proposed development must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed on the planning permission.
2. No buildings shall be constructed on the identified economic mineral resource until detailed survey plans, including levels to Ordnance Datum, to show that the economic mineral resource associated with that working phase has been extracted is submitted to and approved in writing by the Planning Authority.
3. The foul drainage shall be drained to the mains sewerage system the details of which shall be submitted to and approved in writing by this Planning Authority prior to its installation and in consultation with Scottish Water, Scottish Environment Protection Agency and Scottish Natural Heritage. The agreed foul drainage shall thereafter be implemented to coincide with the occupation of the development.
4. Concurrent with the initiation of the development hereby approved and for the duration of construction, a temporary surface water treatment facility shall be implemented on site and maintained for the duration of the construction works. The temporary surface water treatment facility shall remain in place until the permanent surface water drainage scheme is implemented unless otherwise agreed in writing by the Planning Authority.
5. For the avoidance of any doubt the domestic and non-domestic buildings to be erected shall comply with Silver Active from 2016 and Gold Active from 2020 as per the 'Building Standards Technical Handbook Section 7 - Sustainability'. The sustainability label shall be provided for the written approval of the Planning Authority prior to the occupation of the domestic or non-domestic building.
6. No part of the approved development is permitted to be occupied until the A9/A85 Junction Improvement,

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generally as proposed by Perth and Kinross Council as part of its 'Perth Transport Futures Project' transport strategy to support the Local Development Plan 2014, has been designed, approved and implemented to the satisfaction of the Planning Authority in consultation with Transport Scotland.

7. No development shall commence apart from the extraction of the economic mineral resource until appropriate mitigation measures have been agreed to address the impact of the development at the Broxden Roundabout on the A9 trunk road. The nature of the mitigation shall either be physical improvements to these junctions in the form of traffic signals and widening of approaches or a financial contribution in lieu of the said physical works. The details of the physical works or the level of financial contribution required shall be agreed in writing with the Planning Authority in consultation with Transport Scotland.
8. Prior to the completion of the development, all watercourses on the site as referred to in the Flood Risk Assessment (FRA) (dated 18 June 2015) shall be inspected and cleared of any impediments likely to create any obstruction to the free flow of water within the development and for 300m (or length otherwise agreed with the Planning Authority) upstream and downstream of the development phase; an inspection report along with details of works undertaken shall be submitted to the Planning Authority for written approval in consultation with the Roads Authority.
9. The Finished Floor Level of all properties shall be a minimum of 600mm above the 200 year flood level including 20% for Climate Change.
10. The overland flood routes of the dam breach analysis shall be maintained as open space to prevent any future development of the land. A minimum of a 5m Maintenance strip either side of the watercourse must be provided along all watercourses (as referred to in Flood Risk Assessment (FRA) dated 18 June 2015 in support of planning consent 15/01109/FLM) within any affected extents of the proposed development.
11. The development shall be fully undertaken in accordance with the agreed Construction Environment Management Plan (CEMP) associated with planning consent 15/01109/FLM.
12. The approved Ecological Clerk of Works (ECOW) associated with planning consent 15/01109/FLM shall oversee, on behalf of the Planning Authority, in consultation with Scottish Natural Heritage, the implementation of all ecology related planning conditions and how this relates to the development being

constructed. The ECOW shall undertake a watching brief throughout the construction of the development and shall have the authority to stop operations or to alter construction methods should there be any works occurring which are having an adverse impact on the natural heritage.

The ECOW shall have responsibility for the following:

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

The ECOW is required to notify the Planning Authority:

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

13. No development shall take place apart from the extraction of the economic mineral resource until details of checking surveys for protected species or the nests of any breeding birds on the site has been submitted to and approved in writing by the Planning Authority, in consultation with Scottish Natural Heritage (SNH). The surveys shall be undertaken by a qualified ecologist, in accordance with the approved specification, in the last 6 months preceding site preparation and construction work commencing. A programme of any mitigation measures required as a consequence of the survey results, and a timetable for any such mitigation measures shall have been submitted to and approved in writing by the Planning Authority prior to any works associated with the development taking place. The programme of mitigation work shall be implemented as approved under the supervision of a qualified ecologist all to the satisfaction of the Planning Authority.

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14. The approved biodiversity monitoring strategy associated with planning consent 15/01109/FLM will, where it applies to this site area, be implemented in accordance with the approved details.
15. No development apart from the extraction of the economic mineral resource shall take place until the trees to be retained as identified in the submitted surveys associated with planning consent 15/01109/FLM have been protected by suitable fencing in accordance with BS5837 2012 (Trees in Relation to Construction).
16. The approved structural landscaping works associated with planning consent 15/01109/FLM covered within this site area shall be installed in accordance with the agreed timescales and thereafter maintained to the satisfaction of the Planning Authority.
17. No works in connection with the development hereby approved apart from the extraction of the economic mineral resource shall take place until such time as a mechanism has been agreed and concluded to the satisfaction of the Planning Authority to ensure that the structural landscaping works between Phase 1 and 2 and Phase 1 and 3 as identified in planning consent 15/01109/FLM have been completed in full.
18. The approved noise mitigation strategy associated with condition 39 of planning consent 15/011009/FLM shall be fully implemented where applicable to this site.
19. Prior to the completion or bringing into use any part of the development any agreed measures to decontaminate the site shall be fully implemented as approved by the Council as Planning Authority. Validation that the scheme has been fully implemented must also be submitted to the Council as Planning Authority before the development is brought into use or occupied.

Justification

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

Informatives

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

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failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.

3. As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
4. This development will require the 'Display of notice while development is carried out', under Section 27C (1) of the Town and Country Planning Act 1997, as amended, and Regulation 41 of the Development Management Procedure (Scotland) Regulations 2013. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. According to Regulation 41 the notice must be:
 - Displayed in a prominent place at or in the vicinity of the site of the development.
 - Readily visible to the public.
 - Printed on durable material.
5. The applicant is advised that in terms of Section 56 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environment Protection Agency.
6. The applicant is advised that in terms of Section 21 of the Roads (Scotland) Act 1984 they must obtain from the Council as Roads Authority consent to construct a new road prior to the commencement of roadworks. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environment Protection Agency.
7. The applicant is advised that the granting of planning consent does not guarantee a connection to Scottish Water's assets. The applicant must make a separate application to Scottish Water Planning & Development Services team for permission to connect to the public wastewater system and/or water network and all their requirements must be fully adhered to.
8. The applicant is advised that the works may need a license under the Water (Controlled Activities) Regulations 2005 (CAR). The applicant should contact SEPA's Perth Environmental Protection and Improvement Team (Tel: 01738 627989) in regard to this. The applicant should ensure that all works on site comply with the best practice guidelines laid out in SEPA's published Pollution Prevention Guidance, found at www.sepa.org.uk.

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9. 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.
10. The applicant is reminded that this site is still subject to a Section 75 Legal Agreement, securing Developer Contribution requirements and other matters, as secured as part of planning consent 15/01112/IPM. This consent continues to be tied by this legal agreement and the associated requirements will continue to apply.
11. The applicant is reminded that in association with planning consent 15/01109/FLM; no more than 750 residential units are permitted to be occupied until the Cross Tay Link Road Improvement including the Tay Crossing, generally as proposed by Perth and Kinross Council as part of its 'Perth Transport Futures Project' transport strategy to support the Local Development Plan 2014, have been designed, approved and contract let.

(2) Local Applications

(i) 18/00228/FLL – CROOK OF DEVON – Erection of 2 dwellinghouses, land south of Crook of Devon House, Main Street, Crook of Devon – Manse Developments

Although there were no deputation requests for this item, Mr S Strachan, agent for the applicant, was in attendance and answered questions from members.

Resolved:

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

Conditions

1. The development hereby approved must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed by this decision notice.
2. Prior to the commencement of development, an updated ecological survey shall be undertaken as described in the PEA recommendations in relation to bat roost potential and additionally red squirrels shall be added to the survey. The updated survey shall be submitted to the Council as Planning Authority for further written agreement and shall be fully adhered to, respected and undertaken as part of the construction phase of development.

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3. All trees on site, other than those marked for felling on the approved plans, shall be retained to the satisfaction of the Council as Planning Authority.
4. Prior to the commencement of any works on site, all trees on site (other than those marked for felling on the approved plans) and those which have Root Protection Areas which fall within the site shall be retained and protected. Protection methods shall be strictly in accordance with BS 5837 2012: Trees in Relation to Design, Demolition and Construction. Protection measures, once in place, shall remain in place for the duration of construction.
5. The detailed landscaping and planting scheme which is hereby approved shall be implemented as part of the site development programme and thereafter maintained to the satisfaction of the Council as Planning Authority.
6. Any planting failing to become established within five years shall be replaced in the following planting season with others of similar size, species and number.
7. The stoves shall be installed, operated and maintained in full accordance with the manufacturer's instructions and shall not be used to burn fuel other than that approved for use by the manufacturer of the appliance as detailed in the information supporting this permission.

Justification

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

Informatives

1. This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period (see section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
2. Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
3. As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.

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4. No work shall be commenced until an application for building warrant has been submitted and approved.
5. Please consult the Street Naming and Numbering Officer, The Environment Service, Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth PH1 5GD for a new postal address. The form is downloadable from www.pkc.gov.uk and should be returned to snn@pkc.gov.uk.
6. The applicant is reminded that, should any protected species be present a licence may be required from Scottish Natural Heritage to disturb a protected species. Failure to obtain a licence may constitute a criminal act under the Habitats Regulations and penalties are severe for non-compliance.
7. 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.

(ii) 18/00533/FLL – BRIDGE OF EARN – Installation of a flue (in retrospect), former David Sands shop, Main Street, Bridge of Earn – Mr S Fenwick

Motion (Councillors I James and R McCall) – Grant, subject to the following terms, conditions and informatives:

Conditions

1. The development hereby approved must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed by this decision notice.
2. Prior to the commencement of the extraction fan operation, the acoustic barrier enclosure shall be constructed and maintained in line with specifications and plans agreed hereby approved, all to the satisfaction of the Council as Planning Authority.
3. Prior to the commencement of the extraction fan operation, the flue and fence shall be coloured in a brown colour. Details of the colour must be agreed in writing by the Planning Authority prior to its application. Thereafter, the flue and fence must be maintained in this colour for the life of the development, all to the satisfaction of the Council as Planning Authority.
4. The sound insulation and sound transmission properties of the acoustic barrier enclosure structure

and finishes shall be such that any airborne noise from the operations of the fan does not constitute a statutory noise nuisance as determined by the Local Planning Authority.

Justification

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

Informatives

As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.

Amendment (Councillors H Anderson and H Coates) – Refuse the application, as it is contrary to Perth and Kinross Local Development Plan 2014 Policy PM1A, due to the adverse visual amenity of neighbouring properties and risk of odour from the flue.

In accordance with Standing Order 55, a roll call vote was taken.

9 members voted for the Motion as follows:

Councillors B Band, B Brawn, T Gray, I James, A Jarvis, R McCall, W Robertson, R Watters and W Wilson.

3 members voted for the Amendment as follows:

Councillors H Anderson, M Barnacle and H Coates.

Resolved:

In accordance with the Motion.

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Perth and Kinross Council  
Planning & Development Management Committee – 04 July 2018  
Report of Handling by Interim Development Quality Manager (Report No. 18/227)

**PROPOSAL:** Application under Section 42 of the Town and Country Planning (Scotland) Act 1997 to develop land without complying with Condition 1 of planning permission PK920831 (extraction of sand and gravel)

**LOCATION:** Marlee Quarry, Essendy, Blairgowrie

Ref. No: 17/01371/MWM

Ward No: P3 - Blairgowrie And Glens

### Summary

This report recommends approval of this application to extend the time to extract the mineral resource and undertake site restoration at Marlee Quarry. If works proceed in accordance with the recommendations of the Environmental Statement (ES), supporting information and planning conditions the proposal will comply with the Development Plan and National Planning Policy and there are no material considerations which are considered to outweigh the Development Plan. The proposals are recommended for approval, subject to conditions, including associated conclusion of a legal agreement to ensure satisfactory restoration measures are secured.

### BACKGROUND AND DESCRIPTION OF PROPOSAL

- 1 Marlee Quarry is an existing operational sand and gravel quarry situated in a rural location some 1.6km to the west-south-west of Blairgowrie. The quarry is located adjacent to the B947. The Loch of Drumellie or Marlee Loch part of the Blairgowrie Lochs is to the north-west of the site; this water body is designated as a Special Area of Conservation (SAC) and a Site of Special Scientific Interest (SSSI). The Lunan Burn flows from Marlee Loch to the south of the site and also falls under the River TAY SAC designation. Ardblair and Myreside Fens Site of Special Scientific Interest (SSSI) lies 0.8km to the north-east. The land surrounding the quarry is predominantly in agricultural use with intermittent areas of woodland. There are individual residential properties located at varying distances around the site.
- 2 The planning permission area at Marlee Quarry extends to some 40.18ha, of which some 35.29ha is consented for sand and gravel extraction. The main operational areas are split by the access road to Marlee Mill. The agent notes that during the final phase of operations the sand and gravel is excavated under this access route which is then reinstated on the same line.
- 3 To the west of the Marlee Mill access route a significant area of land has been quarried and reinstated to grassland, mixed woodland and a water feature. The

remainder of the western area is utilised for site access and offices, processing and stockpiling, the ready-mix concrete plant and settlement ponds.

- 4 To the east of the Marlee Mill access route over half of the area has been quarried and reinstated to grassland with a small central pond. The current excavation area is located in the south-eastern corner of the site. The remaining land within the site has been unaffected by operations and comprises either agriculture or woodland. A small area in the north-east of the site is being utilised by Tayside Contracts under a separate permission as a training centre.
- 5 The agent has confirmed that there are still 6 years of aggregate reserves within the planning permission area which remain to be extracted. The reason that this area has not been extracted to date is partially due to a delay in the commencement of the site following the grant of permission and partially due to the economic recession which saw a significant downturn in demand between 2008 and 2014.
- 6 This section 42 application therefore seeks an extension in the duration of operations at Marlee Quarry to provide sufficient time to allow the extraction of the full consented mineral reserve. The proposal if approved would allow the extraction of the remaining reserve, the continued processing of sand and gravel, the operation of a concrete ready mix plant and the final restoration of the site.
- 7 Aggregates will be recovered in two phases. The initial phase of operations is located in the south-east corner of the site, an area of some 5.34ha of land which is currently either stripped of soils or in agriculture use. Sand and gravel will be extracted to between 46.2m and 53.5m AOD at a varying extraction depth of up to 12.4m. It is estimated that some 420,000 tonnes of sand and gravel will be released from this area over a period of just over four years.
- 8 As operations approach completion in this area the Marlee Mill access route will be temporarily diverted within the quarry to allow the final phase of quarrying which will release the removal of some 180,000 tonnes of sand and gravel over a two year period.
- 9 All future workings at the quarry will be dry working and above the water table. The extracted sand and gravel will be hauled within the site to the processing and stock piling area.

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

- 10 Directive 2011/92/EU requires the 'competent authority' (in this case Perth and Kinross Council) when giving a planning permission for particular 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.
- 11 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. This 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.

- 12 An Environmental Statement has been submitted with the proposal following a scoping exercise, see 17/00903/SCOP. The content and the associated background information of the ES are considered to meet the requirements of the associated Regulations.

### **PRE-APPLICATION CONSULTATION**

- 13 Due to the size of the application site, which is over 2 hectares, this proposal is classed as a Major Application as defined in the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009. The amended Regulations, which came into force on the 30 June 2013, removes the requirement for Pre-application Consultation for Section 42 applications (which relates to a 'major planning application') made on, or after the 3 February 2013.
- 14 Accordingly there is not a requirement to carry out a pre-application public consultation on this major application due to the inclusion of Regulation 49(5) in the above Regulations.

### **NATIONAL POLICY AND GUIDANCE**

- 15 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**

- 16 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**

- 17 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.

- 18 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
- 19 A Successful, Sustainable Place:
- Paragraphs 92- 108 Supporting Business and Employment
- 20 A Natural, Resilient Place:
- Paragraphs 193 – 218 The Natural Environment
  - Paragraphs 219 – 233 Maximising the Benefits of Green Infrastructure
  - Paragraphs 254 – 268 Managing Flood Risk & Drainage

### **Planning Advice Notes**

- 21 The following Scottish Government Planning Advice Notes (PANs) and Guidance Documents are of relevance to the proposal:
- Air Quality and Land Use Planning (2004)
  - PAN 1/2011 Planning and Noise
  - PAN 2/2011 Planning and Archaeology
  - PAN 3/2010 Community Engagement
  - PAN 1/2013 Environmental Impact Assessment
  - PAN 40 Development Management
  - PAN 50 Controlling the Environmental Effects of Surface Mineral Workings
  - PAN 51 Planning, Environmental Protection and Regulation
  - PAN 60 Planning for Natural Heritage
  - PAN 61 Planning and Sustainable Urban Drainage Systems
  - PAN 64 Reclamation of Surface Mineral Workings
  - PAN 75 Planning for Transport
  - PAN 79 Water and Drainage
  - PAN 81 Community Engagement: Planning with People

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

- 22 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**

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

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

- 24 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:
- 25 *“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.”*
- 26 The following sections of the TAYplan 2016 are of particular importance in the assessment of this application.

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

- 27 Seeks to deliver a low/zero carbon future. Development proposals should ensure all areas of search, sites and routes for energy, waste and resource management infrastructure have been justified against a series of considerations including: the specific land take requirements, the proximity of resources, the sensitivity of the surrounding environment, health and safety considerations, cumulative impacts, strategic cross-boundary impacts, and consistency with the National Planning Framework.

### **Policy 9: Managing TAYplans Assets**

- 28 Seeks to ensure responsible management of TAYplan’s assets by: using the locational priorities of the Plan to identify and protect finite resources (mineral deposits and important soils); Protecting Natura 2000 sites; and safeguarding the integrity of natural and historic assets including habitats, wild land, sensitive green spaces, forestry, water environment, wetlands, floodplains (in-line with the Water Framework Directive), carbon sinks, species and wildlife corridors, and also geo-diversity, landscapes, parks, townscapes, archaeology, historic battlefields, historic buildings and monuments and by allowing development where it does not adversely impact upon or preferably enhances these assets.

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

- 29 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. The LDP sets out a vision statement for the area and states that, *“Our vision is of a Perth and Kinross which is dynamic, attractive and effective which protects its assets whilst welcoming population and economic growth.”* It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
- 30 The principal relevant policies are, in summary

### **Policy PM1A - Placemaking**

- 31 Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place. All

development should be planned and designed with reference to climate change mitigation and adaption.

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

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

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

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

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

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

#### **Policy NE1A - International Nature Conservation Sites**

- 35 Development which could have a significant effect on a site designated or proposed as a Special Area of Conservation, Special Protection Area or Ramsar site will only be permitted where an Appropriate Assessment shows that the integrity of the site will not be adversely affected, there are no alternative solutions and there are imperative reasons of overriding public interest.

#### **Policy NE1B - National Designations**

- 36 Development which would affect a National Park, National Scenic Area, Site of Special Scientific Interest or National Nature Reserve will only be permitted where the integrity of the area or the qualities for which it has been designated are not adversely affected or any adverse impacts are clearly outweighed by benefits of national importance.

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

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

#### **Policy NE3 - Biodiversity**

- 38 All wildlife and wildlife habitats, whether formally designated or not should be protected and enhanced in accordance with the criteria set out. Planning

permission will not be granted for development likely to have an adverse effect on protected species.

**Policy ER3A - Minerals and Other Extractive Activities**

- 39 Development which would sterilise important economically workable mineral deposits will not be allowed unless there is an overriding need for the development and prior extraction of the mineral cannot reasonably be undertaken; or extraction of the mineral is unlikely to be practicable or environmentally acceptable.

**Policy ER3B - Minerals and Other Extractive Activities**

- 40 The extraction of proven mineral deposits in advance of other planned development will be permitted provided that it accords with the criteria set out.

**Policy ER4A - Minerals and Other Extractive Activities**

- 41 Favourable consideration will be given to proposals for the extraction of minerals where they are in accordance with the criteria set out and where they do not have an adverse effect on local communities and the environment.

**Policy ER4B - Minerals and Other Extractive Activities**

- 42 Restoration, after use and aftercare proposals will require to be agreed in advance of mineral and other extractive operations. Financial bonds for restoration will be required.

**Policy ER4C - Minerals and Other Extractive Activities**

- 43 Greater efficiency in the use of primary mineral resources is encouraged.

**Policy ER5 - Prime Agricultural Land**

- 44 Development on prime agricultural land will not be permitted unless it is necessary to meet a specific established need such as a major infrastructure proposal, there is no other suitable site available on non prime land or it is small scale development (generally single buildings) linked to rural business.

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

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

**Policy EP5 - Nuisance from Artificial Light and Light**

- 46 Permission will not be granted for proposals where the lighting would result in obtrusive and / or intrusive effects.

## **Policy EP8 - Noise Pollution**

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

## **Policy EP12 - Contaminated Land**

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

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

- 49 Perth & Kinross Council is progressing with preparation of a new Local Development Plan to provide up-to-date Development Plan coverage for Perth & Kinross. When adopted, the Perth & Kinross Local Development Plan 2 (LDP2) will replace the current adopted Perth & Kinross Local Development Plan (LDP). The Proposed Local Development Plan 2 was approved at the Special Council meeting on 22 November 2017. The Proposed LDP2 sets out a clear, long-term vision and planning policies for Perth & Kinross to meet the development needs of the area up to 2028 and beyond. The Proposed LDP2 is considered consistent with the Strategic Development Plan (TAYplan) and Scottish Planning Policy (SPP) 2014.
- 50 The Proposed LDP2, as approved by Perth & Kinross Council, was subject of a 9 week period of representation, which ended on 2 February 2018. Any unresolved representation to the Proposed Plan after this period is likely to be considered at an Examination by independent Reporter(s) appointed by the Scottish Ministers. The Reporter(s) will thereafter present their conclusions and recommendations on the plan, which the Council must accept prior to adoption. It is only in exceptional circumstances that the Council can elect not to do this.
- 51 The Proposed Plan represents Perth & Kinross Council's settled view in relation to land use planning and as such it is a material consideration in the determination of planning applications. The Proposed Plan is, however, at a stage in the statutory preparation process where it may be subject to modification. As such limited weight can therefore currently be given to its content and the policies and proposals of the plan are only referred to where they would materially alter the recommendation or decision. The weight of the Proposed Plan may change following consideration of representation received during consultation, at which time the level of significance of any objection to strategy, policies or proposals within the plan will be known.

## **OTHER POLICIES**

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

- 52 Corporate Plan Vision includes – Promoting a prosperous, inclusive and sustainable economy. Creating safe and sustainable places for future generations.
- 53 The following supplementary guidance and documents are of particular importance in the assessment of this application:
- Tayside Landscape Character Assessment (TLCA)
  - Flood Risk and Flood Risk Assessments – Developer Guidance (June 2014)
  - Green Infrastructure Supplementary Guidance (Draft) (July 2014)
  - BS 4142: 2014 Methods for rating and assessing industrial and commercial sound

## **SITE HISTORY**

- 54 92/00830/FUL Extraction of sand and gravel. Approved 9 December 1994
- 55 17/00903/SCOP Request to extend the operational life of the quarry to allow extraction of remaining consented reserves - Section 42 application to operate not in compliance with Condition 1, Scoping issued on 19 October 2017.

## **CONSULTATIONS**

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

### **EXTERNAL**

#### **Scottish Environment Protection Agency (SEPA)**

- 57 No objection to the application. Advice provided on flood risk, ground water and surface water as well as regulatory advice for the applicant.

#### **Scottish Natural Heritage (SNH)**

- 58 No objection. There are natural heritage interests of international importance in the River Tay Special Area of Conservation (SAC), but SNH considers that these will not be adversely affected by the proposal. The Environmental Statement appears competent in identifying the protected species across the site and provides appropriate mitigation, which, if followed, should ensure compliance with the Wildlife and Countryside Act 1981 (as amended) and avoid harmful and illegal impacts to the protected species.

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

- 59 Have considered the information received and do not have any comments to make on the proposals.

### **Scottish Water**

60 No objection.

### **The Scottish Government**

61 No response.

### **Blairgowrie and Rattray Community Council**

62 No response.

## **INTERNAL**

### **Environmental Health**

63 No objection. This application seeks to extend the life of a long standing quarry and as such there could be implications to local residents through noise and dust impacts. Environmental Health is unaware of any complaints locally arising from dust or noise and there is no proposed change in operation of this quarry. Planning conditions are recommended.

### **Transport Planning**

64 No objection.

### **Biodiversity Officer**

65 No objection. An extended Phase 1 Ecological Survey has been provided to support the application. A number of recommendations are made in the survey report which should be conditions of any approval.

### **Structures and Flooding (SF)**

66 No objection.

## **REPRESENTATIONS**

67 None.

## **ADDITIONAL STATEMENTS**

68

|                                                |                        |
|------------------------------------------------|------------------------|
| Environment Statement                          | Submitted              |
| Screening Opinion                              | Not Required           |
| Environmental Impact Assessment                | Required               |
| Appropriate Assessment                         | Not Required           |
| Design Statement / Design and Access Statement | Not Required           |
| Reports on Impact or Potential Impact          | Phase 1 Habitat Survey |



## **APPRAISAL**

- 69 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) require the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The adopted Development Plan comprises the TAYplan Strategic Development Plan 2016–2036 and the Perth and Kinross Local Development Plan 2014. The relevant policy considerations are outlined in the policy section above and are considered in more detail below.
- 70 From my review of the application I consider the main issues to be assessed are need, traffic, noise, lighting, air quality and dust, hydrology, ecology as well as landscape and visual impact.

### **Requirement for the Proposal**

- 71 The TAYPlan recognises the importance of resources and assets with potential to support economic growth. The Plan highlights that development and growth in the economy should occur in a way that does not place unacceptable burdens on environmental capacity and should not increase the exposure of users or inhabitants to risks. Policy 9: Managing TAYplan's Assets deals with finite resources and specifically refers to mineral deposits of economic importance; while emphasising the protection of prime agricultural land, forestry areas and carbon rich soils.
- 72 LDP Policy ER4 applies to proposals for the extraction of minerals. It gives support for the proposed development, provided the proposal complies with the criteria in the policy; and with other national, strategic and local planning policy.
- 73 The reserve at Marlee forms part of the consented sand and gravel reserves within the current Perth and Kinross and TAYplan landbank. Marlee has consistently served a local market for both sand and gravel and ready-mix concrete over the last 18 years; this includes the provision of high spec asphalt sand to Tayside Contracts and road grit to both Tayside Contracts and Fife Council. Having regard to existing consented reserves in the wider area, it is considered that demand within this market area will continue.
- 74 This application seeks an extension in the duration of operations at Marlee Quarry to provide sufficient time to allow the extraction of the full consented mineral reserve. The proposal allows for the extraction of the remaining reserve, the continued processing of sand and gravel, the operation of a ready-mix plant and the final restoration of the site. No operational changes are proposed to the existing consented operations. A reserve of approximately 600,000 tonnes of sand and gravel remains. It is proposed that the remaining reserve will be excavated at a rate of 100,000 tonnes per annum over a period of 6 years with a further year required to complete restoration. Planning permission is therefore sought for a period of 7 years.

## **Traffic and Transport**

- 75 Paragraph 271 of SPP 2014 requires development plans and development management decisions to take account of the implications of development proposals on traffic, patterns of travel and on road safety. PAN 50 Controlling the Environmental Effects of Surface Mineral Workings is also relevant, providing good practice advice, including the assessment of traffic at mineral working sites, which has been reflected in the ES. While Policy TA1B of the LDP requires the impact of the development to pedestrian and traffic safety to be assessed.
- 76 Traffic and transport was previously assessed under application 92/00830/FUL. This resulted in conditional control to deal with road access construction, geometry, gradient, visibility splays, turning facilities and facilities at the exit to avoid materials being deposited onto the public carriageway.
- 77 During the site visit, which included inspection of the site with the Planning Monitoring Officer, it was identified that repair work to the bell mouth entrance was required. Landscape planting at the site entrance required pruning to improve visibility splays and remedial work was required to avoid materials from vehicles being deposited on the road network at the site entrance. These issues were pointed out at the site visit and the operator has progressed with works to rectify these issues however it is still necessary to control these matters by condition (Conditions 6, 7 & 9).
- 78 Taking the above into account there is still a need to maintain safe access and egress to the site, accordingly conditional control should be updated to ensure the measures previously secured by condition are installed and maintained to enable compliance with the SPP, the PAN and Policy TA1B (See conditions 6-10). From discussions with the Road's Engineer there have historically been discussions regarding the re-grading the road near the Bridge of Essendy (condition 47 of the 1992 permission) and it was concluded that this was not required. Taking this into account there is no need to re-apply condition 47.

## **Noise, Air Quality and Dust**

- 80 The agent confirms that the current consent contains planning conditions which sets specific noise limits. There will be no change in relation to the permitted operations or noise levels in relation to operations. There have been changes to the Air Quality objectives in recent years, as such a review has been undertaken in relation to site operations and air quality. With the implementation of the submitted Site Dust Management Strategy it is considered that the potential for dust emission from the site is negligible to slight and it is unlikely that there will be any significant reduction in air quality.
- 81 The Environmental Health officer has been consulted on the application and has confirmed that they are unaware of any complaints locally arising from dust or noise. As there is no proposed change in operation of this quarry they recommend the retention of conditions to deal with noise and dust (see conditions 11-14).

- 82 With this conditional control in place the application is considered to comply with Policy EP8.

### **External Lighting**

- 83 Policy EP5 of the LDP relates to light pollution, seeking to prevent statutory nuisance from occurring due to artificial lighting. Conditional control was previously utilised to minimise light spillage beyond the boundaries of the site. This conditional control is still required (see condition 15).

### **Hydrology**

- 84 The site is not located within an area identified as being at risk of flooding. SEPA confirm that they do not consider that flood risk is a potential significant impact but they do highlight the importance of ensuring that the surface water ponding is not discharged off site.
- 85 All processing and stockpiling is located within the existing quarry and works are contained to ensure that there is no potential of particulate dispersal by run-off; this shall continue for the proposed extension in time. Water used for processing will continue to be recycled through ponds on a closed circuit; with no discharge from the site.
- 86 Any oil, fuel, lubricant or other potential pollutant will continue be handled on the site in such a manner as to prevent pollution of any watercourse or aquifer. For any liquid other than water, this will include storage in suitable tanks, either double skinned or housed within a suitable bund or other means of enclosure to provide containment for 110% of the storage capacity of the tanks and with no passive means of drainage.
- 87 Excavation is above the water table and, therefore, no dewatering will be undertaken. SEPA confirm that there is a private water supply (PWS) adjacent to the site the applicant states there has been no unacceptable impact on the PWS in the 18 years of operation of the quarry.
- 88 Supporting information indicates that the appropriate pollution prevention measures and industry best practice will be implemented to ensure that there is no unacceptable impact to the water environment. Nevertheless it is prudent to re-apply conditional control to protect the water environment (see conditions 16-17).

### **Ecology**

- 89 The LDP contains a number of policies that seek to protect important species and sites designated for their natural heritage interest and to ensure that proposals that may affect them are properly assessed. NE1A relates to International Nature Conservation Sites, NE1B relates to National Designations, NE1C covers Local Designations while NE3 Bio-diversity confirms that protection should apply to all wildlife and wildlife habitats, whether formally designated or not.

- 90 Ardblair and Myreside Fens Site of Special Scientific Interest (SSSI) lies 0.8km to the north-east. The Lochs Clunie and Marlee SSSI lies 1km to the west of the site and is included within the Dunkeld - Blairgowrie Lochs Special Area of Conservation (SAC).
- 91 The Lunan Burn, which flows from Marlee Loch and within 60m of the south-east corner of the consented Burnside of Marlee, is a tributary of the River Isla and as such is included within the River Tay SAC.
- 92 Consultation has been undertaken with Scottish Natural Heritage. Their consultation response focuses on the sites relationship with the River TAY SAC as this site is the site that is most vulnerable from the quarrying operation due to the potential for sedimentation and pollution which can affect the protected interests and their habitats. In SNH's view it is unlikely that the proposal will have a likely significant effect on the qualifying interests of the SAC either directly or indirectly, therefore, an appropriate assessment is not required. SNH have come to this conclusion based on the following factors:
- The long running operation of the quarry, which, to their knowledge, has not previously had a detrimental impact upon the SAC.
  - The description of water management, which includes the use of settlement ponds, no dewatering, the reduction of direct flows to the Lunan Burn and management of run-off.
  - Work on the area closest to the Lunan Burn is complete, which creates a further buffer to the SAC.
  - The proposed restoration scheme is designed to minimise surface water flow flowing directly to the burn and to increase dispersal by infiltration, which will have a localised benefit to water quality.
- 93 Taking the above into account I do not consider there will be a conflict with Policy NE1A International Nature Conservation Sites or Policy NE1B National Designations when taking account of the surrounding SSSI and SAC designations.
- 94 With regards to protected species an extended Phase 1 Ecological Survey has been provided to support the application. This appears competent in identifying the protected species across the site and provides appropriate mitigation, which, if followed, should ensure compliance with the Wildlife and Countryside Act 1981 (as amended) and avoid harmful and illegal impacts to the protected species. A number of recommendations are made in the survey report which should be conditions of any approval (see condition 18).

### **Landscape, visual impact and restoration**

- 95 Scotland's landscape is one of its most valuable assets it is therefore essential that this quality is maintained and enhanced. Development and land use change should be compatible with the distinctive characteristics and features of Perth & Kinross's landscape. Development proposals will be supported where they do not conflict with the aim of maintaining and enhancing the landscape qualities of Perth and Kinross, as detailed in policy ER6.

- 96 The site is located within the Highland Foothills character unit of the Tayside Landscape Character Assessment. This landscape character type has a complex geological structure due to their position along the line of the Highland Boundary Fault. It consists of glacial deposits, steep whale backed hills and south west to north east valleys. It is a complex and sometimes disorientating landscape with glimpses of the Highlands and lowlands.
- 97 The earlier application accepted the landscape and visual impact of the quarrying scheme within the landscape character type but secured mitigation measures in the form of tree planting, phasing and restoration.
- 98 Landscape planting has now been formed which screens part of the quarrying operation. I consider that this planting should be retained during the operation of the quarry. I note that the final phase of quarrying will result in the loss of the tree lined drive to extract material but this landscape feature will be re-established. While the operation of the quarry will undoubtedly result in harm and be contrary to Policy ER6 the mitigation measures deployed during the operation of the site will go some way to reducing adverse effects. Conditional control will be applied to this permission to retain long-term benefits associated with restoration and aftercare to comply with Policy ER6 and ER4B (see conditions 19-28).

#### **Developer Contributions**

- 99 The Developer Contributions Guidance is not applicable to this application and therefore no contributions are required in this instance.

#### **Economic Impact**

- 100 There will be a positive economic impact associated with the extraction of minerals from the quarry through the continuation of employment at the site as well as supplying the local market leading to a reduction in transport mileage.

#### **LEGAL AGREEMENTS**

- 101 It is anticipated that the Section 75 will require to be updated in order to adequately secure the terms of the bond or financial instrument associated with required site decommissioning, restoration and aftercare over the lifetime of the development and beyond.

#### **DIRECTION BY SCOTTISH MINISTERS**

- 102 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**

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

material considerations as well as the Environmental Report submitted with the application. In this case I am content that the development proposed does not conflict with the Development Plan. Accordingly the proposal is recommended for approval subject to conditional control to secure mitigation measures and a legal agreement.

## **RECOMMENDATION**

### **Approve the application**

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

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

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

- 2 All sand and gravel extraction within the site shall be completed within seven years of the date of this Decision Notice. All plant and machinery shall be removed from the site and the land entirely reinstated to the satisfaction of the Council as Planning Authority at the termination of operations or the expiry of the term of approval, whichever is the earlier. Termination of operations shall be assumed on the cessation of operations for a period of 6 consecutive months.

Reason - In accordance with the terms of the application and in order for the Planning Authority to maintain control of the period of application in the interests of visual and residential amenity.

- 3 The extraction of sand and gravel shall commence and proceed only in accordance with the submitted details of phasing, direction and depth of working, as shown on the plans herewith approved. No deviations from the phasing plan shall be permitted. No more than one phase shall be worked at any one time. Restoration of the land to the agreed 'after use' shall take place concurrently with extraction to the entire satisfaction of the Council as Planning Authority.

Reason - In the interests of visual and residential amenity.

- 4 The rate of extraction of material from the site shall not exceed 250,000 tonnes per annum.

Reason - In order to secure the proper development of the site.

- 5 A record of the quantity, type and principal destinations of material leaving the plant shall be submitted to the Council as Planning Authority on an annual basis.

Reason - In order to secure the proper development of the site.

- 6 The vehicular access shall be maintained in accordance with Perth and Kinross Council's Road Development Guide specification Type E access detail and in line with Roads Standards for Vehicular Accesses to the satisfaction of the Council as Planning Authority.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 7 The gradient of the access shall not exceed 3% for the first 10 metres measured back from the edge of the carriageway and the access shall be constructed so that no surface water is discharged to the public highway.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 8 Turning facilities shall be maintained within the site to enable all vehicles to enter and leave in a forward gear to the satisfaction of the Planning Authority.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 9 Full visibility splays of 4.5m x 90m shall be provided to the left and right of the access measured between points 1.05m above the road level insofar as the land is in the control of the applicant within 2 months of the date of this consent and thereafter maintained for the duration of the permission to the satisfaction of the Council as Planning Authority.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 10 An updated wheel cleaning strategy shall be submitted for the approval of the Planning Authority in consultation with the Transport Planning Section within 14 days of this decision notice. Thereafter the approved wheel cleaning strategy shall be provided and maintained throughout the operation of the proposed extraction so that no mud, debris or other deleterious material is carried by vehicles on to the public roads.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 11 No working or operations shall take place outwith the hours of 7.00am – 7.00pm Monday to Saturday inclusive other than water pumping, servicing, maintenance and testing of plant. Emergency work required to maintain safe working shall be notified to the Planning Authority in writing as soon as practicable.

Reason - In the interests of residential amenity.

- 12 Noise from any plant and machinery associated with this development shall be so controlled that it does not exceed 10 decibels (dBA) above ambient background (L90) noise levels, at any adjacent dwellinghouse, when measurements and

assessments are carried out in accordance with British standard BS4142:1990 to the satisfaction of the Council as Planning Authority.

Reason - In the interests of residential amenity.

- 13 A stock pile strategy for the site shall be submitted to the Planning Authority for approval within 14 days of this decision notice, this shall detail the area for stock-piling of extracted material and also the maximum height of the stockpiles. Thereafter the approved strategy shall be implemented in full throughout the duration of the development.

Reason - In the interests of the visual amenity of the area.

- 14 The Dust Management Strategy shall implemented in full throughout the duration of the development to the satisfaction of the Council as Planning Authority.

Reason - In the interests of residential amenity.

- 15 All external lighting shall be sufficiently screened and aligned so as to ensure that there is no direct illumination of neighbouring land and that light spillage beyond the boundaries of the site is minimised to a degree that it does not adversely affect the amenity of the neighbouring land.

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

- 16 There shall be no workings nor the use of vehicles nor the dumping of spoil or other materials within 10 metres of the Mill Lade and within 30 metres of the Lunan Burn. There will be no discharge of sand, gravel, silt or other particulate matter into the Lunan Burn.

Reason - To maintain water courses and in the interests of nature conservation.

- 17 The operation of the silt ponds and settling beds required shall be on a closed circuit system to ensure no discharge to the water environment to the satisfaction of the Planning Authority.

Reason - In order to secure the proper development of the site and avoid pollution.

- 18 The conclusions and recommended action points within the supporting biodiversity survey submitted 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 as identified under the Wildlife and Countryside Act (1981).

- 19 The structural tree/landscape planting delineated as green blocks on the approved plans shall be retained and maintained.



Reason - To ensure a satisfactory standard of development and environmental quality and to reserve the rights of the Planning Authority.

- 20 A weed control plan to deal with all injurious weeds and invasive species on the whole application site shall be submitted to the Planning Authority for approval within 14 days of this decision notice. Thereafter the weed control plan shall be implemented in full throughout the duration of the development.

Reason - In order to secure the proper development of the site.

- 21 Topsoil shall be retained on the site and none shall be sold off or removed from the site. The working area shall be stripped of available topsoil. To minimise damage to soil structure, topsoil stripping shall only be permitted when the soil is reasonably dry and friable (usually May to September) and shall not take place during or immediately after periods of heavy rain. Wherever possible, stripped topsoil shall immediately be evenly spread over a suitably prepared similarly sized area on which extraction has ceased.

Reason - In order to secure the proper development of the site.

- 22 Where not used for progressive restoration, stripped topsoil shall be carefully stored on site and prevented from mixing with any other material. Topsoil dumps shall not exceed 6 metres in height to avoid excessive compaction. The topsoil dumps shall be evenly graded and seeded with grass to prevent wind and water erosion; they shall not be planted with trees. Weed control measures shall be taken as necessary to prevent weed infestation of topsoil stacks and weed contamination of adjoining agricultural land.

Reason - In order to secure the proper development of the site.

- 23 Topsoil shall be replaced at the next consecutive restoration cycle and shall be rooted and cross rooted to its full depth and stones exceeding 150mm in any one dimension will be removed.

Reason - In order to secure the proper development of the site.

- 24 After extraction is complete and before soil is restored restoration areas shall be rooted to a minimum depth of 350mm. Boulders and stones exceeding 200mm in any one dimension shall be removed.

Reason - In order to secure the proper development of the site.

- 25 Final grading shall be carried out to ensure a true specified level and slope and to avoid dishing or other depressions where water may collect. The land shall be restored so as to equate with surrounding land levels as agreed with the Planning Authority.

Reason - In order to secure the proper development of the site.

- 26 Provision shall be made at all times to ensure the site is adequately drained so as to prevent flooding or water seepage on to adjoining agricultural land.

Furthermore, the applicant shall reinstate or lay ditches and field drains as required by the Planning Authority for the continued use of the field for agriculture. Such obligation shall extend for a 5 year period after the laying of the topsoil is complete.

Reason - In order to secure the proper development of the site.

- 27 Restoration shall be undertaken in a progressive manner in accordance with the restoration commitments detailed in 8.4 to 8.4.5 of the Dalgleish Associates Ltd Environmental Impact Assessment Report dated August 2017 and the indicative restoration plan Figure 3.3.

Reason - In the interests of visual amenity, landscape quality and ecological interest and diversity.

- 28 Within six months of final cessation of quarrying a scheme for final landform restoration and aftercare, shall be submitted for the prior approval of the Planning Authority and shall be based on the restoration and aftercare commitments detailed in 8.4 to 8.5 of the Dalgleish Associates Ltd Environmental Impact Assessment Report dated August 2017. Thereafter final landform restoration operations and aftercare scheme shall be implemented in accordance with the approved details.

Reason - To ensure that final contours and updated restoration plan and an after care management plan for the site are adopted to ensure the site is capable of beneficial after use and to minimise adverse impacts on the landscape, nature conservation and amenity of the surrounding area.

## **B JUSTIFICATION**

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

## **C PROCEDURAL NOTES**

Consent shall not to be issued until a Section 75 Agreement to secure the terms of the bond or financial instrument associated with required site decommissioning, restoration and aftercare over the lifetime of the development and beyond has been completed and signed. 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 may result in the planning application being re-assessed through failing to comply with the Minerals and Other Extractive Activities Policy ER4B and will be ultimately recommended for refusal under delegated powers.

## **D INFORMATIVES**

- 1 Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement

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

- 2 As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
- 3 This development will require the 'Display of notice while development is carried out', under Section 27C(1) of the 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.
- 4 The applicant is reminded that, should any protected species be present a licence may be required from Scottish Natural Heritage to disturb a protected species. Failure to obtain a licence may constitute a criminal act under the Habitats Regulations and penalties are severe for non-compliance.
- 5 The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended, it is an offence to remove, damage or destroy the nest of any wild birds while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.

Background Papers: None

Contact Officer: John Russell 01738 475346

Date: 21 June 2018

**ANNE CONDLIFFE**  
**INTERIM DEVELOPMENT QUALITY MANAGER**

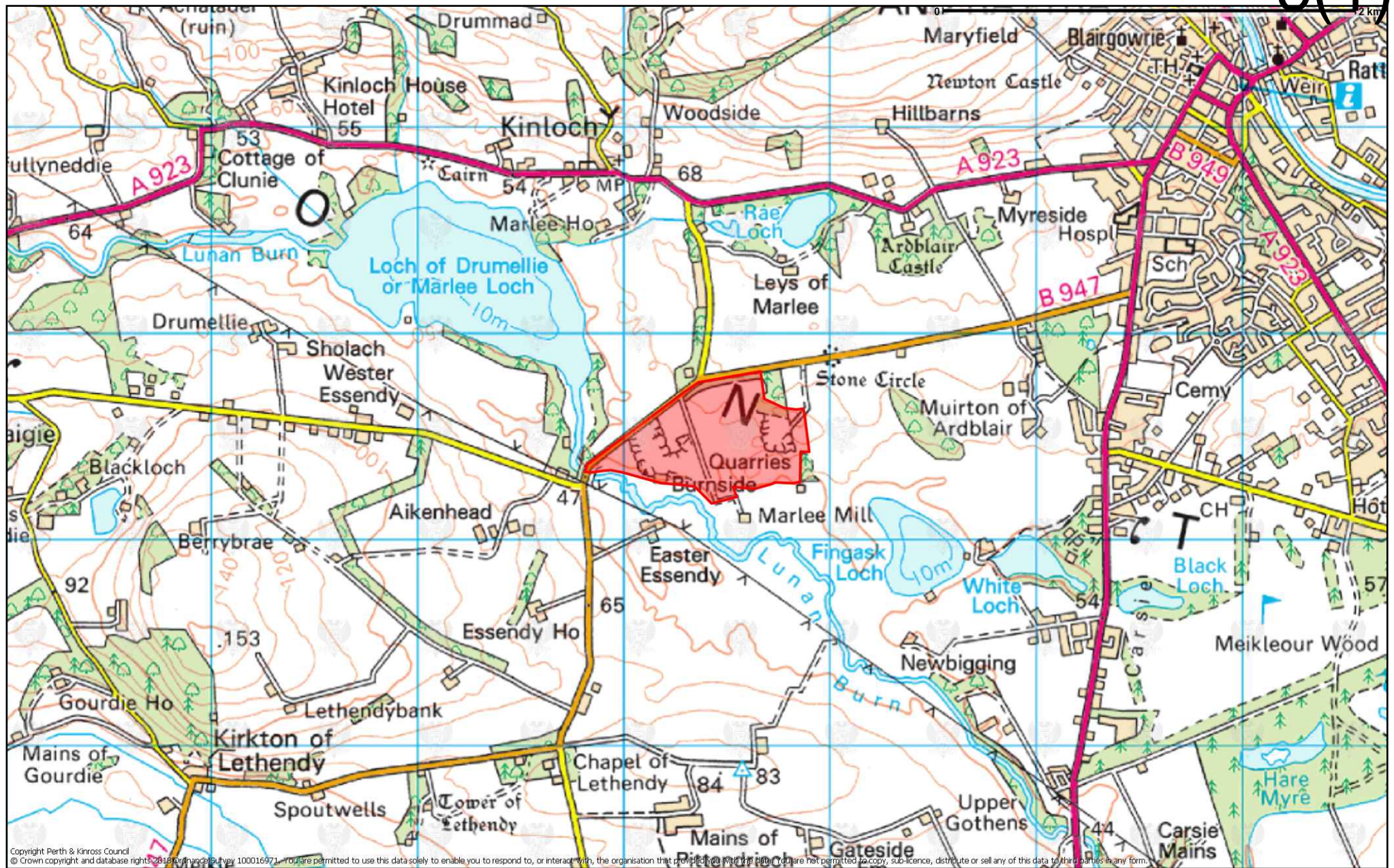
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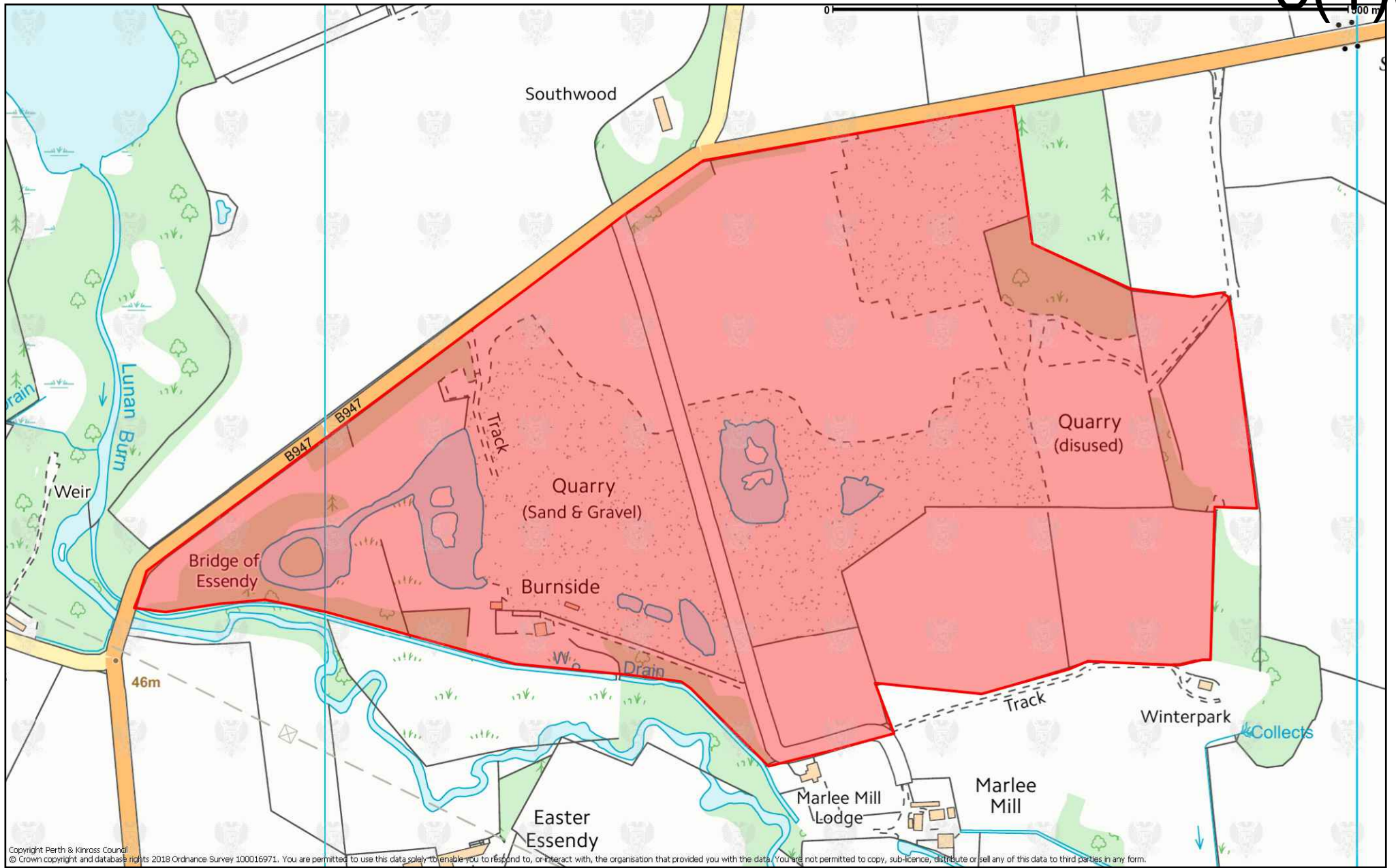
17/01371/MWM

Application under Section 42 of the Town and Country Planning (Scotland) Act 1997 to develop land without complying with Condition 1 of planning permission PK920831 (extraction of sand and gravel) at Marlee Quarry, Essendy









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17/01371/MWM

Application under Section 42 of the Town and Country Planning (Scotland) Act 1997 to develop land without complying with Condition 1 of planning permission PK920831 (extraction of sand and gravel) at Marlee Quarry, Essendy







Perth and Kinross Council  
Planning & Development Management Committee – 4 July 2018  
Report of Handling by Interim Development Quality Manager (Report No. 18/228)

**PROPOSAL:** 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)

**LOCATION:** Land at Pitdownies Farm, Manse Road, Milnathort

Ref. No: 18/00338/IPM  
 Ward No: P8 - Kinross-shire

### Summary

This report recommends approval of the application for variation of Conditions 1 and 2 of permission 15/00240/IPM (modification of 07/00442/OUT for residential development) to allow additional time for the submission of applications for the approval of matters specified in conditions, and the commencement of development on land at Pitdownies Farm, Manse Road, Milnathort.

The development is considered to accord with the provisions of the Development Plan and is recommended for approval, subject to conditions.

### BACKGROUND AND DESCRIPTION

- 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 access 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 located in the Milnathort Settlement Boundary as an allocated housing site. In the 2014 Perth and Kinross Local Development Plan (LDP), the sites allocation for residential use was continued under the reference H48. An in Principle permission (07/00442/OUT) for residential development was granted by the Council on 7 March 2008. Since the initial In Principle approval, the time limit has been varied and approved under subsequent applications 11/01537/IPM, 13/00436/IPM and 15/00240/IPM.
- 3 Under Condition1 of the 2007 permission the following matters were reserved for future approval: siting, design and external appearance of the development, landscaping, all means of enclosure, car parking and means of access to the site. The reserved matters were required, by condition 2(i) of the initial

permission to be submitted for approval not later than 3 years from the date of the planning permission (i.e. by 7 March 2011).

- 4 This submission represents the fourth application under Section 42 of the Town and Country Planning (Scotland) Act 1997 seeking to extend the period during which the associated matters specified by condition can be submitted and when development can be commenced.
- 5 There has been no significant change of circumstances in terms of the physical characteristics of the site but it should be noted that there have been changes to both National and Development Plan policy since the determination of the 2007, 2011, 2013 and 2015 applications. This assessment focuses primarily on how the renewal relates to the change in Development Plan policy in particular.

### **PRE-APPLICATION CONSULTATION**

- 6 Due to the size of the application site, which is over 2 hectares, this proposal is classed as a Major Application as defined in the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009. The amended Regulations, which came into force on the 30 June 2013, and removes the requirement for Pre-application Consultation for Section 42 applications (which relates to a 'major planning application') made on, or after the 3 February 2013. Accordingly there is not a requirement for the applicants to carry out a pre-application public consultation on this major application due to the inclusion of Regulation 49(5) in the above Regulations.

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

- 7 Directive 2011/92/EU (the EIA Directive) requires the 'competent authority' (in this case Perth and Kinross Council) when giving a planning permission for particular 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. The EIA Directive was amended and updated in 2014 by Directive 2014/52/EU introducing new requirements on the developer and competent authorities. These changes are transposed in to the Scottish planning system through the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 (the 2017 Regulations) which largely replaces the 2011 EIA Regulations.
- 8 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. This 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.
- 9 A screening exercise was carried out in 2015. It was concluded that the development is not EIA development under the Town and Country Planning EIA (Scotland) Regulations 2011. As the site and surrounding circumstances

have not altered in the past 3 years, it is considered that a fresh screening will not be required in this instance.

## **NATIONAL POLICY AND GUIDANCE**

- 10 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**

- 11 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**

- 12 The SPP is a statement of Scottish Government policy on land use planning. 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

- 13 The following Scottish Government Planning Advice Notes (PAN) are of relevance to the proposal:

- PAN 2/2010 Affordable Housing and Housing Land Audits
- PAN 1/2011 Planning and Noise
- 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 79 Water and Drainage

### **Designing Streets 2010**

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

### **Creating Places – A policy statement on architecture and place for Scotland 2013**

- 15 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.

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

- 16 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**

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

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

- 18 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:
- 19 *"By 2036 the TAYplan area will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice where more people choose to live, work, study and visit, and where businesses choose to invest and create jobs."*
- 20 The following sections of the TAYplan 2016 are of particular importance in the assessment of this application.

### **Policy 1: Locational Priorities**

- 21 Seeks to focus the majority of development in 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.

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

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

## **Policy 4: Homes**

- 23 Seeks to ensure there is a minimum of 5 years effective housing land supply at all times. Land should be allocated within each Housing market Area to provide a generous supply of land to assist in the delivery of 25,020 units up to year 2028 and a further 16,680 by 2036.

## **Policy 6: Developer Contributions**

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

## **Policy 8: Green Networks**

- 25 Seeks to protect and enhance green and blue networks by ensuring that:
- i. development does not lead to the fragmentation of existing green networks;
  - ii. development incorporates new multifunctional green networks (that link with existing green networks) of appropriate quantity and quality to meet the needs arising from the nature of the development itself; and,
  - iii. the provision of networks of green infrastructure is a core component of any relevant design framework, development brief or masterplan

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

- 26 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
- 27 The LDP sets out a vision statement for the area and states that:  
*“Our vision is of a Perth and Kinross which is dynamic, attractive and effective which protects its assets whilst welcoming population and economic growth.”*
- 28 Under the LDP, the following policies are of particular importance in the assessment of this application.

### **Policy PM1A - Placemaking**

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

### **Policy PM1B - Placemaking**

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

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

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

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

- 32 Where new developments (either alone or cumulatively) exacerbate a current or generate a need for additional infrastructure provision or community facilities, planning permission will only be granted where contributions which are reasonably related to the scale and nature of the proposed development are secured.

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

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

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

- 34 Residential development consisting of 5 or more units should include provision of an affordable housing contribution amounting to 25% of the total number of units. Off-site provision or a commuted sum is acceptable as an alternative in appropriate circumstances.

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

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

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

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

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

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

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

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

### **Policy NE1A -International Nature Conservation Sites**

- 39 Development which could have a significant effect on a site designated or proposed as a Special Area of Conservation, Special Protection Area or Ramsar site will only be permitted where an Appropriate Assessment shows that the integrity of the site will not be adversely affected, there are no alternative solutions and there are imperative reasons of overriding public interest.

### **Policy NE1B - National Designations**

- 40 Development which would affect a National Park, National Scenic Area, Site of Special Scientific Interest or National Nature Reserve will only be permitted where the integrity of the area or the qualities for which it has been designated are not adversely affected or any adverse impacts are clearly outweighed by benefits of national importance.

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

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

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

- 42 Where there are existing trees on a development site, any application should be accompanied by a tree survey. There is a presumption in favour of protecting woodland resources. In exceptional circumstances where the loss of

individual trees or woodland cover is unavoidable, mitigation measures will be required.

### **Policy NE3 - Biodiversity**

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

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

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

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

- 45 There is a general presumption against proposals for built development or land raising on a functional flood plain and in areas where there is a significant probability of flooding from any source, or where the proposal would increase the probability of flooding elsewhere. Built development should avoid areas at significant risk from landslip, coastal erosion and storm surges. Development should comply with the criteria set out in the policy.

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

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

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

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

### **Policy EP4 - Health and Safety Consultation Zones**

- 48 Full account will be taken of advice from the Health and Safety Executive in determining planning applications for development within the consultation zones identified on the proposals and inset maps.

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

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



## **Policy EP12 - Contaminated Land**

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

## **OTHER POLICIES**

- 51 The following supplementary guidance and documents are of particular importance in the assessment of this application
- Developer Contributions and Affordable Housing Supplementary Guidance April 2016.
  - Flood Risk and Flood Risk Assessments – Developer Guidance June 2014.

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

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

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

- 53 Corporate Plan Vision includes promoting a prosperous, inclusive and sustainable economy. Creating safe and sustainable places for future generations.

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

- 54 Perth & Kinross Council is progressing with preparation of a new Local Development Plan to provide up-to-date Development Plan coverage for Perth & Kinross. When adopted, the Perth & Kinross Local Development Plan 2 (LDP2) will replace the current adopted Perth & Kinross Local Development Plan (LDP). The Proposed Local Development Plan 2 was approved at the Special Council meeting on 22 November 2017. The Proposed LDP2 sets out a clear, long-term vision and planning policies for Perth & Kinross to meet the development needs of the area up to 2028 and beyond. The Proposed LDP2 is considered consistent with the Strategic Development Plan (TAYplan) and Scottish Planning Policy (SPP) 2014.
- 55 The Proposed LDP2, as approved by Perth & Kinross Council, was subject of a 9 week period of representation, which ended on 2 February 2018. Any unresolved representation to the Proposed Plan after this period is likely to be considered at an Examination by independent Reporter(s) appointed by the

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

- 56 The Proposed Plan represents Perth & Kinross Council's settled view in relation to land use planning and as such it is a material consideration in the determination of planning applications. The Proposed Plan is, however, at a stage in the statutory preparation process where it may be subject to modification. As such limited weight can therefore currently be given to its content and the policies and proposals of the plan are only referred to where they would materially alter the recommendation or decision. The weight of the Proposed Plan may change following consideration of representation received during consultation, at which time the level of significance of any objection to strategy, policies or proposals within the plan will be known.

### **SITE HISTORY**

- 57 There have been a series of historic applications relating to this site. These include:

**04/02375/FUL:** Detailed application for the erection of 64 dwellinghouses. Application withdrawn 8 June 2005.

**07/00442/OUT:** In Principle application for a residential development with associated landscaping, car parking, infrastructure and community woodland and footpath links. Approved by the Development Management Committee 17 March 2008.

**11/00004/PAN:** A proposals of application notice (PAN), submitted for the 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 PAN approved 15 April 2011.

**11/01537/IPM:** Section 42 application for the modification of planning Condition 2 (07/00442/OUT) to extend the time limit. Approved by Development Management Committee 20 January 2012.

**13/00436/IPM:** Section 42 application to modify Conditions 2 and 3 of planning permission 07/00442/OUT to extend the time limit. Approved by Development Management Committee 24 July 2013.

**15/00240/IPM:** Section 42 application to modify Conditions 2 and 3 of planning permission 07/00442/OUT to extend the time limit. Approved by Development Management Committee 9 April 2015.

## **CONSULTATIONS**

### **EXTERNAL**

#### **Scottish Environment Protection Agency (SEPA)**

- 58 No objection on the ground of flood risk but an updated Flood Risk Assessment will be required for the detailed submission. The layout will need to be designed in accordance with current flood information, methodologies and guidance at the time of application.

#### **Transport Scotland**

- 59 No objection.

#### **Scottish Water**

- 60 No objection in terms of water and foul connection.

#### **Milnathort Community Council**

- 61 Object to the proposal on the basis of increased volume of traffic and no supporting transport study.

#### **Health and Safety Executive (HSE)**

- 62 The HSE's online assessment tool (PADHI+) was utilised and recommended the operator (INEOS) of the nearby gas pipeline was consulted.

#### **INEOS**

- 63 No objection as the Forties Pipeline will not be affected by the proposal.

### **INTERNAL**

#### **Environmental Health**

- 64 No objection to the principle of the application on noise and contaminated land grounds but recommend conditional control.

#### **Transport Planning**

- 65 No objection.

#### **Developer Negotiations Officer**

- 66 No objection but recommends new conditions regarding affordable housing and primary education are applied.

## **Flood Risk and Structures**

- 67 No objection. It is advised that the risk of flooding from the Fochy Burn is considered during the detailed design of the development and that any proposed structures are built outwith SEPA's 1 in 200 year flood envelope.

## **Community Waste Advisor**

- 68 No response received.

## **REPRESENTATIONS**

- 69 Four letters of representation including one from the Community Council have been received and the following issues have been raised;
- Contrary to Development Plan
  - Over intensive development
  - Flood risk
  - Traffic congestion and road safety
  - Adverse impact on trees
- 70 The above issues are addressed in the Appraisal section of this report.

## **ADDITIONAL STATEMENTS**

71

|                                                |                                      |
|------------------------------------------------|--------------------------------------|
| Environment Statement                          | Not required.                        |
| Screening Opinion                              | Undertaken in 2015                   |
| Environmental Impact Assessment                | Not required                         |
| Appropriate Assessment                         | Not applicable                       |
| Design Statement / Design and Access Statement | Not applicable                       |
| Reports on Impact or Potential Impact          | Undertaken for previous application. |

## **APPRAISAL**

### **Policy Appraisal**

- 72 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) requires 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 consists of the TAYplan Strategic Development Plan 2016 – 2036 and the Perth and Kinross Local Development Plan 2014.
- 73 Section 42 of the Town and Country Planning (Scotland) Act 1997 enables the determination of applications to develop land without compliance with conditions previously attached. The legislation specifies that on such an application the Planning Authority shall consider only the question of the

conditions subject to which planning permission should be granted, and 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 should be granted unconditionally, they shall grant planning permission accordingly. 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.

- 74 The determining issues in this case are whether: the development without compliance with part of the condition in contention would be consistent with the relevant provisions of the Development Plan; or if an exception to these provisions is justified by other material considerations.
- 75 This application seeks variation of Conditions 1 and 2 which relate to the timescales of the In Principle permission.
- 76 The applicant's supporting statement justifies the reason for the application to extend the permission is because they recently relaunched the site with refreshed marketing details attracting fresh interest from the development industry. The applicant considers that a valid planning permission will make the site attractive to potential purchasers and help facilitate its sale enabling a purchaser to move forward with a detailed application and develop the site.
- 77 The applicant is seeking an additional period of 3 years (this would be 13 years in total from the date of the grant of the In Principle planning permission 07/00442/OUT) in which to submit the details required for approval of matters specified by condition, as well as additional time in which to commence development.

### **Principle**

- 78 Since the approval of the 2007 application there has been Development Plan changes from the Kinross Local Plan 2004 to the adoption of TAYplan 2016-2036 and the Perth and Kinross Local Development Plan 2014. Notwithstanding these changes the principle of residential development is still maintained under housing allocation H48 in the LDP. Accordingly the proposed variation of the conditions to extend the time to commence development is considered to accord with the updated Development Plan.
- 79 Whilst the primary purpose of the Section 42 application is to modify the time conditions, the Town and Country Planning (Scotland) Act 1997, paragraph 59 states that every In Principle planning permission granted will automatically be deemed to have a 3 year time limit for submission of the Associated Matters Specified by Condition (AMSC) application. As a consequence it is no longer necessary to apply conditional control on the duration of consent and this can now be added as an informative. (Informative No.1)
- 80 In addition the 2007 permission has a number of conditions that are now regarded as out of date. It is considered good practice to update the conditions

to meet current regulations and requirements especially with a change in the Development Plan.

### **Site Specific Developer Requirements**

- 81 The 2014 LDP does require a number of site specific requirements to be adhered to in the development of the site;
- A mix of housing types and sizes including low cost housing.
  - Flood Risk Assessment.
  - Water margin enhancement along Back Burn.
  - Road access to be formed from both Manse Road and Curlers' Crescent.
  - Provision of woodland screen planting along the western edge of Milnathort.
  - Noise attenuation measures.
  - Provision of a multi-user core path through woodland planting.
- 82 All of the above requirements will be addressed through the Associated Matters Specified by Condition (AMSC) application following In Principle permission. This is when the exact details of the development will come forward in terms of number of dwellings, location and design and will deal with the site specific developer requirements listed above.

### **Site Circumstances**

- 83 Whilst there has been no change to the sites physical circumstances since the previous planning permission, concern has been expressed regarding the sites effectiveness and interest to the development industry. The site has In Principle planning permission in place for 10 years without being developed.
- 84 The applicants supporting statement clarifies they require additional time to market the site but there was new interest in it from the development industry. The applicant's agent has since provided evidence of confirmed interest by a national housebuilder to purchase and develop the site. It is considered that this confirmation provides sufficient evidence that the site remains effective and developable. However it is considered that this should be the last time an extension of the In Principle permission should be granted for this site.
- 85 I have taken account of the applicable policies of the Development Plan which relate to residential amenity, traffic and transport, noise, contaminated land and flood risk. I have not received any objections from any of the statutory consultees and these matters have been satisfactorily addressed via earlier applications. It is considered that the development accords with the current Development Plan.

### **Traffic and Transport**

- 86 No concerns have been expressed by Transport Scotland or Transport Planning regarding accessibility, congestion or road safety and access

continues to be available from Manse Road and Curlers Crescent. For any detailed application it is expected that a Transport Statement will be submitted in support of such an application.

- 87 Condition 7 of the 2007 consent requires a scheme to be submitted detailing improvement measures of the junction between Manse Road and North Street. It is considered that this condition is still relevant but has been updated. (See Condition 5)

### **Structures and Flooding**

- 88 Whilst neither SEPA nor Structures and Flooding have any objection to the proposal both highlight that detailed work on flooding and drainage will be required to be submitted with any detail application. A Flood Risk Assessment (FRA) was submitted with the 2007 application and an updated FRA will be required to be submitted with any detailed application to ensure it complies with the Site Specific Developer Requirements and current standards. (Condition 7)
- 89 SEPA have advised that the detailed application will need to be designed in accordance with current flood information, methodologies and guidance at the time of submission. Structures and Flooding have advised that the risk of flooding from the nearby Fochy Burn is considered during the design of the development and any proposed structures are built outwith the SEPA 1 in 200 year flood envelope.

### **Noise**

- 90 Noise from the adjacent M90 will need to be mitigated at the detailed application stage. Environmental Health have reiterated their comments and conditions with regards to noise from the previous approved applications and they are included with this proposed permission. (Condition 2)

### **Contaminated Land**

- 91 Environmental Health (Contaminated Land) has provided advice in relation to the previous applications for this site. There are two potential areas of filled ground within the proposed site. The first of these is the old curling pond which lies mainly under Curlers Crescent, but extends under the eastern edge of the development site. In addition, historic maps indicate an area of boggy ground containing a pond to the west of Curlers Crescent. The origin and nature of the material used to infill these areas are not known nor the levels of pollutants that are potentially present.
- 92 In view of the presence of potential contamination conditional control continues to be required and dealt with as part of the detailed application. (Condition 3)

### **Trees**

- 93 Concern has been expressed regarding the potential impact of the development on trees and properties near the site boundary. There are trees of

varying condition and size along the perimeter of the site and one of the site specific requirements within the LDP allocation is for the provision of woodland screening along the western edge. A detailed tree survey along with a landscape plan will be required to be submitted with any detailed application. (Condition 6 and 12)

### **Developer Contributions**

- 94 This is the fourth time limit extension sought for this site and will increase the timescale for the consent to be implemented. Paragraph 3.6 of the Councils Developer Contributions and Affordable Housing Supplementary Guidance sets out that where renewal of planning consent is sought then the application should be considered against Appendix 5 of the Guidance. In doing so it is identified that the standard conditions in relation to developer contributions and affordable housing should be applied to any consent. A new affordable housing condition should replace condition 14 of the 07/00442/OUT permission. (Condition10).
- 95 In terms of primary education, the Council's Developer Contributions Supplementary Guidance requires a financial contribution towards increasing primary school capacity in areas where a constraint has been identified. A capacity constraint is defined as where a primary school is operating, or likely to be operating following completion of the proposed development and extant planning permissions, at or above 80% of total capacity. This site lies within the catchment of Milnathort Primary School and in comparison to the previous applications a capacity issue has been identified. Conditional control will be required to ensure this contribution towards primary school provision is met. (Condition 11)

### **Economic Impact**

- 96 The construction of the residential development would provide opportunities for local trades and tradesmen to become involved in the construction phase. Additionally, there would also be a positive economic impact on the local area associated with the increase of population of Milnathort.

### **LEGAL AGREEMENTS**

- 97 None required at this stage.

### **DIRECTION BY SCOTTISH MINISTERS**

- 98 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**

- 99 To conclude, the application must be determined in accordance with the Development Plan unless material considerations indicate otherwise. In this respect, account has been taken of the updated policy position and explored how this relates to the previous assessments associated with the proposal.
- 100 The proposed variation of conditions associated with the commencement of development is compliant with the updated policy position subject to adherence to an updated set of conditions including a condition regarding primary school provision will be required as a capacity issue has now been identified.
- 101 Accordingly the variation should be granted as it complies with the Development Plan and there are no other material considerations that would justify refusing the application.

## **RECOMMENDATION**

### **A Approve the application subject to the following conditions:**

#### **Conditions:**

- 1 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 the site;
  - (vii) the lighting of all streets and footpaths;
  - (viii) the layout of any open space or play areas and the equipment to be installed;
  - (ix) Flood Risk Assessment
  - (x) full details of the proposed means of disposal of foul and surface water from the development;

- (xi) Full details of the disposal of surface water from the development by means of a Sustainable Urban Drainage System for during construction and for the completed development.
- (xii) details of car charging points to be provided within the development; and
- (xiii) details of bin storage locations.
- (xiii) A detailed Construction Management Plan which includes monitoring and mitigation measures for the control of noise, dust and vibration.

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.

- 2 No development shall take place unless and until a scheme for protecting the new housing development from M90 road traffic noise has been submitted to and approved in writing by the Planning Authority.

All such works that form the approved scheme shall be completed before the dwellings are brought into use to ensure that the development is adequately soundproofed against externally generated noise in the interests of the amenity of future occupiers of the development.

Reason - In the interests of residential amenity.

- 3 Development should not begin until a scheme to deal with the contamination on the site has been submitted to and approved in writing by the planning authority. The scheme shall contain proposals to deal with the contamination to include:
  - I. the nature, extent and type(s) of contamination on the site
  - II. measures to treat/remove contamination to ensure the site is fit for the use proposed
  - III. measures to deal with contamination during construction works
  - IV. condition of the site on completion of decontamination measures

Before any residential unit is occupied the measures to decontaminate the site shall be fully implemented as approved by the planning authority.

Reason - In the interests of residential amenity and human health.

- 4 Prior to the development hereby approved being completed or brought into use, all matters regarding access, car parking, road layout, design and specification, including the disposal of surface water, shall be in accordance with the standards required by the Council as Roads Authority.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 5 Prior to the commencement of development a scheme shall be submitted for the approval of the Council as Roads Authority detailing improvement

measures of the junction between Manse Road and North Street. The agreed detail shall thereafter be implemented prior to the completion of development.

Reason – In the interests of road safety.

- 6 In pursuance of Condition 1vi), schemes of hard and soft landscaping works shall be submitted as part of the matters specified by condition application for the development. Details of the scheme shall include:-
- a) Existing and proposed finished ground levels relative to a fixed datum point.
  - b) Existing landscape features and vegetation to be retained.
  - c) Existing and proposed services including cables, pipelines, substations.
  - d) The location of existing and new boundary woodland, trees, shrubs, hedges, grassed areas and water features.
  - e) A schedule of plants to comprise species, plant sizes and proposed numbers and density.
  - f) The location, design and materials of all hard landscaping works including walls, fences, gates, any other means of enclosure, street furniture and play equipment.
  - g) An indication of existing trees, shrubs and hedges to be removed and retained.
  - h) A programme for the completion and subsequent maintenance of the proposed landscaping.
  - i) Proposed woodland screen planting and core path along the western edge of site.
  - j) a woodland management plan.

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

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

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

- 7 Further to Condition 1ix) , an updated Flood Risk Assessment (FRA) shall be submitted as part of the specified matters requiring to be the subject of a further formal planning application for the approval of the Council as Planning Authority. The FRA shall consider flood risk from all sources and shall be developed in accordance with the relevant technical guidance published by the Scottish Environment Protection Agency (e.g. Technical Flood Risk Guidance

for Stakeholders) and the Council's Flood Risk and Flood Risk Assessment Developer Guidance.

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 and there is a known issue relating to flooding and/or surface water.

- 8 In pursuance of condition 1x), and prior to the commencement of any works, full details of the finalised foul drainage scheme shall be submitted for the written approval of the Planning Authority, in consultation with SEPA and Scottish Water. All work must be capable of connection with the main drainage system and shall be carried out in accordance with the approved scheme.

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

- 9 In pursuance of condition 1x) and prior to the commencement of any works, full details of the finalised SUDS scheme for both during construction operations and for the completed development shall be submitted for the written approval of the Planning Authority, in consultation with SEPA. All work shall be carried out in accordance with the approved scheme.

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

- 10 The development shall be in accordance with the requirements of Perth & Kinross Council's Developer Contributions and Affordable Housing Supplementary Guidance 2016 in line with Policy RD4: Affordable Housing of the Perth & Kinross Local Development Plan 2014 or such replacement Guidance and Policy which may replace these.

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

- 11 The development shall be in accordance with the requirements of Perth & Kinross Council's Developer Contributions and Affordable Housing Supplementary Guidance 2016 in line with Policy PM3: Infrastructure Contributions of the Perth & Kinross Local Development Plan 2014 with particular regard to primary education infrastructure or such replacement Guidance and Policy which may replace these.

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

- 12 Any detailed application shall be accompanied by a tree survey carried out by a qualified and independent arborist indicating the type, age, condition, location and accurate canopy spread of all the trees on and affected by the site and including a tree management report with details of the tree protection measures

to be employed during construction in accordance with BS 5837 2012: Trees in Relation to Design, Demolition and Construction.

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

## **B JUSTIFICATION**

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

## **C PROCEDURAL NOTES**

None required at this stage.

## **D INFORMATIVES**

- 1 Application for the approval of matters specified in conditions shall be made before the expiration of 3 years from the date of the grant of planning permission in principle, unless an earlier application for such approval has been refused or an appeal against such refusal has been dismissed, in which case application for the approval of all outstanding matters specified in conditions must be made within 6 months of the date of such refusal or dismissal.

The approved development shall be commenced not later than the expiration of 3 years from the date of grant of planning permission in principle or 2 years from the final approval of matters specified in conditions, whichever is later.

- 2 The applicant is advised that to enable some of the negative suspensive conditions to be fulfilled works which are operational development may have to be undertaken outwith the application site. These works themselves may require the submission of a planning application.
- 3 The applicant is advised that in terms of Section 56 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environment Protection Agency.
- 4 The applicant is advised that in terms of Section 21 of the Roads (Scotland) Act 1984 they must obtain from the Council as Roads Authority consent to construct a new road prior to the commencement of roadworks. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environment Protection Agency.
- 5 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.

- 6 The applicant is advised that the granting of planning consent does not guarantee a connection to Scottish Water's assets. The applicant must make a separate application to Scottish Water Planning & Development Services team for permission to connect to the public wastewater system and/or water network and all their requirements must be fully adhered to.
- 7 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](http://www.sepa.org.uk)
- 8 The Council's Community Waste Adviser in the Environment Service should be contacted to clarify the bin storage and recycling requirements for the development.
- 9 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.
- 10 The applicant is reminded that, should any protected species be present a licence may be required from Scottish Natural Heritage to disturb a protected species. Failure to obtain a licence may constitute a criminal act under the Habitats Regulations and penalties are severe for non-compliance.
- 11 The applicant is advised that 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.
- 12 Please consult the Street Naming and Numbering Officer, The Environment Service, Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth PH1 5GD.

Background Papers: 3 letters of representation. Decision Notice  
07/00442/IPM  
Contact Officer: Steve Callan – Ext 75337  
Date: 21 June 2018

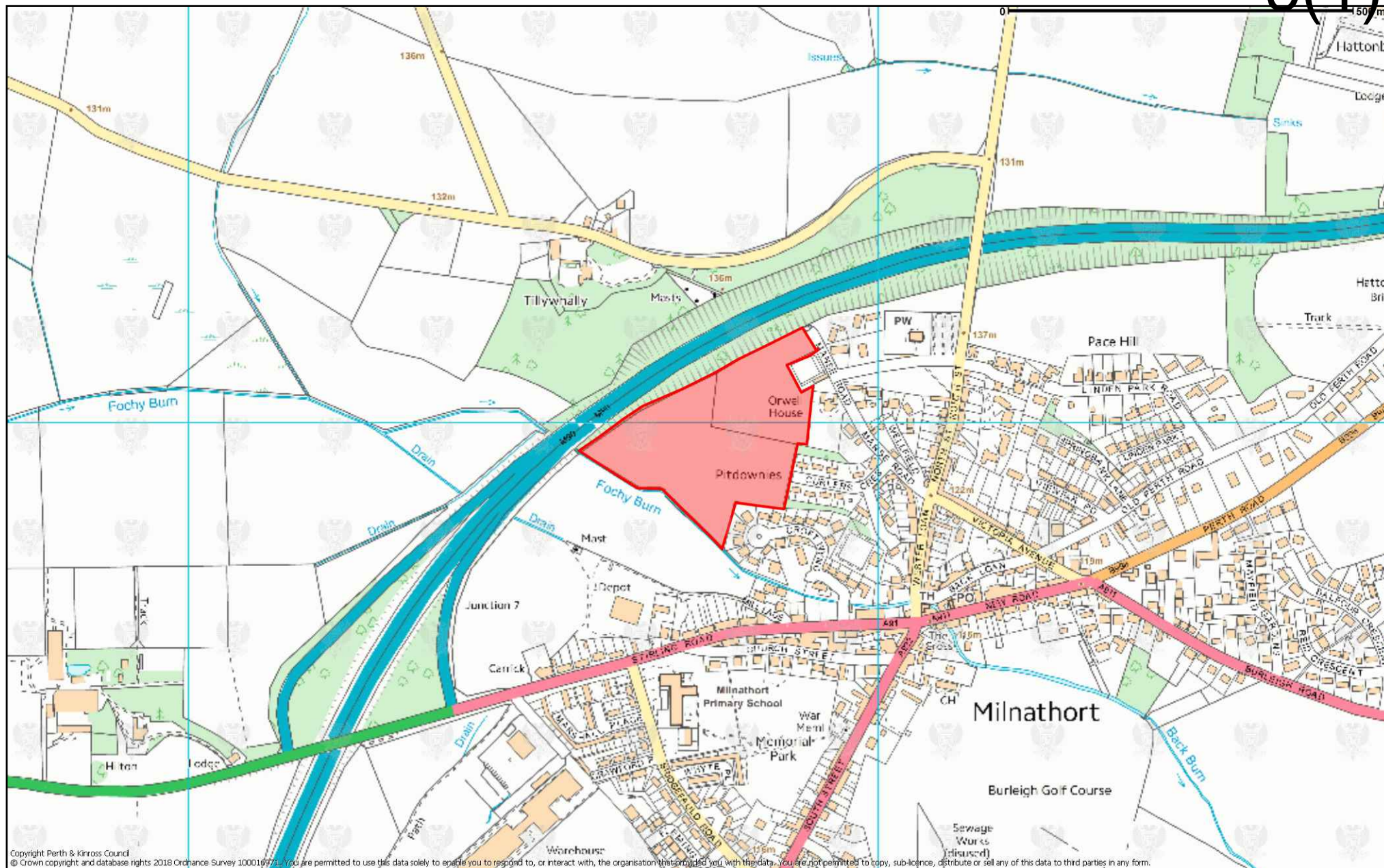
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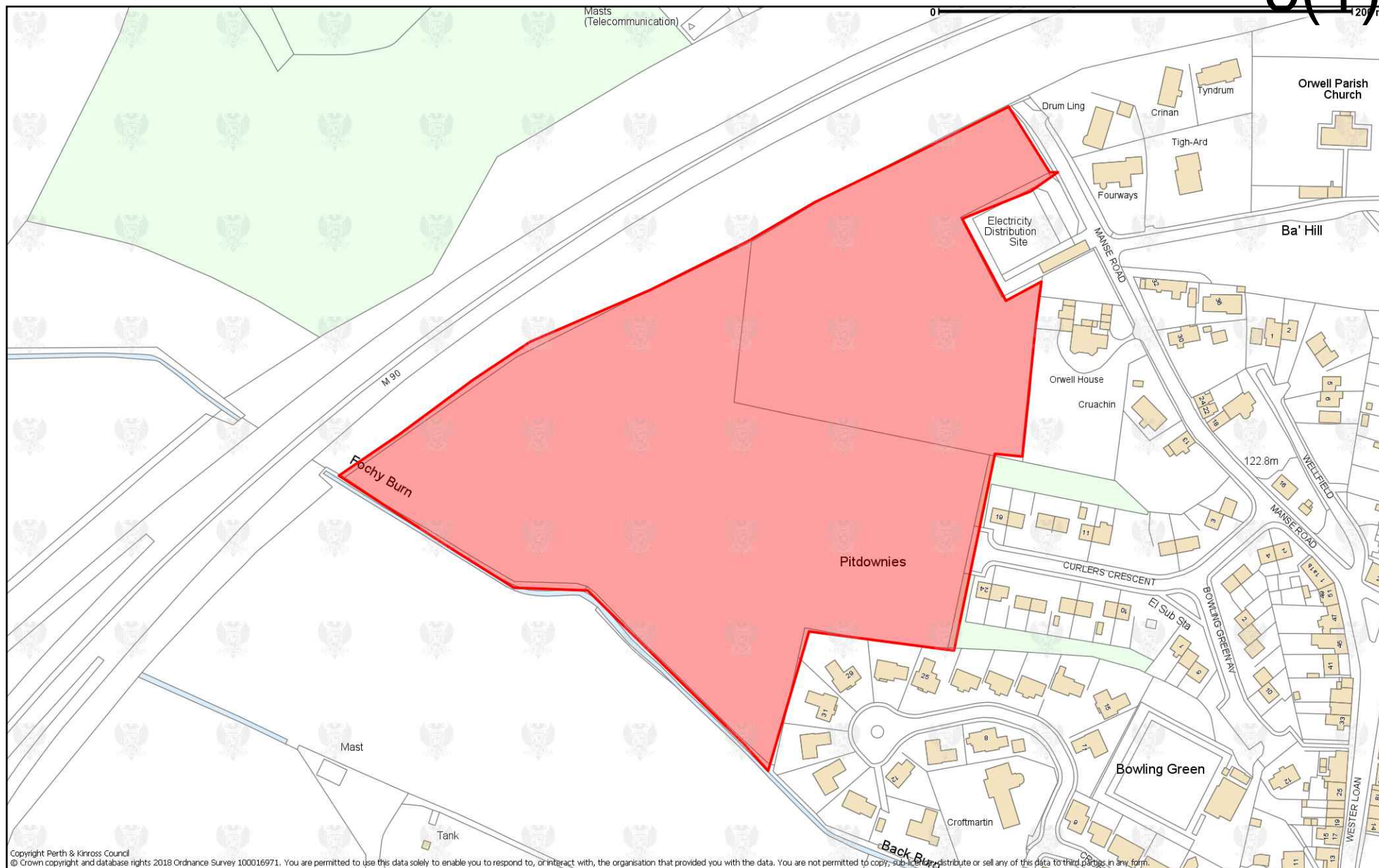
18/00338/IPM

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) at Land at Pitdownies Farm, Manse Road, Milnathort









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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) at Land at Pitdownies Farm, Manse Road, Milnathort





Perth and Kinross Council  
Planning & Development Management Committee – 4 July 2018  
Report of Handling by Interim Development Quality Manager (Report No. 18/229)

**PROPOSAL:** Erection of 43 dwellinghouses, formation of SUDS pond, landscaping and associated works (Matters Specified in Conditions 16/01348/IPM) (Phase 1)

**LOCATION:** Land 100 Metres West of Glover Arms, East Huntingtower, Perth

Ref No: 18/00412/AMM

Ward No: 9 - Almond and Earn

### Summary

This report recommends approval of the application for the erection of 43 dwellings and associated infrastructure. This development would represent the first phase (and Approval of Matters Specified in Conditions) for residential development at the former auction mart site East Huntingtower, Perth following In Principle permission being issued in January 2017. The development is considered to comply with the current Development Plan. The application is recommended for approval, subject to conditions.

### BACKGROUND AND PROPOSAL

- 1 The site, which extends to approximately 1.93 hectares in area, is located to the south of the A85 trunk road and to the west of the A9 trunk road as it bypasses Perth's western periphery. It is currently accessed from the A85 along with other existing businesses.
- 2 To the northeast of the site is the Glover Arms public house at East Huntingtower and between the site and the A9 to the east is a garden centre, Dobbies. Beyond the A9 lies an established residential area with the closest housing being approximately 120 metres from the site. There are a number of houses directly opposite to the north the access into the site extending some 160 metres along the A85. The site is bounded to the west by the former agricultural mart landholding, which is defined by a hedge and core path running north-south. The core path, which is located outwith the application site boundary, meets a path running west-east some distance to the south of the application site, along what was the southern boundary of the former mart site.
- 3 Generally, the former auction mart site gradually contours down in the form of plateaus from south to north which levels out beyond the site to the south of Huntingtower Castle. The application site is the lowest and most northern part of the wider development site. Landscaping around the site is already well

established due to the use of planting to screen the previous development, the majority of which was undertaken to minimise the impact of development on the edges of the site that border onto open countryside, notably along its western edge.

- 4 The site is located within the settlement boundary of Perth as defined by the Perth and Kinross Local Development Plan (LDP) 2014. It is not allocated for a particular use but is classed as a brownfield site due to its previous use and current condition.
- 5 As advised, this Approval of Matters Specified in Conditions (AMSC) application represent the first phase of development of the site comprising of 43 dwellings, SUDS pond, access roads, footpaths and landscaping. A range of terraced, detached and semi-detached house types are proposed by the applicant:
  - 7 x 3 bedroom terrace dwellings
  - 8 X 3 bedroom semi-detached
  - 28 X 4 bedroom detached dwellings
- 6 All the house types for this phase will be two-storey in form and are proposed to be finished externally with white rendered walls and dark grey tiles.
- 7 The application has been accompanied by a significant level of supporting information in particular information relative to the majority of 'pre-commencement' conditions included in the In Principle permission (application reference: 16/01348/IPM).

### **Environmental Impact Assessment (EIA)**

- 10 Directive 2011/92/EU requires the competent authority (in this case Perth and Kinross Council) when giving a planning consent for particular large scale project 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.
- 11 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. This 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.
- 12 An Environmental Statement (ES) was submitted and assessed as part of the 09/02126/FLM application for retail development. The In Principle application (16/01348/IPM) was re-screened for an EIA and it was found that an EIA was not required as the previous ES showed there to be low environmental impact and little has changed over the intervening years. The applicant has submitted a suite of up to date supporting assessments, looking at flood risk, drainage,

transport, ecology, noise, air quality and contaminated land. This position has not changed at the AMSC stage.

## **NATIONAL POLICY AND GUIDANCE**

- 13 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.

### **Scottish Planning Policy 2014**

- 14 The SPP is a statement of Scottish Government policy on land use planning. 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 (PAN) are of relevance to the proposal:
- PAN 2/2010 Affordable Housing and Housing Land Audits
  - PAN 1/2011 Planning and Noise
  - 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
  - PAN 83 Masterplanning

### **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 and sets out Government aspirations for design and the role of the planning system in delivering these.

### **Creating Places 2013**

- 17 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.

### **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 2014.

### **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:
- 21 *“By 2036 the TAYplan area will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice where more people choose to live, work, study and visit, and where businesses choose to invest and create jobs.”*
- 22 The following sections of the TAYplan 2016 are of particular importance in the assessment of this application.

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

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

### **Policy 6: Developer Contributions**

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

## **Policy 8: Green Networks**

- 25 Seeks to protect and enhance green and blue networks by ensuring that:
- i. development does not lead to the fragmentation of existing green networks;
  - ii. development incorporates new multifunctional green networks (that link with existing green networks) of appropriate quantity and quality to meet the needs arising from the nature of the development itself; and,
  - iii. the provision of networks of green infrastructure is a core component of any relevant design framework, development brief or masterplan

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

- 26 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
- 27 The LDP sets out a vision statement for the area and states that:  
*“Our vision is of a Perth and Kinross which is dynamic, attractive and effective which protects its assets whilst welcoming population and economic growth.”*
- 28 Under the LDP, the following policies are of particular importance in the assessment of this application.

## **Policy PM1A - Placemaking**

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

## **Policy PM1B - Placemaking**

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

## **Policy PM1C - Placemaking**

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

## **Policy PM2 - Design Statements**

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

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

- 33 Where new developments (either alone or cumulatively) exacerbate a current or generate a need for additional infrastructure provision or community facilities, planning permission will only be granted where contributions which are reasonably related to the scale and nature of the proposed development are secured.

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

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

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

- 35 Residential development consisting of 5 or more units should include provision of an affordable housing contribution amounting to 25% of the total number of units. Off-site provision or a commuted sum is acceptable as an alternative in appropriate circumstances.

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

### **Policy HE4 - Gardens and Designed Landscapes**

- 44 The integrity of sites included on the Inventory of Gardens and Designated Landscapes will be protected and enhanced.

### **Policy NE1A - International Nature Conservation Sites**

- 45 Development which could have a significant effect on a site designated or proposed as a Special Area of Conservation, Special Protection Area or Ramsar site will only be permitted where an Appropriate Assessment shows that the integrity of the site will not be adversely affected, there are no alternative solutions and there are imperative reasons of overriding public interest.

### **Policy NE1B - National Designations**

- 46 Development which would affect a National Park, National Scenic Area, Site of Special Scientific Interest or National Nature Reserve will only be permitted where the integrity of the area or the qualities for which it has been designated are not adversely affected or any adverse impacts are clearly outweighed by benefits of national importance.

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

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

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

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

### **Policy NE3 - Biodiversity**

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

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

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

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

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

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

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

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

- 53 There is a general presumption against proposals for built development or land raising on a functional flood plain and in areas where there is a significant probability of flooding from any source, or where the proposal would increase the probability of flooding elsewhere. Built development should avoid areas at significant risk from landslip, coastal erosion and storm surges. Development should comply with the criteria set out in the policy.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 61 Perth & Kinross Council is progressing with preparation of a new Local Development Plan to provide up-to-date Development Plan coverage for Perth & Kinross. When adopted, the Perth & Kinross Local Development Plan 2 (LDP2) will replace the current adopted Perth & Kinross Local Development Plan (LDP). The Proposed Local Development Plan 2 was approved at the Special Council meeting on 22 November 2017. The Proposed LDP2 sets out a clear, long-term vision and planning policies for Perth & Kinross to meet the development needs of the area up to 2028 and beyond. The Proposed LDP2 is considered consistent with the Strategic Development Plan (TAYplan) and Scottish Planning Policy (SPP) 2014.
- 62 The Proposed LDP2, as approved by Perth & Kinross Council, was subject of a 9 week period of representation, which ended on 2 February 2018. Any unresolved representation to the Proposed Plan after this period is likely to be considered at an Examination by independent Reporter(s) appointed by the Scottish Ministers. The Reporter(s) will thereafter present their conclusions and recommendations on the plan, which the Council must accept prior to adoption. It is only in exceptional circumstances that the Council can elect not to do this.
- 63 The Proposed Plan represents Perth & Kinross Council's settled view in relation to land use planning and as such it is a material consideration in the determination of planning applications. The Proposed Plan is, however, at a stage in the statutory preparation process where it may be subject to modification. As such limited weight can therefore currently be given to its content and the policies and proposals of the plan are only referred to where they would materially alter the recommendation or decision. The weight of the Proposed Plan may change following consideration of representation received during consultation, at which time the level of significance of any objection to strategy, policies or proposals within the plan will be known.

## **OTHER POLICIES**

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

## **Perth and Kinross Local Transport Strategy**

- 65 The Local Transport Strategy (LTS) for Perth & Kinross is located within 'Shaping Perth's Transport Future – A Transport Strategy for Perth and the wider region' (2010). The LTS sets out the Council's transport vision.

## **SITE HISTORY**

66 The relevant planning history is:

**00/01747/OUT:** Relocation of existing car auction mart and erection of health and fitness centre, hotel with restaurant facilities and class 4 business premises. Application withdrawn December 2004.

**08/01513/IPM:** In Principle Permission sought for a Mixed Use Development. Application appealed due to non-determination but withdrawn by the applicant in October 2010 prior to determination by Directorate of Planning and Environmental Appeals (DPEA).

**09/02126/FLM:** Detailed planning permission for erection of Class 1 retail superstore and petrol filling station with associated landscaping and engineering works. Application approved by Development Management Committee 19 April 2013

**12/00392/FLL:** Detailed planning permission for the erection of a petrol filling station (PFS). Approved under delegated powers April 2013.

**13/01795/MPO:** Modification of Planning Obligation associated with 09/02126/FLM. Application approved by Development Management Committee November 2013.

**16/00002/PAN** Proposal of Application Notice for renewal of 09/02126/FLM for erection of Class 1 of retail superstore and petrol filling station. Content of PAN approved February 2016.

**16/00004/PAN** Proposal of Application Notice for residential development. Content of PAN approved June 2016.

**16/00695/FLL** Renewal of 12/00392/FLL for erection of petrol filling station. Application withdrawn April 2018.

**16/00696/FLM** Renewal of 12/02126/FLM for erection of Class 1 retail superstore and petrol filling station with associated landscaping and engineering works. Notification of Intention to Grant approved by Development Management Committee September 2016. Application withdrawn April 2018.

**16/01348/IPM** In Principle application for residential development. Application approved by Development Management Committee January 2018 following the conclusion of a Section 75 legal agreement.

## **CONSULTATIONS**

### **EXTERNAL**

#### **Scottish Environment Protection Agency (SEPA)**

- 67 No objection to the proposal provided a condition on future proofing district heating is imposed with any permission.

#### **Scottish Water**

- 68 No objection as there is currently both water and foul water capacity in the network.

#### **Transport Scotland**

- 69 No objection. The required financial contribution to mitigate impact on the Broxden roundabout has been agreed with the applicant.

#### **Methven and District Community Council**

- 70 No response received.

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

- 71 No objection provided a condition ensuring a programme of archaeological works is applied to any permission.

#### **Health and Safety Executive (HSE)**

- 72 The HSE's online assessment tool (PADHI+) confirmed that no pipeline infrastructure will be impacted.

#### **Scottish Gas Network**

- 73 No response received.

### **INTERNAL**

#### **Strategy and Policy**

- 74 No objection to the proposal. This site is located within the settlement boundary of the LDP where the principle of development is favourably considered.

#### **Community Greenspace**

- 75 No response received.

## **Transport Planning**

- 76 No objection.

## **Environmental Health**

- 77 No objection but recommends a condition regarding noise is included with any permission.

## **Developer Contributions**

- 78 No objection.

## **Structures and Flooding**

- 79 No objection.

## **Waste Services**

- 80 No objection.

## **REPRESENTATIONS**

- 81 One letter of representation has been received objecting to the proposal and raises the following relevant issues:

- Loss of trees
- Pollution
- Traffic congestion
- Placemaking
- Adverse impact on residential amenity (noise/dust/privacy)
- Should be no development due to existing power lines.

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

## **ADDITIONAL STATEMENTS**

|    |                                                |                                                                                                                                                                                                     |
|----|------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 83 | Environment Statement                          | IPM Screened - Not required                                                                                                                                                                         |
|    | Screening Opinion                              | Yes at IPM stage                                                                                                                                                                                    |
|    | Environmental Impact Assessment                | Not required                                                                                                                                                                                        |
|    | Appropriate Assessment                         | Not required                                                                                                                                                                                        |
|    | Design Statement / Design and Access Statement | Submitted                                                                                                                                                                                           |
|    | Report on Impact or Potential Impact           | Updated Transport Statement, Updated Ecological Assessment, Updated Noise Assessment, Drainage Assessment, District Heating Assessment, Tree Survey, Archaeological Assessment, Geotechnical Report |

## **APPRAISAL**

### **Policy Appraisal**

- 84 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) requires the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The determining issues here are whether the proposals comply with Development Plan policy and Supplementary Guidance or if there are other material considerations, which justify a departure from policy. The most relevant policies of the Development Plan are listed in the policy section above.

### **Principle**

- 85 The principle of residential development has been established through the approval of planning permission for residential use (application reference: 16/01348/IPM) with an indicative density of 270 dwellings being identified for the former mart site.

### **Phasing and Delivery**

- 86 Conditions 3 and 4a) of the In Principle permission require a detailed phasing plan to be submitted with the first AMSC application. The submitted phasing plan (4 phases) clearly identifies how the applicant anticipates the build out of the overall site to take place. This application, as Phase 1 of the proposal, seeks to provide 43 open market dwellings. Phase 2 shows the provision of 68 affordable dwellings. Phase 2 would meet the affordable housing requirement of 25% for the overall site early in the development. This is considered to be acceptable and the applicant has confirmed they are in discussion with the Councils Housing team regarding grant funding and two Registered Social Landlords (RSL) have been identified for the delivery of the affordable dwellings.
- 87 Phases 2 and 3 would also see the provision of the open space and play area requirements for the overall site. A planning application (18/01038/AMM) has been submitted for the remaining phases and will be presented to the Planning and Development Management Committee in due course. The phasing of the development of the site is considered to be acceptable and satisfies Conditions 3 and 4a) of the In Principle permission.

### **Design and Layout**

- 88 A masterplan including an indicative layout plan for the site was submitted as part of the 'In Principle' application. This sets out the principal components of the proposed development. Phase 1 is in line with the masterplan for the site.
- 89 In this phase the proposal includes some cut and fill to ensure the levels are appropriate. In compliance with Condition 4b) the amount of cut and fill required is reasonably minor and any fill will come from the initial scrape back.



- 90 When considering the layout of any new development, an important issue to consider is creating the opportunity for natural surveillance. Buildings, spaces and pedestrian routes should be located to maximise natural observation from pedestrians and passing motorists. Active frontages should be encouraged wherever possible; i.e. doors leading onto the street and windows overlooking all public areas. The proposed layout takes cognisance of Designing Streets and incorporates appropriate natural surveillance of all areas of space including the SUDS pond and the main pedestrian routes.
- 91 The street layout is clear and defined through the site and is considered to be easily usable by all users including waste services and helps ensure the proposal complies with Designing Streets (2010). The proposed layout and linkages ensure the site is extremely permeable for all modes of transport including pedestrian and cyclist as it connects up with the adjacent footpath and core paths. Public transport connections are available within a close walking distance on the A85 and the roads have been designed to accommodate buses if required.
- 92 The massing and scale of the dwellings shown on the proposed layout plan can be accommodated within the plots without having an adverse impact on the amenity of neighbouring properties or on each other. Three of the four dwellings closest to the A85 will be facing onto the trunk road and this is considered will provide a positive visual impact in providing an active street frontage.
- 93 In terms of house design, the proposed two-storey dwellings with white rendered walls and dark grey roof tiles will provide a simple yet attractive material palette. The proposed boundary fencing and planting will to help enhance the residential amenity of properties and protect them from road noise from the A85.
- 94 The proposal is in line with PAN 77 - Designing Safer Places and LDP Policy PM1 Placemaking.

### **Traffic and Transport**

- 95 The biggest single constraint facing the Perth Area is the capacity of the roads infrastructure in and around Perth. To help alleviate these issues planning permission has now been granted for a new A9/A85 junction as part of the proposed Cross Tay Link Road (CTLR) project. The A9/A85 works are underway and are due for completion by autumn 2018. This is designed to help alleviate congestion issues at this location.
- 96 An updated Transport Statement has been submitted with the application and has been reviewed by both Transport Planning and Transport Scotland.
- 97 Transport Planning are satisfied that it accurately reflects the impact of the development on the local road network and demonstrates the sites potential accessibility by sustainable modes. No objection or concerns have been raised by Transport Scotland.

## Sustainable Transport

- 98 The application site is immediately adjacent to the A85 and the proposed site layout plan shows connections to the existing adjacent footpath and core path to ensure future residents have a choice of sustainable modes of transport to travel into Perth city centre and the surrounding area. A Green Travel Plan will still need to be submitted prior to the commencement of development with a view to minimising private single occupancy car usage whilst encouraging the use of public transport, car sharing, cycling and walking. Condition 3 will help satisfy pre-commencement Conditions 4m), 8, 10 and 11.

## Trunk Road Network

- 99 Transport Scotland requires a developer contribution to help mitigate the proposal's direct impact on Broxden roundabout and a Condition 14 was imposed in the In Principle permission. The applicant has been in dialogue with Transport Scotland and the level of financial contribution has been agreed and timing of the payment is controlled by Condition 5.

## **Lighting**

- 100 Conditions 4k) 4l), 20 and 24 from the In Principle permission all cover street lighting and in particular the impact on the trunk road networks. Phase 1 will not have any impact on the A9 but is directly adjacent to the A85. A Lighting Plan has been submitted as part of this application and neither Transport Scotland nor Environmental Health have expressed concern with regard to light spillage within or outwith the site. Condition 9 will ensure there will be no light spillage onto the A85 in particular following their installation.

## **Noise**

- 101 Environmental Health commented on the In Principle application and recommended that noise be reassessed at the approval of matters specified by condition stage and appropriate mitigation was suggested to protect future residents from road traffic noise. An updated Noise Assessment has been submitted with this application.
- 102 Noise has been modelled at the future dwellings along the worst affected section of the site for noise, by the A85 and the A9 at 2 heights (1.5m for garden levels and 4m for internal levels). The result is the gardens and ground floor rooms would benefit from barriers but upper rooms will not as they will overlook the barriers.
- 103 The assessment has considered the whole of the site; however this application involves the north portion of the site, which is affected more by A85 noise than the A9. In this part of the site, all gardens are within the 55dBA daytime target set out in PAN 1/2011 Technical Advice Note (TAN).

- 104 Whilst the garden areas can meet the TAN target due to the inclusion of a barrier, upper floor rooms cannot meet desired internal levels with windows open. PAN 1/2011 states:

*"It is preferable that satisfactory noise levels can be achieved within dwellings with the windows sufficiently open for ventilation. Local circumstances, particularly relating to the existing noise character of the area, should influence the approach taken to noise levels with open or closed windows. It may be appropriate to take a different approach to noise levels in different areas."*

- 105 Environmental Health believe that a 'windows closed' assessment is appropriate at this location particularly as reasonable external levels can be achieved. With windows closed internal levels can be achieved day and night as long as suitable glazing and trickle vents are provided. The updated Noise Assessment addresses the In Principle Condition 29 and has summarised the required mitigation to allow reasonable levels internally and externally and should be included as a condition on any consent (Condition 15).

### **Air Quality**

- 106 During the In Principle application a detailed Air Quality Assessment was submitted and examined by Environmental Health. Even with a predicted increase, the levels are still predicted to be well below the standards and Environmental Health has not raised any issue with regard to this proposed phase and air quality. Condition 27 of the In Principle permission however remains relevant and will ensure there is no adverse impact from dust during the construction period.

### **Contaminated Land**

- 107 Condition 36 of the In Principle requires a detailed Ground Investigation and Reclamation Statement to be submitted and approved before any development can commence on site. This statement has been submitted alongside this application examined by Environmental Health (Land Quality) and no concerns have been expressed. Therefore the pre-commencement element of Condition 36 is acceptable.

### **Natural Heritage**

- 108 LDP Policy NE3 requires development proposals to avoid detrimental impact on biodiversity and protected species. An updated Ecological Appraisal provides a baseline habitat survey of the site and identifies any potential ecological constraints on the overall site. While no protected species were identified during the survey there are known to be bat roosts locally, at Huntingtower to the north and at Newhouse Farm to the south west of the overall site. Condition 7 will ensure appropriate mitigation is delivered.
- 109 Invasive non-native species such as Hogweed were found at a number of locations on the overall site and will need to be dealt with in an appropriate

manner prior to development of the site. There are no invasive species identified in the vicinity of this phase.

### **Trees**

- 110 There are areas of trees along the boundary with the core path which need to be protected during the development. The submitted landscape plan shows they will be protected to the required BS5837 2012 standard (Condition 10).

### **Structures and Flooding**

#### Flood Risk

- 111 SEPA have reviewed the information submitted to address Condition 22 of the In Principle permission. From the information submitted the CCTV survey has identified a surface water drain which serviced the previous mart to the south. It has identified the “head of line” and they accept and support that this is not a live culvert and therefore the flood risk is low. The pre-commencement element of Condition 22 has therefore been satisfied.
- 112 The submitted information has also confirmed the Newton Burn is outwith the application boundary.

#### Drainage

- 113 LDP Policy EP3 requires all development to have sufficient drainage infrastructure to serve the development. Within a settlement, the main aim is to ensure that the public services can accommodate the development.
- 114 Following the submission of additional details on the proposed SUDS pond and cover levels of certain manholes, Flood Risk and Structures have confirmed they the proposed drainage arrangements for Phase 1 are acceptable and satisfy the pre-commencement elements of Conditions 4 C&D, 5, 6 and 18 (SUDS and foul drainage). (See Condition 6)

### **Developer Contributions**

- 115 A Section 75 legal agreement has been secured for the 16/01348/IPM to ensure necessary infrastructure is delivered for the site and surrounding area. It covers:
- Primary School Delivery
  - Transport Infrastructure Contributions
  - Public Transport Improvement
  - Affordable Housing Provision
  - Open Space, Play Area Provision and Maintenance
  - Contribution towards pedestrian footbridge across A9.
- 116 Condition 14 of the 16/01348/IPM permission requires the applicant to agree with Transport Scotland a level of financial contribution towards mitigating the

overall sites impact on the Broxden roundabout. I can confirm that a figure has now been agreed between the applicant and Transport Scotland and timing of the payment can be controlled by Condition 5.

- 117 The Section 75 will also ensure Conditions 33, 34, 35 from the In Principle permission will be met.

### **District Heating**

- 118 The applicant has submitted a District Heating Assessment and whilst they state it would currently not be viable for the site, they are prepared to futureproof their site by leaving room in the service strips for new pipelines. Conditional control will ensure this futureproofing is delivered on site (Condition16). The pre-commencement element of Condition 32 has been satisfied.

### **Sustainability**

- 119 The housing layout has been developed to maximise solar gain into properties where possible to allow the benefit of passive light and heating from the sun. In-roof Photovoltaic panels will be installed to ensure they are in compliance with current Scottish Building Standards. All house types are however designed for future adaptability as required under the Building Warrant process and will be future proofed, should district heating become a viable option.
- 120 As already mentioned the proposal is immediately adjacent to the A85 and in close proximity to bus stops. It also connects with public footpaths and a core path which links to the National Cycle Route. These will provide residents with choice of sustainable modes of transport and an alternative to the car.

### **Archaeology**

- 121 PKHT confirm that the proposed development site lies within an area that is considered to be highly archaeologically sensitive. A large proportion of the proposed development site contains cropmarks (MPK2204 & MPK 2185) likely to represent archaeological remains that have been identified through aerial survey. The site lies to the south east of Huntingtower; an area of extensive archaeological remains and historic significance, including Scheduled Monuments (SM 3630) and Huntingtower Castle.
- 122 A Desk Based Assessment carried out in advance of the first phase, identifies three zones as having potential undisturbed archaeological remains out with areas of existing structures. This application includes the most northerly identified zone, located adjacent to the A85, and is of high archaeological potential. This assessment and the recommendation for an initial archaeological evaluation of up to 10% in each area was agreed by PKHT.
- 123 With regards to the remainder evaluation zones to be included in future applications it is worth noting the close proximity of the Battle of Tippermuir

(BTL39) south of the proposed site. This battle, fought in 1644, was the first victory for Montrose in the Charles I campaign and is of national importance.

- 124 It is therefore recommended that a negative suspensive condition (No.8) for a programme of archaeological works is attached to any permission to ensure the development does not destroy significant archaeological remains. There is a need to assess the character, condition and significance of the archaeological deposits presumed to be present, and the extent to which the development will impact upon them. This evaluation will inform a mitigation strategy, if required, to either preserve significant deposits within the development or for further archaeological works, to consist of the excavation, post-excavation analysis and publication of these deposits.

### **Economic Impact**

- 125 The proposal accords with the aspirations of the Perth City Plan 2015 - 2035 by providing additional expenditure and skilled workforce to the local economy that will help sustain the city. The overall economic impact will be positive for the local area.

### **LEGAL AGREEMENTS**

- 126 A legal agreement has been secured for the 16/01348/IPM planning permission to secure infrastructure that will be impacted by the current proposal and future phases.

### **DIRECTION BY SCOTTISH MINISTERS**

- 127 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**

- 128 The proposal fully accords with National Guidance and Development Plan policy in relation to residential development on an urban brownfield site. The proposal is acceptable in terms of its design, density, siting and landscape impact. The development can be satisfactorily accessed, together with the implementation of the current junction improvements to the A85/A9 junction.

### **RECOMMENDATION**

#### **A Approve the application subject to the following conditions:**

- 1 The proposed development must be carried out in accordance with the approved plans herewith, unless otherwise provided for by conditions imposed on the planning consent.

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

- 2 Prior to the commencement of development a Construction Environment Management Plan (CEMP), incorporating a Construction Method Statement (CMS), a Construction Traffic Management Plan (CTMP), a Site Waste Management Plan (SWMP), a Site Access Management Plan, a Drainage Management Plan (DMP) and Environmental Management Plan (EMP) detailing pollution prevention and control measures for all phases of the felling, construction and operation programmes will be submitted to and be approved in writing by the Planning Authority, in consultation with Scottish Environment Protection Agency.

The CTMP shall identify measures to control the use of any direct access onto the A85 trunk road. Thereafter, all construction traffic associated with the development shall conform to the requirements of the agreed plan.

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

Reason - In the interest of protecting environmental quality; to mitigate the adverse impact of development traffic on the safe and efficient operation of the trunk road.

- 3 Development shall not commence until a Green Travel Plan (GTP), aimed to encourage more sustainable means of travel, has been submitted and approved in writing by the Council. The GTP will have particular regard to provision for walking, cycling and public transport access to and within the various elements of the development and will identify the measures to be provided, the system of management, monitoring, review, reporting and the duration of the plan.

Reason - To ensure that the development is accessible by sustainable transport modes and to encourage their use.

- 4 No development shall commence until the agreed level of financial contribution with Transport Scotland to address the impact of the development at the Broxden Roundabout on the A9 trunk road has been paid to Transport Scotland.

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

- 5 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 by the applicant, and agreed in writing by the Council as Planning Authority, in consultation with Perth and Kinross Heritage Trust. Thereafter, the developer

shall ensure that the programme of archaeological works is fully implemented including that all excavation, preservation, recording, recovery, analysis, publication and archiving of archaeological resources within the development site is undertaken. In addition, the developer shall afford access at all reasonable times to Perth and Kinross Heritage Trust or a nominated representative and shall allow them to observe work in progress.

Reason - The site lies adjacent to areas of archaeological significance.

- 6 Prior to the commencement of development a scheme, including a layout plan and cross-sections, that identifies the location and confirms adequate space within the below ground service zone is available to allow for possible future provision of district heating pipes shall be submitted for the further written agreement of the Council as Planning Authority. The scheme must include timescales and any phasing for provision of the service zone within the site. The agreed scheme shall thereafter be implemented in accordance with the agreed details and timescales.

Reason - To allow district heating to be incorporated within the site at a future date.

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

Reason - To prevent flood risk; to ensure that the efficiency of the existing drainage network is not affected.

- 8 No part of the development shall be occupied until a MOVA (or equivalent) traffic signal control system is installed and operational at the A85 / Huntingtower Park access signalised junction. This should be linked to an equivalent system at the A85 signalised junction with the A9 northbound on /off slip roads. The details of this shall be agreed in writing with the Planning Authority, in consultation with Transport Scotland.

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

- 9 Prior to the development hereby approved being completed or brought into use, all matters regarding access, car parking, road layout, design and specification, including the disposal of surface water, shall be in accordance with the standards required by the Council as Roads Authority.

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



- 10 The conclusions and recommended action points within the supporting updated Ecological Appraisal submitted 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 as identified under the Wildlife and Countryside Act (1981).

- 11 All external lighting to be installed shall be sufficiently screened and aligned so as to ensure that there is no direct illumination of neighbouring land including the A85 and that light spillage beyond the boundaries of the site is minimised to the satisfaction of the Planning Authority.

Reason - In the interest of residential amenity; to ensure that there will be no distraction or dazzle to drivers on the road, and; that the safety of the traffic on the road will not be diminished

- 12 All existing trees and hedgerows shown to be retained shall be protected by suitable fencing in accordance with BS5837 2012 (Trees in Relation to Construction). No materials, supplies, plant, machinery, soil heaps, changes in ground levels or construction activities shall be permitted within the protected areas without the written consent of the Planning Authority.

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

- 13 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.

- 14 Construction work shall be limited to Monday to Friday 07:00 to 19:00 and Saturday 08:00 to 13:00 with no noisy works out with these times or at any time on Sundays or Bank Holidays.

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

- 15 Mitigation measures as detailed in Section 5.1.1 of the Updated Noise Assessment (dated 23 March 2018) associated with this application shall be put in place prior to the occupation of any dwelling.

Reason - In the interests of residential amenity.

## **B JUSTIFICATION**

The proposal is contrary to the Development Plan but there are material considerations to justify a departure there from.

## **C PROCEDURAL NOTES**

None

## **D INFORMATIVES**

- 1 The development hereby permitted shall be commenced no later than the expiration of two years from the date of this consent or from the date of subsequent approval of matters specified in conditions, or three years from the date of planning permission in principle, whichever is the later.
- 2 Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
- 4 This development will require the 'Display of notice while development is carried out', under Section 27C (1) of the Town and Country Planning Act 1997, as amended, and Regulation 38 of the Development Management Procedure (Scotland) Regulations 2008. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. According to Regulation 38 the notice must be:
  - Displayed in a prominent place at or in the vicinity of the site of the development
  - Readily visible to the public
  - Printed on durable material.
- 5 The developer is advised to contact Mr David Strachan, Archaeologist to discuss terms of reference for work required Tel 01738 477080.
- 6 The applicant is advised that in terms of Sections 21 of the Roads (Scotland) Act 1984 they must obtain from the Council as Roads Authority consent to construct a new road prior to the commencement of roadworks. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environmental Protection Agency.

- 7 The applicant is advised that in terms of Sections 56 of the Roads (Scotland) Act 1984 they must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environmental Protection Agency.
- 8 The applicant is advised they must consult with Transport Scotland, Trunk Road and Bus Operations through its Management Organisation (Transerv, Broxden House, Broxden Business Park, Lamberkine Drive, Perth PH1 1RA) on the terms and conditions, under Roads legislation, that require to be agreed to enable works within the trunk road boundary to be approved.
- 9 There is evidence of Hogweed present on the overall site. This is an invasive species which may require a licence from SEPA for its disposal. Advice should be sought.

Background Papers: 1 letter of representation; Decision Notice 16/01348/IPM  
Contact Officer: Steve Callan  
Date: 21 June 2018

**ANNE CONDLIFFE**  
**INTERIM DEVELOPMENT QUALITY MANAGER**

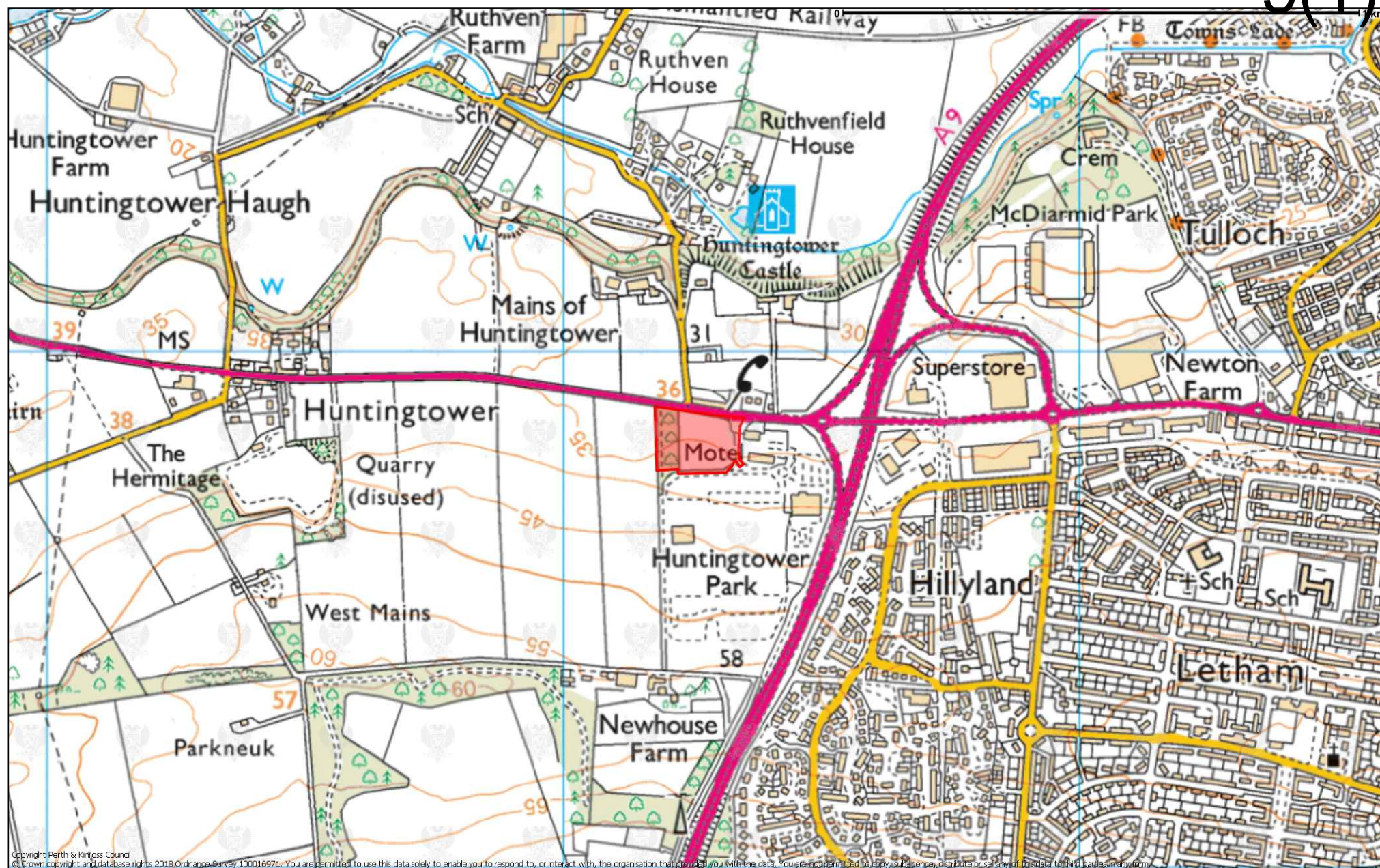
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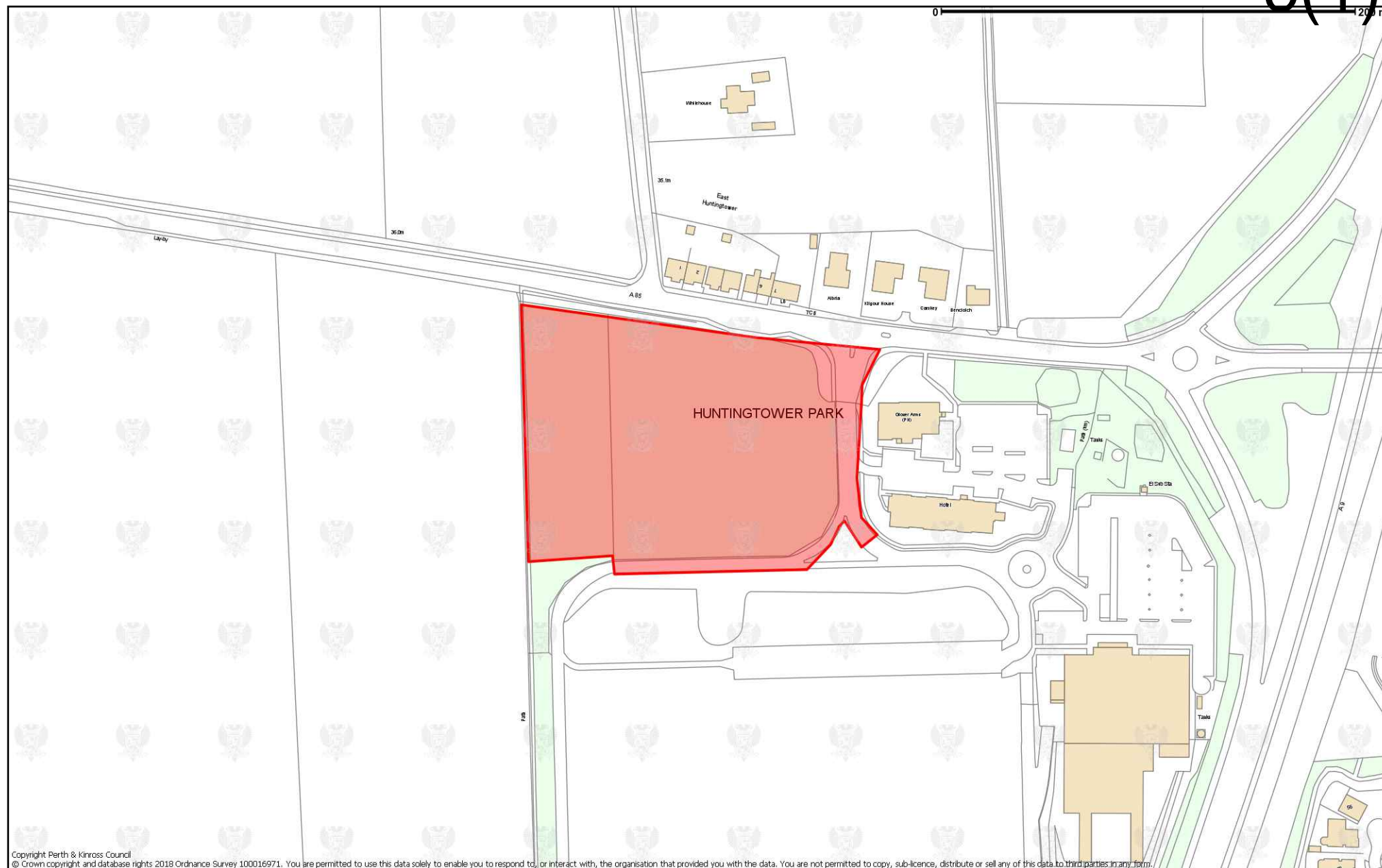
18/00412/AMM

Erection of 43no. dwellings, formation of SUDS pond, landscaping and associated works (matters specified in conditions 16/01348/IPM) (phase 1) at Land 100 Metres West of Glover Arms, East Huntingtower









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18/00412/AMM

Erection of 43no. dwellingshouses, formation of SUDS pond, landscaping and associated works (matters specified in conditions 16/01348/IPM) (phase 1) at Land 100 Metres West of Glover Arms, East Huntingtower







Perth and Kinross Council  
Planning & Development Management Committee – 4 July 2018  
Report of Handling by Interim Development Quality Manager (Report No. 18/230)

**PROPOSAL:** Formation of access road, turning head, soakaway, installation of LPG tanks and associated works

**LOCATION:** Land 110 Metres South East of Beaufield, Balado

Ref. No: 18/00540/FLL  
Ward No: P8 - Kinross-shire

### **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 Full planning permission is sought for the formation of an access road, turning head, soakaway, installation of LPG tanks and associated works on land south east of Beaufield, Balado. The proposals relate to a site with extant planning permission for the construction of 8 dwellinghouses (16/00996/FLL). The proposals solely relate to the formation of the road and the associated infrastructure.
- 2 Planning permission for the overall development of 8 dwellinghouses was approved by the Development Management Committee at a meeting on 14 September 2016 (16/00996/FLL) and the consent was issued on 27 September 2017 following conclusion of a section 75 legal agreement for the deferred payment of developer contributions.
- 3 An further application (17/00295/FLL for the access road, LPG tanks and associated works was refused by the Development Management Committee on 2 August 2017. The reasons for refusal related solely to the potential impact of the development on a private water supply which provides local homes with potable water. The current application is a re-submission of that proposal for the access road, LPG tanks and associated works and seeks to address the reasons for refusal.

### **NATIONAL POLICY AND GUIDANCE**

- 4 The Scottish Government expresses its planning policies through The National Planning Frameworks, the Scottish Planning Policy (SPP), Planning Advice

Notes (PAN), Creating Places, Designing Streets, National Roads Development Guide and a series of Circulars.

### **Scottish Planning Policy 2014**

- 5 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.
- 6 The following sections of the SPP will be of particular importance in the assessment of this proposal:
  - Sustainability : paragraphs 24 – 35
  - Placemaking : paragraphs 36 – 57

### **Planning Advice Notes**

- 7 The following Scottish Government Planning Advice Notes (PANs) and Guidance Documents are of relevance to the proposal:
  - PAN 40 Development Management
  - PAN 51 Planning, Environmental Protection and Regulation
  - PAN 61 Planning and Sustainable Urban Drainage Systems
  - PAN 68 Design Statements
  - PAN 75 Planning for Transport
  - PAN 77 Designing Safer Places

### **Designing Streets 2010**

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

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

- 9 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**

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

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

- 11 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:
- 12 *“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.”*

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

- 13 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. The LDP sets out a vision statement for the area and states that, *“Our vision is of a Perth and Kinross which is dynamic, attractive and effective which protects its assets whilst welcoming population and economic growth.”* It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
- 14 The principal relevant policies are, in summary

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

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

#### **Policy PM1B - Placemaking**

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

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

- 17 Where new developments (either alone or cumulatively) exacerbate a current or generate a need for additional infrastructure provision or community facilities, planning permission will only be granted where contributions which are reasonably related to the scale and nature of the proposed development are secured.

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

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

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

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

### **Policy EP7A - Drainage within the Loch Leven Catchment**

- 20 Total phosphorus from development must not exceed the current level permitted by the discharge consents for Kinross and Milnathort waste water treatment works together with the current contribution from built development within the rural area of the catchment.

### **Policy EP7B - Drainage within the Loch Leven Catchment**

- 21 Developments within the Loch Leven Catchment Area will be required to connect to a publicly maintained drainage system incorporating phosphorus reduction measures. Exceptions will only be permitted where they are in accordance with criteria set out.

### **Policy EP7C - Drainage within the Loch Leven Catchment**

- 22 Where EP7A and EP7B cannot be satisfied, proposals will be refused unless they are capable of removing 125% of the phosphorus likely to be generated by the development from the catchment.

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

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

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

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

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

- 25 Perth & Kinross Council is progressing with preparation of a new Local Development Plan to provide up-to-date Development Plan coverage for Perth & Kinross. When adopted, the Perth & Kinross Local Development Plan 2 (LDP2) will replace the current adopted Perth & Kinross Local Development Plan (LDP). The Proposed Local Development Plan 2 was approved at the Special Council meeting on 22 November 2017. The Proposed LDP2 sets out a clear, long-term vision and planning policies for Perth & Kinross to meet the development needs of the area up to 2028 and beyond. The Proposed LDP2 is considered consistent with the Strategic Development Plan (TAYplan) and Scottish Planning Policy (SPP) 2014.
- 26 The Proposed LDP2, as approved by Perth & Kinross Council, was subject of a 9 week period of representation, which ended on 2 February 2018. Any unresolved representation to the Proposed Plan after this period is likely to be considered at an Examination by independent Reporter(s) appointed by the Scottish Ministers. The Reporter(s) will thereafter present their conclusions and recommendations on the plan, which the Council must accept prior to adoption. It is only in exceptional circumstances that the Council can elect not to do this.
- 27 The Proposed Plan represents Perth & Kinross Council's settled view in relation to land use planning and as such it is a material consideration in the determination of planning applications. The Proposed Plan is, however, at a stage in the statutory preparation process where it may be subject to modification. As such limited weight can therefore currently be given to its content and the policies and proposals of the plan are only referred to where they would materially alter the recommendation or decision. The weight of the Proposed Plan may change following consideration of representation received during consultation, at which time the level of significance of any objection to strategy, policies or proposals within the plan will be known.

## **SITE HISTORY**

- 28 13/01379/FLL Erection of 8no dwellings with associated access road, parking bays, turning areas and drainage arrangements. Application refused at the Development Management Committee on 14 October 2015. An appeal to the DPEA (PPA-340-2099) was dismissed on 23 March 2016.
- 29 16/00996/FLL Erection of 8no dwellings and associated works. Application approved at the Development Management Committee on 14 September 2016. Decision Notice issued on 27 September 2017 following conclusion of a section 75 legal agreement.
- 30 17/00295/FLL Formation of access road, turning head, soakaway, installation of LPG tanks and associated works. Application refused by Development Management Committee on 2 August 2017.

## **CONSULTATIONS**

### **EXTERNAL**

#### **31 Scottish Environment Protection Agency**

Previously objected on grounds of lack of information on potential impacts to potable (drinking and cooking) water supplied by a local private water supply. This application has addressed SEPA's concerns and SEPA does not object. The applicant would require a CAR Licence from SEPA.

#### **32 Kinross Community Council (KCC)**

- Contrary to proposed Local Development Plan2 (LDP2). Application site is outwith the settlement boundary in the LDP2 which KCC considers to now be a material consideration.
- Contrary to policy EP3B of Local Development Plan 2014. Risk of contamination of private water supply due to proximity of private water supply to foul soakaway.
- Waste management – road will not be adoptable and no realistic provision has been made for the removal of refuse from the site.
- Traffic and road safety – increase in traffic on a road that has no pavement and no lighting.

### **INTERNAL**

#### **Environmental Health - Contaminated Land**

- 33 No objection. A search of historical maps held by this Service has not shown any previous contaminative uses of the site.

#### **Environmental Health (Private Water)**

- 34 No objection subject to condition with regard to private water supply.

#### **Transport Planning**

- 35 No objection.

#### **Flooding and Structures**

- 36 No Objection. Notes that unless the road is adopted the maintenance of surface water drainage will be the responsibility of residents, not the Council. Further information is required on the suitability of the soakaways.

## REPRESENTATIONS

37 The following points were raised in the representations received:

- Extent of neighbour notification
- Status of existing consent (16/00996/FLL)
- Contrary to Local Development Plan
- Contrary to Local Development Plan2
- Waste management and bin provision – issues with private road.
- Residential amenity – disturbance and overlooking
- Visual amenity
- SUDS and flood risk
- Requirement for mains drainage
- Traffic and road safety – traffic increase, lack of pavements in village
- Impact on trees
- Impact on private water supply

38 The cost of maintenance of the private road was raised but this is not a material planning consideration. The other issues are addressed in the Appraisal section of the report.

## ADDITIONAL STATEMENTS

39

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

## APPRAISAL

40 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) require the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The adopted Development Plan comprises the TAYplan Strategic Development Plan 2016–2036 and the Perth and Kinross Local Development Plan 2014. The relevant policy considerations are outlined in the policy section above and are considered in more detail below. In terms of other material considerations, this involves considerations of the Council's other approved policies and supplementary guidance.

### Principle

41 The site is located within the Balado settlement boundary as defined in the LDP and the site has extant consent for 8 dwellinghouses (16/00996/FLL). However, although LDP2 identifies the site as being outwith the settlement boundary,

nevertheless, the extant planning permission is a significant material consideration and carries greater weight at this stage than LDP2.

- 42 The site is within the Loch Leven Catchment area and as such must satisfy the requirements of the policy with regard to phosphorus mitigation.
- 43 Policy EP3B Water, Environment and Drainage seeks to ensure that any private drainage proposal does not have an adverse impact on the amenity of the area. There were previously concerns that the foul soakaway may impact on a private water supply. For reasons set out elsewhere in this report it is considered that the proposals would not impact on the private supply.

### **Procedure**

- 44 A comment was received with regard to neighbour notification stating that 4 The Nurseries was missed from the notification and that the same neighbours should be notified as for 16/00996/FLL for the eight houses. I would note that the site boundary for this current application is smaller and 4 The Nurseries is outwith the neighbour notification buffer.
- 45 A comment has also been received as to what happens to permission 16/00996/FLL if this application is refused. In this case permission 16/00996/FLL, as an extant consent, could be implemented in its own right.

### **Design and Layout**

- 46 The proposal is for the formation of an access road, turning head, soakaway, installation of LPG tanks and associated works. The access road proposed will measure 4.8 metres wide from the junction with the public road to the bend by the house, Villa Conde. It will then be 4.1 metres wide in front of the four existing houses. The section within the new development will be 4.8 metres wide. This is a change to the approved scheme (16/00996/FLL) for the eight houses which showed the whole length of road to be 5 metres wide.
- 47 The change has been proposed to address concerns of neighbours who had not wished to see any reduction in the extent of the existing grassed areas to the front of their properties. This re-designed road will be less disruptive to the existing householders than the original scheme and still ensure that the road is built to adoptable standards.
- 48 When this proposal was previously considered by The Development Management Committee there was a legal challenge in progress brought by householders against the applicant with regard to the servitude rights of access that exist over this land. Whilst such legal issues are generally outwith the remit of the planning system the ongoing legal dispute did place the implementation of the development under some doubt. However it should be noted that in this case the Sheriff ruled in favour of the applicant who has the right to construct the road and widen it, if required by the Council.



- 49 The current proposal also includes the installation of LPG tanks and the formation of a foul soakaway. The LPG tanks are situated in the north eastern part of the site to the east of a proposed turning head. The two proposed tanks will be buried with the area fenced off with a 1.2m timber fence. The foul soakaway is to the north west of the turning area.
- 50 The proposals do not significantly change what has previously been permitted under application 16/00996/FLL and area and impact are considered to be acceptable.

### **Landscape**

- 51 The associated permission (16/00996/FLL) includes details of proposed landscaping in relation to the associated dwellinghouses. There will be no adverse impact on the proposed landscaping as part of this application. There has been some concern from neighbours that existing trees along the access road will be affected by the works. The related proposals include provision for tree protection measures around existing trees on the access road. A condition will be attached to this consent requiring tree protection measures to be in place prior to commencement of development (Condition 6).

### **Residential Amenity**

- 52 Letters of representation highlight concern that the proposed road will impact on the amenity of existing householders due to additional traffic. I would note that this proposal is primarily for the access road and will result in no more additional traffic than would be generated by the previously approved permission 16/00996/FLL.
- 53 There are also concerns with disturbance and overlooking. It is accepted that there will be some disturbance to householders whilst building works are undertaken. However the proposal is for changes to the road and associated works and therefore there will not be any resultant overlooking issues.

### **Visual Amenity**

- 54 There will be minimal change to the visual impact of the proposal given that the change primarily relates to a slight reduction in road width as opposed to that approved in the overall scheme.

### **Roads and Access**

- 55 The Council's Transport Planner does not object to the proposals. There have been objections from neighbours with regard to the proposal for the road with regard to additional traffic, road safety, and inclusion of filter drains and service strips along the road.
- 56 As the proposals seek to minimise impact on existing properties by proposing to reduce the road width from the consented 4.8 metres to 4.1 metres over a short section in front of the existing properties then there will be minimal impact.

The proposal will not generate traffic beyond that which has already been consented as part of permission 16/0099f/FLL. There is no increase in the number of dwellings as part of this application. The road will be constructed to adoptable standards (condition 2 and informative note 5) which will ensure it is appropriately designed in terms of road safety.

### **Drainage and Flooding**

- 57 This application includes provision of a shared private foul soakaway to the north of the site for the indirect discharge of sewage from eight new dwellinghouses to groundwater. A private water supply well for 3 properties at Middle Balado is located about 160m north-east from the proposed soakaway location.
- 58 SEPA had previously objected to the proposals due to potential impact on existing private water supplies. This issue has been resolved in this application with SEPA noting that the assessment shows that groundwater flow from this development is away from the Private Water Supply (PWS) and that this development will not impact on the PWS. The borehole logs also indicate that there is sufficient depth to groundwater to allow for the installation of a soakaway in this location.
- 59 In addition, SEPA considers the proposals for the mitigating property for phosphate mitigation to be acceptable (Condition 3)
- 60 The Council's private water team was also consulted and notes that the risk assessment accompanying the application indicates that there will be no impact from the development on the private water supply some 160m north east of the development site. SEPA has withdrawn their objection to the application as they assess that there will be no adverse impact on this private water supply. To maintain water quality and supply in the interests of residential amenity and ensure the private water supply or septic drainage systems of neighbours of the development remain accessible for future maintenance a condition and informative note is requested (Condition 11 and Informative Note 11).
- 61 A CAR Licence will be required for the proposals which will be included as a condition on any permission (Condition 4).

### **Sustainable Urban Drainage System (SUDS)**

- 62 The proposals include surface water drainage. The Council's Flood Officer notes that as the site falls within the 1 in 200 SEPA surface water map further information on the suitability of the soakaways are needed to ensure they can cope with the current inundation of water including the increased development run-off. This issue has been considered in detail through conditions on the related permission (16/00996/FLL). A condition will be attached to this permission to ensure surface water drainage is acceptable and accords with the related permission (Conditions 8 and 9).

## **Waste Collection**

- 63 The related application for the eight dwellings indicates that waste and recycling bins will be stored within the plot curtilages. There have been objections with regard to waste collection due to the existing householders not wishing to see the road adopted. If the road is not adopted bin collection is likely to be from the road end unless householders agree to indemnify the Council (through a signed waiver) against any damage caused from reasonable use of the road by a refuse collection vehicle (Informative Note 8).

## **Natural Heritage and Biodiversity**

- 64 There will be no additional impact on biodiversity or natural heritage as a result of these proposals for changes to the design of the road and associated works. A condition to prevent animals being trapped in open excavations will be attached to accord with the related consent 16/00996/FLL (Condition 7). An informative note (7) will be attached with regard to the potential for nesting birds on the site.

## **Developer Contributions**

- 65 Developer contributions have been applied to the associated planning permission for the eight houses (16/00996/FLL. A section 75 agreement has been entered into with regard payment of these. This application does not affect this section 75 agreement requiring payment of developer contributions.

## **Economic Impact**

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

## **LEGAL AGREEMENTS**

- 67 No legal agreement is required in relation to this application.

## **DIRECTION BY SCOTTISH MINISTERS**

- 68 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**

- 69 To conclude, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, I have taken account of the Local Development Plan and material considerations and in this case I am content that the development proposed does not conflict with the Development Plan and that insufficient weight can be given to the LDP2 at this stage.

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

## **RECOMMENDATION**

### **Approve the application**

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

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

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

- 2 Prior to the development hereby approved being completed or brought into use, all matters regarding access, car parking, road layout, design and specification, including the disposal of surface water, shall be in accordance with the standards required by the Council as Roads Authority.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 3 The foul drainage infrastructure capable of achieving not less than 125% phosphorus mitigation associated with this development shall be undertaken in a phased manner:-

(a) No development shall commence on the approved development site until the mitigating foul drainage infrastructure at the remote properties at Beaufield, Middle Balado and Gardener's Cottage, Turfhill has been installed.

(b) Following the installation of the foul drainage infrastructure at the remote property/properties, the development site shall only be occupied once the foul drainage infrastructure for the development site has been installed unless otherwise agreed in writing with the Council as Planning Authority.

For the avoidance of doubt the installed drainage infrastructure at the development site as approved shall be retained unless otherwise agreed in writing with the Council as Planning Authority.

Reason - To ensure appropriate drainage arrangements are installed and retained to remove phosphorus from the Loch Leven Catchment Area thereby ensuring compliance with Policy EP7A, B & C: Drainage within the Loch Leven Catchment Area of the Adopted Perth and Kinross Local Development Plan 2014 and Enterprise and Infrastructure Committee Resolution of 28 August 2013.

- 4 Development shall not commence until the applicant has submitted approved CAR licence(s) under the Water Environment (Controlled Activities)(Scotland) Regulations 2011 for the drainage infrastructure associated with this project to the Council as Planning Authority and the Planning Authority has confirmed receipt of the documentation in writing.

Reason - To ensure appropriate drainage arrangements are installed and retained to remove phosphorus from the Loch Leven Catchment Area thereby ensuring compliance with Policy EP7A, B & C: Drainage within the Loch Leven Catchment Area of the Adopted Perth and Kinross Local Development Plan 2014 and Enterprise and Infrastructure Committee Resolution of 28 August 2013.

- 5 All plant or equipment shall be so enclosed, attenuated and/or maintained such that any noise therefrom shall not exceed Noise Rating 35 between 0700 and 2300 hours daily, or Noise Rating 25 between 2300 and 0700 hours daily, within any neighbouring residential property, with all windows slightly open, when measured and/ or calculated and plotted on a rating curve chart.

Reason - In order to safeguard the neighbouring residential amenity in the area.

- 6 Prior to the commencement of any works on site, all trees on site (other than those marked for felling on the approved plans) and those which have Root Protection Areas which fall within the site shall be retained and protected. Protection methods shall be strictly in accordance with BS 5837 2012: Trees in Relation to Design, Demolition and Construction. Protection measures, once in place, shall remain in place for the duration of construction.

Reason - To ensure a satisfactory standard of development and environmental quality and to reserve the rights of the Planning Authority.

- 7 Measures to protect animals from being trapped in open excavations and/or pipe and culverts shall be implemented for the duration of the construction works of the development hereby approved. The measures may include creation of sloping escape ramps for animals, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day and open pipework greater than 150 mm outside diameter being blanked off at the end of each working day

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

- 8 Development shall not commence on site until a detailed sustainable urban drainage system (SUDS) has been submitted for the further written agreement of the Council as Planning Authority, in consultation with SEPA where necessary. The scheme shall be developed in accordance with the technical guidance contained in The SUDS Manual (C753) and the Council's Flood Risk and Flood Risk Assessments Developer Guidance, and shall incorporate

source control. All works shall be carried out in accordance with the agreed scheme and be operational prior to the bringing into use of the development.

Reason - To ensure the provision of effective drainage for the site.

- 9 Concurrent with the initiation of the development hereby approved and for the duration of construction, a temporary surface water treatment facility which accords with Sustainable Urban Drainage System principles shall be implemented on site and maintained for the duration of the approved development works. The temporary surface water treatment facility shall remain in place until the permanent surface water drainage scheme is implemented.

Reason - To ensure the appropriate management of construction surface water run-off to minimise flooding and avoid discharge of sediment/pollution to the local water environment or neighbouring property, in the interests of residential and environmental amenity.

- 10 A street light system designed to EN 13201 / BS 5489 shall be provided. The type and standard of lighting shall be assessed using the zoning system outlined in 'The Institution of Lighting Engineers Guidance Notes for the 'Reduction of Light Pollution'. Details of the lighting system shall be submitted and agreed with the Council as Planning Authority prior to commencement of work.

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

- 11 Prior to the commencement of the development hereby approved, details of the location and measures proposed for the safeguarding and continued operation, or replacement, of any septic tanks and soakaways, private water sources, private water supply storage facilities and/or private water supply pipes serving properties in the vicinity, sited within and running through the application site, shall be submitted to and approved in writing by the Council as Planning Authority. The subsequently agreed protective or replacement measures shall be put in place prior to the development being brought into use and shall thereafter be so maintained insofar as it relates to the development hereby approved.

Reason - To ensure existing water and drainage infrastructures are not compromised.

## **B JUSTIFICATION**

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

## **C PROCEDURAL NOTES**

None.

## **D INFORMATIVES**

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period (see section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
- 2 Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
- 4 No work shall be commenced until an application for building warrant has been submitted and approved.
- 5 The applicant is advised that in terms of Sections 21 of the Roads (Scotland) Act 1984 he/she/they must obtain from the Council as Roads Authority consent to construct a new road prior to the commencement of roadworks. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environmental Protection Agency.
- 6 The applicant should note SEPA's regulatory requirements:

Proposed engineering works within the water environment will require authorisation under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended).

Details of regulatory requirements and good practice advice for the applicant can be found on the [Regulations section](#) of SEPA's website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulatory team in the local SEPA office at:

SEPA, Strathearn House, Broxden Business Park, Lamberkine Drive, Perth PH1 1RX, Tel: 01738 627989

- 7 Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning permission for a development does not provide a defence against prosecution under this Act.

- 8 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. It is recommended that the developer contact the Community Waste Team to discuss waste requirements for this site.
- 9 Public Roads are maintained by the Council, Private Roads are the responsibility of usually the owner. There is still a right of public passage along a private road and it can be used by any individual.
- 10 The applicant should ensure that any existing wayleaves for maintenance or repair to existing private water supply or septic drainage infrastructure in the development area are honoured throughout and after completion of the development.
- 11 The developer should take account of PKC Flooding and Flood Risk Guidance Document (June 2014)

Background Papers: 9 letters of representation  
Contact Officer: Persephone Beer 01738 475354  
Date: 21 June 2018

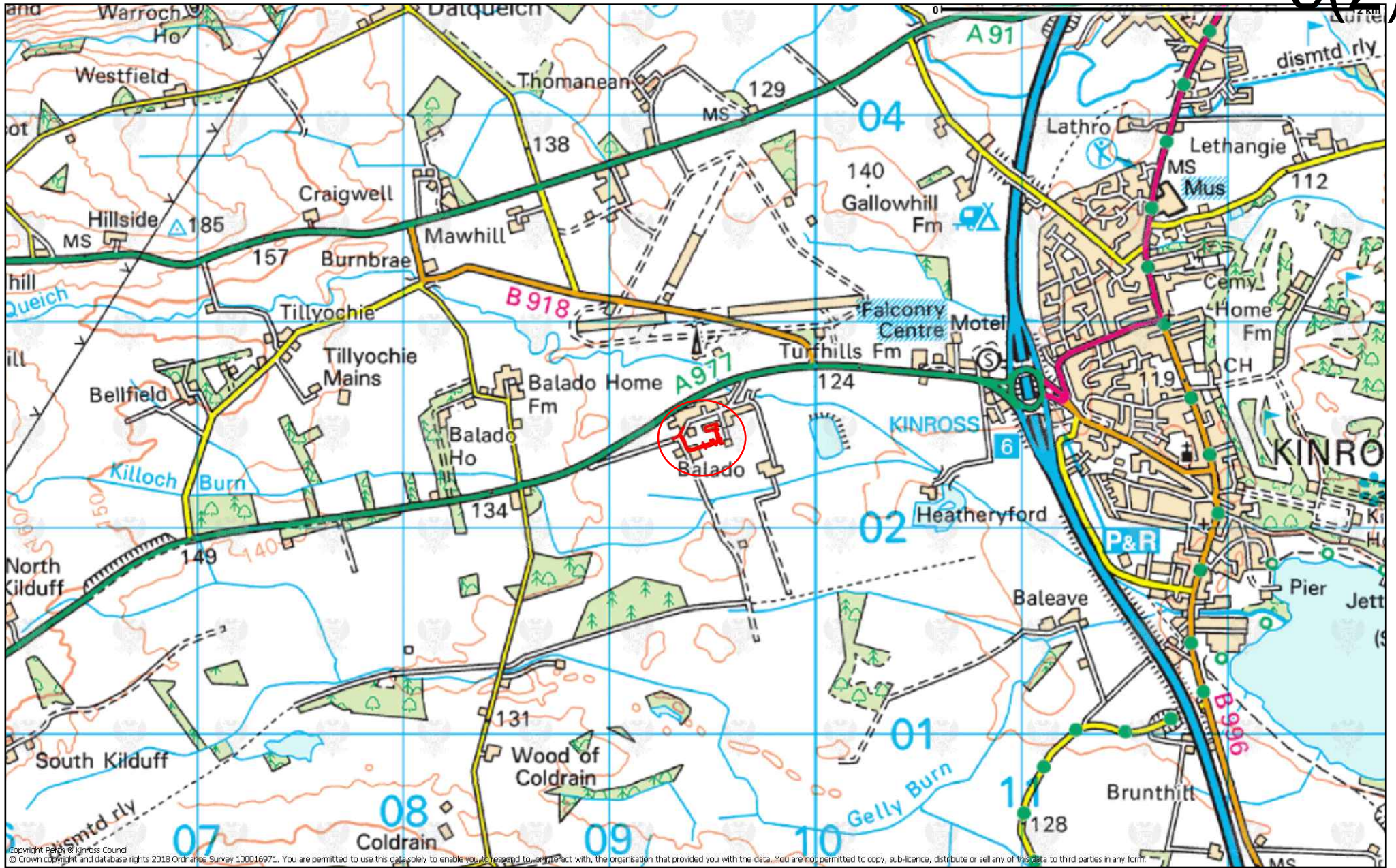
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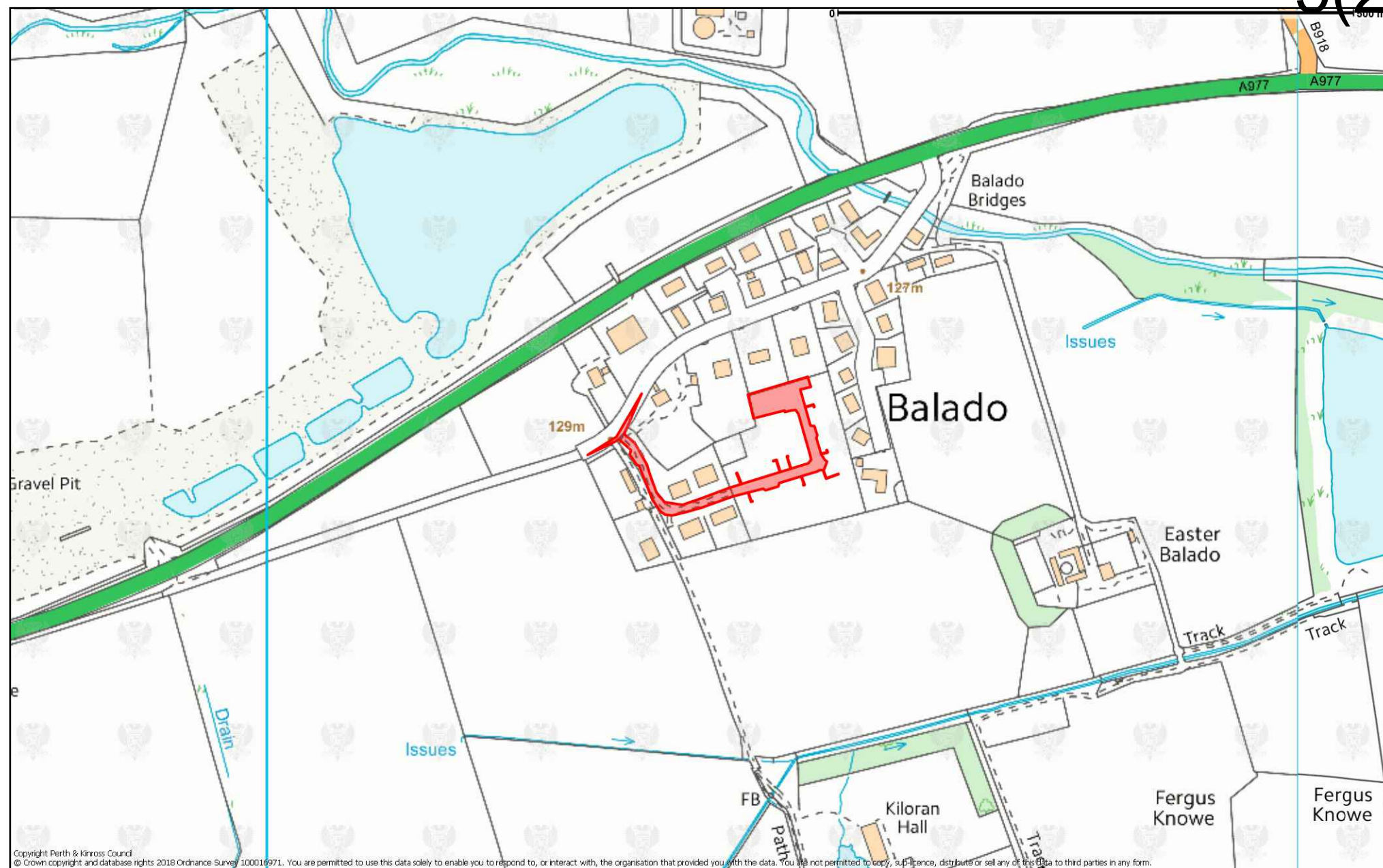
18/00540/FLL

Formation of access road, turning head, soakaway, installation of LPG tanks and associated works at Land 110 Metres South East of Beaufield, Balado









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18/00540/FLL

Formation of access road, turning head, soakaway, installation of LPG tanks and associated works at Land 110 Metres South East of Beaufield, Balado





Perth and Kinross Council  
Planning & Development Management Committee – 4 July 2018  
Report of Handling by Interim Development Quality Manager (Report No. 18/231)

**PROPOSAL:** Residential development, landscaping, suds pond and associated works

**LOCATION:** Land north east of Dunning Bowling Green, Station Road, Dunning

Ref. No: 18/00003/PAN  
 Ward No: P7- Strathallan

### Summary

This report is to inform the Committee of a potential forthcoming planning application in respect of a major development for proposed residential development and associated works. The report also aims to highlight the key planning policies, the likely stakeholders who would be involved in the decision making process and to offer a brief overview of the key material planning issues which are likely to be relevant to the proposal.

### BACKGROUND AND DESCRIPTION OF PROPOSAL

- 1 In accordance with the provisions of the Town and Country Planning (Scotland) Act 1997 as amended, the applicant has submitted a Proposal of Application Notice (POAN) on 19<sup>th</sup> April 2018. Pre-application reports give the Committee an opportunity to raise issues, which it would like to see addressed in any planning application.
- 2 The site extends to approximately 7.9 Ha; with just under 0.5 Ha identified as part of a wider 1.2 Ha Opportunity Site **Op23**, as set out in Local Development Plan (LDP) allocation. Op23 sits within the current village of Dunning established settlement boundary, with the remainder of the site out with Dunning settlement boundary. The identified site boundaries are characterised by existing residential development, Dunning burn, Dunning School and Dunning Graveyard to the south. The site is currently agricultural land with open field boundaries to the north. Of note, Dunning Standing Stone, which is a Scheduled Ancient Monument (SAM), is also situated within the site.
- 3 This POAN relates to the development of residential use with associated infrastructure, access, landscaping, SUDs and open space. The exact layout, scale and mix of the dwelling types, landscape provision, cemetery extension and school facility provision would be arrived at through the submission of a detailed planning application.

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

- 4 Directive 2011/92/EU requires the 'competent authority' (in this case Perth and Kinross Council) when giving a planning permission for particular 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.
- 5 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. This 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.
- 6 Due to the scale of the proposal it will require to be screened as to whether the proposal is an EIA development under current EIA regulations (2017). No screening request has been submitted to date and there is no evidence of the site being screened historically.

## **PRE-APPLICATION CONSULTATION**

- 7 The POAN (reference 18/00003/PAN) outlined that a public exhibition was held at Dunning village hall on 2<sup>nd</sup> May 2018. Dunning Community Council was also notified. The Planning Authority recommended that Local Councillors Gray, Lyle and Reid were also notified. The results of the community consultation will require to be submitted with any application as part of the required Pre-Application Consultation (PAC) Report.

## **NATIONAL POLICY AND GUIDANCE**

- 8 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**

- 9 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**

- 10 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.

11 The following sections of the SPP will be of particular importance in the assessment of this proposal:

- Sustainability : paragraphs 24 – 35
- Placemaking : paragraphs 36 – 57
- Valuing the Historic Environment: paragraphs 135 – 151
- Valuing the Natural Environment: paragraphs 193 – 218
- Maximising the Benefits of Green Infrastructure: paragraphs 219 – 233
- Managing Flood Risk and Drainage: paragraphs 254 – 268
- Promoting Sustainable Transport and Active Travel: paragraphs 269 - 291

#### Planning Advice Notes

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

- PAN 40 Development Management
- PAN 51 Planning, Environmental Protection and Regulation
- PAN 61 Planning and Sustainable Urban Drainage Systems
- PAN 68 Design Statements
- PAN 75 Planning for Transport
- PAN 77 Designing Safer Places

#### Creating Places 2013

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

## **National Roads Development Guide 2014**

- 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 TAYplan Strategic Development Plan 2016-2036 and the Perth and Kinross Local Development Plan 2014.

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

- 17 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:
- 18 *“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.”*
- 19 The following sections of the TAYplan 2016 are of particular importance in the assessment of this application.

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

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

## **Policy 4: Homes**

- 21 Seeks to ensure there is a minimum of 5 years effective housing land supply at all times. Land should be allocated within each Housing market Area to provide a generous supply of land to assist in the delivery of 25,020 units up to year 2028 and a further 16,680 by 2036.

## **Policy 6: Developer Contributions**

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



### **Policy 8: Green Networks**

- 23 Seeks to protect and enhance green and blue networks by ensuring that:
- i. development does not lead to the fragmentation of existing green networks;
  - ii. development incorporates new multifunctional green networks (that link with existing green networks) of appropriate quantity and quality to meet the needs arising from the nature of the development itself; and,
  - iii. the provision of networks of green infrastructure is a core component of any relevant design framework, development brief or masterplan

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

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

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

- 25 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. The LDP sets out a vision statement for the area and states that, *“Our vision is of a Perth and Kinross which is dynamic, attractive and effective which protects its assets whilst welcoming population and economic growth.”* It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
- 26 The principal relevant policies are, in summary

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

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

#### **Policy PM1B - Placemaking**

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

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

- 29 Design Statements should normally accompany a planning application if the development comprises 5 or more dwellings, is a non-residential use which exceeds 0.5 ha or if the development affects the character or appearance of a

Conservation Area, Historic Garden, Designed Landscape or the setting of a Listed Building or Scheduled Monument.

**Policy PM3 - Infrastructure Contributions**

- 30 Where new developments (either alone or cumulatively) exacerbate a current or generate a need for additional infrastructure provision or community facilities, planning permission will only be granted where contributions which are reasonably related to the scale and nature of the proposed development are secured.

**Policy PM4: Settlement Boundaries**

- 31 For settlements which are defined by a settlement boundary in the Plan, development will not be permitted, except within the defined settlement boundary.

**Policy RD1 - Residential Areas**

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

**Policy RD4 - Affordable Housing**

- 33 Residential development consisting of 5 or more units should include provision of an affordable housing contribution amounting to 25% of the total number of units. Off-site provision or a commuted sum is acceptable as an alternative in appropriate circumstances.

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

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

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

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

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

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

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

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

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

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

### **Policy NE3 - Biodiversity**

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

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

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

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

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

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

- 42 There is a general presumption against proposals for built development or land raising on a functional flood plain and in areas where there is a significant probability of flooding from any source, or where the proposal would increase the probability of flooding elsewhere. Built development should avoid areas at significant risk from landslip, coastal erosion and storm surges. Development should comply with the criteria set out in the policy.

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

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

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

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

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

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

### **OTHER POLICIES**

- 46 The following supplementary guidance and documents are of particular importance in the assessment of this application;
- Developer Contributions Supplementary Guidance including Affordable Housing April 2016
  - Flood Risk and Flood Risk Assessments – Developer Guidance June 2014
  - Green Infrastructure Supplementary Guidance (Draft) July 2014
  - Open Space Standards (2001)

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

- 47 Perth & Kinross Council is progressing with preparation of a new Local Development Plan to provide up-to-date Development Plan coverage for Perth & Kinross. When adopted, the Perth & Kinross Local Development Plan 2 (LDP2) will replace the current adopted Perth & Kinross Local Development Plan (LDP). The Proposed Local Development Plan 2 was approved at the Special Council meeting on 22 November 2017. The Proposed LDP2 sets out a clear, long-term vision and planning policies for Perth & Kinross to meet the development needs of the area up to 2028 and beyond. The Proposed LDP2 is considered consistent with the Strategic Development Plan (TAYplan) and Scottish Planning Policy (SPP) 2014.
- 48 The Proposed LDP2, as approved by Perth & Kinross Council, was subject of a 9 week period of representation, which ended on 2 February 2018. Any unresolved representation to the Proposed Plan after this period is likely to be considered at an Examination by independent Reporter(s) appointed by the Scottish Ministers. The Reporter(s) will thereafter present their conclusions and

recommendations on the plan, which the Council must accept prior to adoption. It is only in exceptional circumstances that the Council can elect not to do this.

- 49 The Proposed Plan represents Perth & Kinross Council's settled view in relation to land use planning and as such it is a material consideration in the determination of planning applications. The Proposed Plan is, however, at a stage in the statutory preparation process where it may be subject to modification. As such limited weight can therefore currently be given to its content and the policies and proposals of the plan are only referred to where they would materially alter the recommendation or decision. The weight of the Proposed Plan may change following consideration of representation received during consultation, at which time the level of significance of any objection to strategy, policies or proposals within the plan will be known.

## **SITE HISTORY**

- 50 There is no known planning history for the proposed site.

## **CONSULTATIONS**

- 51 As part of the planning application process the following would be consulted:

### **External**

- Scottish Environmental Protection Agency (SEPA)
- Scottish Natural Heritage (SNH)
- Scottish Water
- Royal Society for the Protection of Birds (RSPB)
- Perth and Kinross Heritage Trust
- Dunning Community Council

### **Internal**

- Environmental Health
- Strategic Planning and Policy
- Developer Negotiations Officer
- Affordable Housing Enabling Officer
- Community Greenspace (including Access)
- Transport Planning
- Structures and Flooding
- Waste Services

## **KEY ISSUES AGAINST WHICH A FUTURE APPLICATION WILL BE ASSESSED**

- 52 The key considerations against which the eventual application will be assessed includes:
- a. Principle of development (reviewed in line with the established LDP)
  - b. Visual Impact

- c. Scale, Design and Layout
- d. Relationship with surrounding land uses
- e. Natural heritage and ecology
- f. Landscaping
- g. Water resources and soils
- h. Dust
- i. Transport implications
- j. Open space provision
- k. Access provision
- l. Waste
- m. Affordable housing
- n. Education provision

### **ADDITIONAL STATEMENTS WHICH WILL BE REQUIRED**

- 53 Should an EIA not be required the following supporting documents will need to be submitted with any planning application.
- Planning Statement
  - Design and Access Statement
  - Pre-Application Consultation (PAC) Report
  - Transport Assessment or Transport Statement
  - Flood Risk and Drainage Assessment
  - Landscape and Visual Impact Assessment
  - Habitat Survey
  - Archaeological Assessment
  - Sustainability Assessment
  - Waste Management and Minimisation Plan
  - Construction and Environmental Management Plan (CEMP) including
  - Construction Method Statement (CMS)

### **CONCLUSION AND RECOMMENDATION**

- 54 This report summarises the key issues which should be considered as part of the appraisal of any subsequent planning application which may be lodged in respect of this development and members are recommended to note these key issues and advise officers of any other issues which they consider should be included as part of the application and assessment.

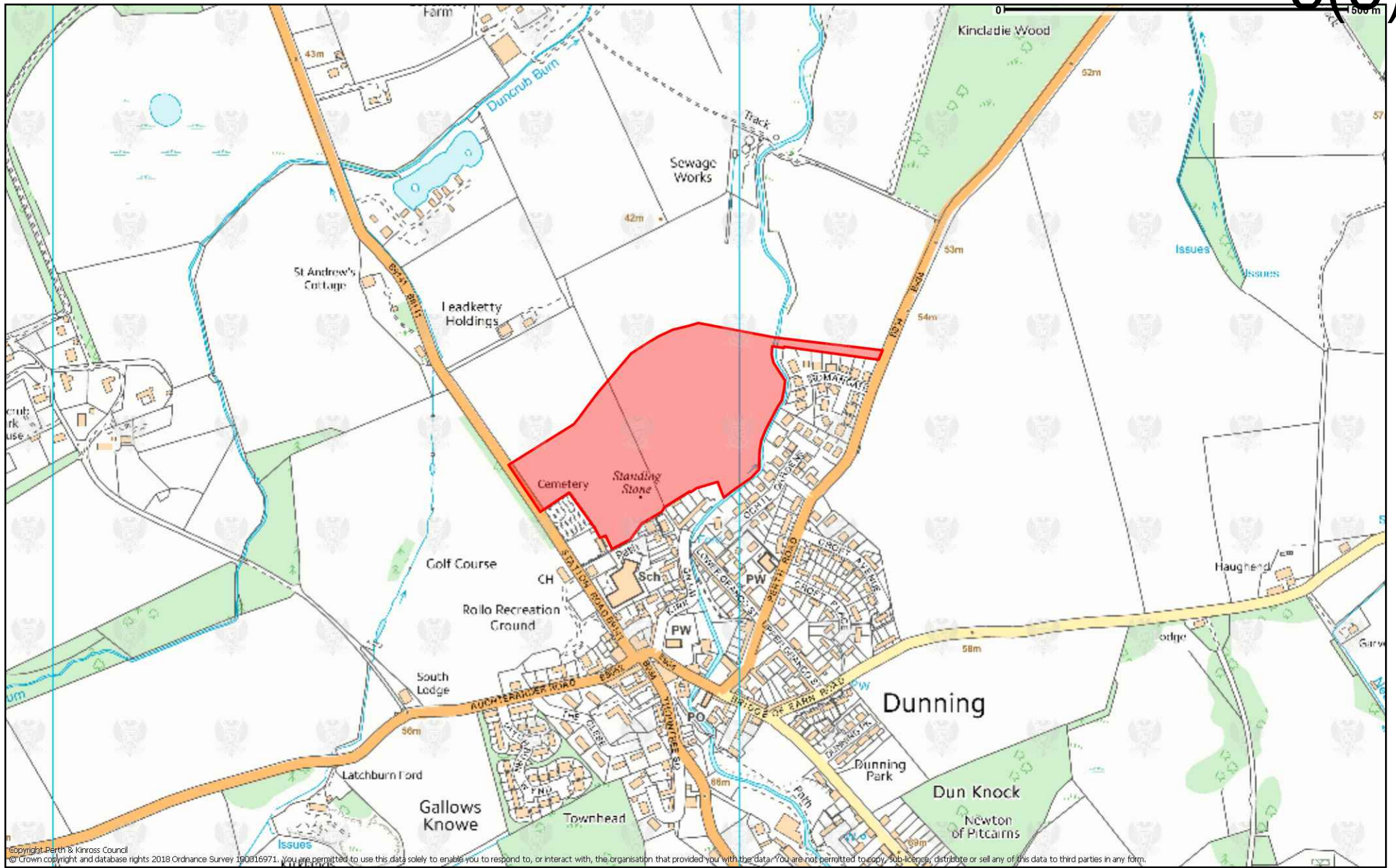
Background Papers: None  
 Contact Officer: Callum Petrie 01738 475353  
 Date: 21 June 2018

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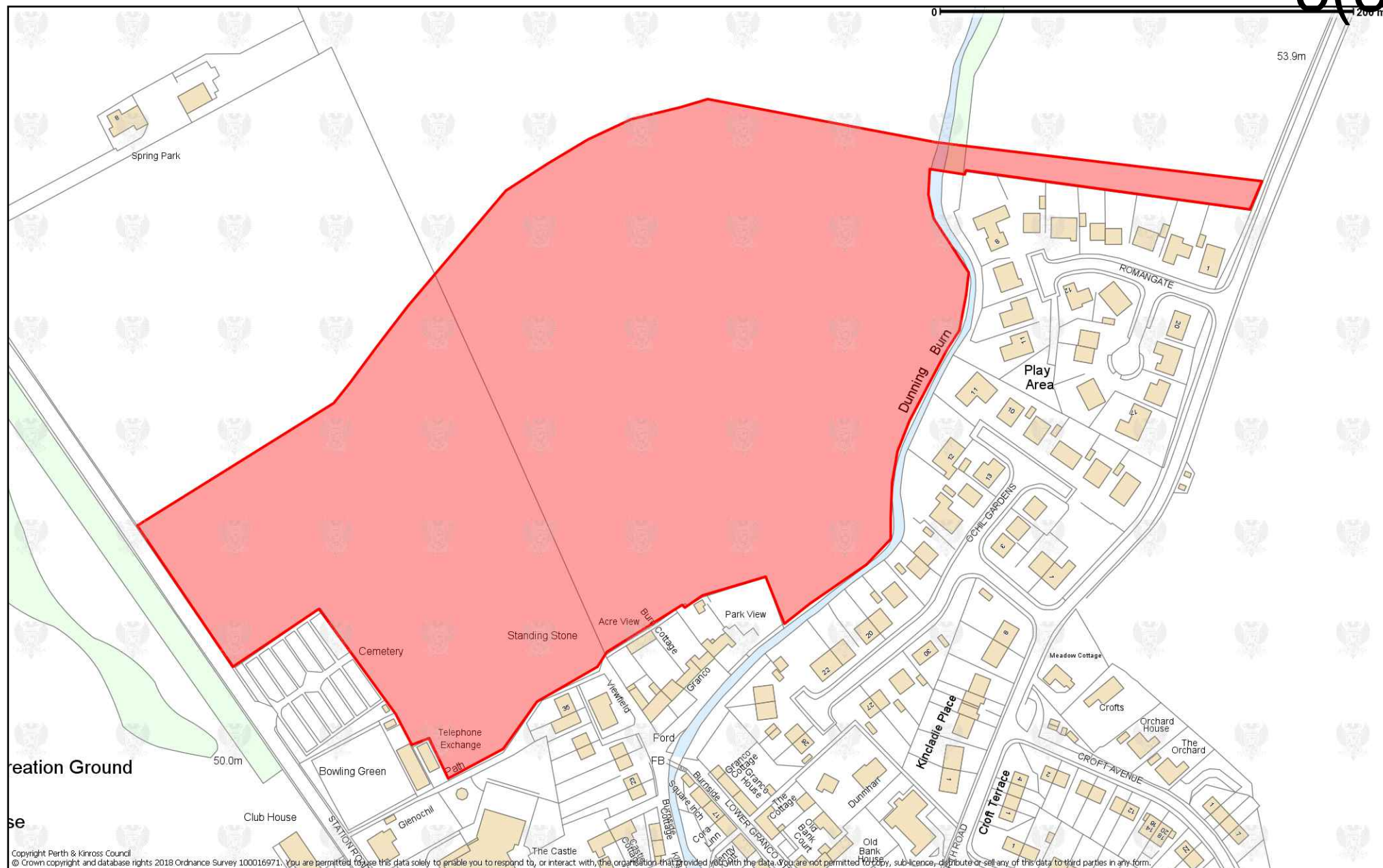
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Residential development, landscaping, suds pond and associated works at Land 130 Metres North East of Dunning Bowling Green, Station Road, Dunning









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