

Perth and Kinross Council
Planning & Development Management Committee – 15 January 2019
Report of Handling by Head of Planning & Development (Report No. 20/5)

PROPOSAL: Erection of 33 dwellinghouses, 8 flats, community lounge/guest suite, formation of parking areas, landscaping and associated works

LOCATION: Site of Former Windlestrae Hotel, Muirs, Kinross

Ref. No: [19/01626/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 The site extends to 1.3 hectares (ha) and comprises a hotel building, dwelling house, carpark and landscaped grounds, located within the Kinross settlement boundary. The site is bound by the Market Park and a dwelling, Woodlands, to the south. The Kinross Golf Course lies to the east and the site is otherwise bound by residential development on The Muirs and Muirpark Road. A small area of the site is located within Kinross Conservation Area which lies to the south.
- 2 This application is for the erection of 33 dwellinghouses, 8 flats and a community club house with guest accommodation. The properties are intended to be age restricted to residents aged 55 and over.
- 3 The proposed housing mix is:
 - 22 x detached and semi-detached houses
(14 two bed and 8 three bed houses)
 - 11 x 2 bed cottages
 - 8 x 2 bed affordable apartments
- 4 The proposed finishes are a slate effect roof, buff facing brick, off white render, grey upvc windows and timber doors.
- 5 The proposal will utilise the existing single access point as the site has no opportunities to form additional vehicular links with neighbouring land. A pedestrian link to the woodland to the east which forms part of the core path network is to be retained.

- 6 This application follows on from a withdrawn application for the same type of development. This proposal is broadly as previously submitted however the applicant has changed from McCarthy and Stone to Juniper Residential.

ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

- 7 Directive 2011/92/EU (as amended) 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.
- 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.
- 9 An EIA screening has been undertaken, concluding that an EIA was not required as the proposal was not considered likely to have significant environmental effects.

PRE-APPLICATION CONSULTATION

- 10 The proposed development is not classed as a Major development in terms of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. Therefore the applicant was not required to undertake any formal pre-application consultation with the local community. However, the applicant held a Public Exhibition in Kinross Masonic Hall on 11 September 2019.
- 11 Proposals were presented at this exhibition and feedback was invited from the local community, local councillors and community representative groups. Feedback received from this event resulted in changes being made to the original proposal which included omitting proposed 2 storey apartments to the north boundary and reverting back to the previous proposal of 1½ storey houses. More planting is now proposed to the north boundary and more planting is shown throughout the site to compensate for the removal of existing trees.

NATIONAL POLICY AND GUIDANCE

- 12 The Scottish Government expresses its planning policies through The National Planning Frameworks, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Creating Places, Designing Streets, National Roads Development Guide and a series of Circulars.

National Planning Framework

- 13 NPF3 is a long-term strategy for Scotland and is a spatial expression of the Government's Economic Strategy and plans for development and investment in infrastructure. Under the Planning etc. (Scotland) Act 2006 this is now a statutory document and material consideration in any planning application. The document provides a national context for development plans and planning decisions as well as informing the on-going programmes of the Scottish Government, public agencies and local authorities.

Scottish Planning Policy 2014

- 14 The Scottish Planning Policy (SPP) was published in June 2014 and sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:
- The preparation of development plans;
 - The design of development, from initial concept through to delivery; and
 - The determination of planning applications and appeals.
- 15 The following sections of the SPP will be of particular importance in the assessment of this proposal:
- Sustainability: paragraphs 24 – 35
 - Placemaking: paragraphs 36 – 57

Planning Advice Notes

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

Creating Places 2013

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

Designing Streets 2010

- 18 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

- 19 This document supports Designing Streets and expands on its principles and is considered to be the technical advice that should be followed in designing and approving of all streets including parking provision.

DEVELOPMENT PLAN

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

TAYPlan Strategic Development Plan 2016-2036

- 21 TAYPlan sets out a vision for how the region will be in 2036 and what must occur to bring about change to achieve this vision. The vision for the area as set out in the plans states that:

“By 2036 the TAYplan area will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice where more people choose to live, work, study and visit, and where businesses choose to invest and create jobs.”

Perth and Kinross Local Development Plan 2019

- 23 The Local Development Plan 2 (2019) (LDP2) was adopted by Perth and Kinross Council on 29 November 2019. The LDP2 sets out a vision statement for the area and states that, *“Our vision is of a Perth and Kinross which is dynamic, attractive and effective which protects its assets whilst welcoming population and economic growth.”* It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
- 24 The principal relevant policies are, in summary;
- Policy 1A: Placemaking
 - Policy 1B: Placemaking
 - Policy 2: Design Statements
 - Policy 5: Infrastructure Contributions
 - Policy 15: Public Access
 - Policy 17: Residential Areas
 - Policy 20: Affordable Housing
 - Policy 22: Particular Needs Housing Accommodation
 - Policy 25: Housing Mix
 - Policy 28A: Conservation Areas: New Development
 - Policy 29: Gardens and Designated Landscapes
 - Policy 32: Embedding Low & Zero Carbon Generating Technologies in New Development
 - Policy 38A: Environment and Conservation: International Nature Conservation Sites
 - Policy 38B: Environment and Conservation: National Designations
 - Policy 40A: Forestry, Woodland and Trees: Forest and Woodland Strategy
 - Policy 40B: Forestry, Woodland and Trees: Trees, Woodland and Development
 - Policy 41: Biodiversity
 - Policy 46A: Loch Leven Catchment Area
 - Policy 46B: Loch Leven Catchment Area
 - Policy 52: New Development and Flooding

- Policy 53A: Water Environment and Drainage: Water Environment
- Policy 53B: Water Environment and Drainage: Foul Drainage
- Policy 53C: Water Environment and Drainage: Surface Water Drainage
- Policy 53E: Water Environment and Drainage: Water Supply
- Policy 58A: Contaminated and Unstable Land: Contaminated Land
- Policy 60B: Transport Standards and Accessibility Requirements: New Development Proposals

SITE HISTORY

- 25 [18/01964/FLL](#) Erection of 36 dwellinghouses, 8 flats, community lounge/guest suite, formation of parking areas, landscaping and associated works - Application withdrawn 11 March 2019.

CONSULTATIONS

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

External

- 27 **NHS** - No response received within the consultation period and agreed protocol is therefore no objection.
- 28 **Scottish Natural Heritage (SNH)** - No objection to proposal as site is to be connected to public drainage system and is remote from Loch Leven Special Protection Area and Ramsar site.
- 29 **Kinross Community Council** - The Community Council have raised the following issues; overdevelopment site, lack of parking, loss of trees, impact on conservation area and GP surgery under strain.
- 30 **Scottish Water** No objection to proposal.

Internal

- 31 **Environmental Health (Noise Odour)** - No objection to proposal conditions recommended regarding noise and odour.
- 32 **Community Waste Advisor - Environment Service** - No objection and note adequate bin provision within the site.
- 33 **Structures & Flooding** - No objection on flood risk, condition required for SUDs.
- 34 **Environmental Health (Contaminated Land)** - No objection to proposal condition recommended regarding contaminated land.
- 35 **Transport Planning** - No objection to development layout or parking provision, condition recommended in relation to junction, Construction Traffic Management Plan and street lighting.

- 36 **Development Negotiations Officer** - Developer contributions in respect of affordable housing required.

REPRESENTATIONS

- 37 The following points were raised in the 27 representations; 23 objections and 4 in support received:

Objections

- Contrary to Local Development Plan
- Loss of open space
- Overdevelopment
- Overlooking/loss of privacy
- Height of development
- Lack of parking
- Loss of trees
- Loss of existing boundary treatments
- Existing building should be adapted
- Detrimental Impact on Conservation Areas
- Impact on biodiversity
- Impact on visual amenity
- Pressure of GP services

Support

- General support for retirement homes in Kinross area

- 38 These issues are addressed in the Appraisal section of the report.

ADDITIONAL STATEMENTS

39	EIA Screening Opinion	Completed
	EIA Report	Not Required
	Appropriate Assessment	Not Required
	Design Statement/Design and Access Statement	Submitted
	Reports on Impact or Potential Impact	<ul style="list-style-type: none">• Hotel demand study• Transportation statement• Solar study• Drainage and flood risk assessments• Tree survey and arboriculture report• Ecological appraisal, bat survey.

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

Principle

- 41 The site is within the settlement boundary of Kinross within an area zoned for residential and compatible uses under Policy 17 Residential Areas. The site also includes a small extension into an area of zoned open space and the Kinross Conservation Area boundary to accommodate the surface water drainage proposal.
- 42 It is acknowledged that the proposal involves the loss of a hotel building which provided a number of services and facilities, however, The Windlestrae Hotel ceased trading in 2018. Policy 17 only supports changes away from ancillary uses such as employment land, local shops and community facilities, for example pubs and restaurants, where there is demonstrable market evidence that the existing use is no longer viable in this case as a commercial venture.
- 43 A hotel demand study was submitted with the application. The report noted that due to the lack of financial viability, the owner closed the hotel at the end of October 2018. Since then, the moveable trade inventory and majority of the fixtures and equipment have been sold off and removed. The report study area comprised Kinross and a 15 mile radius from the hotel. The report details the overprovision of hotel accommodation for the local market, compounded by changes to the operating market including the development of new competition from additional room supply, new health club facilities and new food & beverage outlets. In 2017 the owner instructed the sale of the hotel with there being no interest in the property. The report concludes that there was no business case for the Windlestrae to be given ongoing financial support and therefore, the hotel was closed.
- 44 The proposed new land use, which is categorised as residential assisted living, is consistent with LDP2 Policy 22 for particular needs housing accommodation and is a facility that would support the local housing needs market for the older generation of Kinross and provides a different model than the flatted developments which have already been developed in the area. The proposal would assist in supporting local services, whilst being compatible with the residential nature of the area.
- 45 A small area of the site to the south is located within an area zoned as open space. The proposal within the open space is for underground surface water retention and above ground an access turning head and pump station are required. Policy 14 Open Space Retention and Provision states that development within these areas will not be permitted unless certain circumstances apply. In this case the area of the site required to facilitate the development involves a minor part of the site which would not affect its continued use as a recreational or amenity resource. The proposal is therefore compliant with this policy.

- 46 Overall, the justification set out in the supporting information is considered to demonstrate that the principle for the loss of the hotel business and the redevelopment of the site for specialised residential development is considered to comply with LDP2 policies 17 and 22 in this regard. The proposal is also considered to comply with Policy 14 in relation to loss of open space. Specific LDP2 policy requirements beyond assessing the principle of the proposed development on this site will be discussed in the following sub topics.

Design and Layout

- 47 The proposed retirement development comprises of 10 detached houses, 12 semi-detached houses, 11 terraced houses, 8 affordable apartments and a communal club lounge. The mix of the house types varies throughout the development, with the club lounge located in the centre of the development as the communal hub of the community.
- 48 The flatted apartments, which form the on-site affordable units, lie to the northwest of the site. They are two-storey in height comprising 8 x 2-bedroom units. A communal private amenity space is provided to the west.
- 49 The 11 terraced houses form three separate rows; two on the north boundary and one on the west. The terraced dwellings are two-storey in height to the rear however the front elevations which face the street are 1 ½ storey with the upper floor partially accommodated in the roof space served by a dormer. These dwellings have two upper floor bedrooms and at ground floor have a kitchen, living room and dining room. These dwellings are noted as 2/3-bedroom dwellings as the ground floor room can be used as a bedroom if required.
- 50 The remaining house types throughout the site are a detached and semi-detached mix of bungalows and dwellings of single storey height with accommodation at first floor fully contained within the roof space served by dormers and roof lights.
- 51 The finish materials for the site are a slate effect roof, buff facing brick, off white render, grey upvc window and timber doors. The material finishes reflect the existing material palette in the area; however, a condition will be added to ensure samples are agreed prior to commencement (Condition 4).
- 52 The site is relatively flat which results in gardens which are fully useable. The flatted development also has an enclosed communal area to the rear. The amenity space for the dwellings range from the 60 – 187 sq metres. The dwellings do allow some flexibility in their use and although a number have 3 bedrooms, due to the age restriction of the development, these properties would not be occupied by families. The amount of amenity space proposed for each unit is considered acceptable for this type of development.
- 53 The design and scale is therefore considered to comply with Policies 1A and B, which relate to placemaking, and the criteria outlined in Policy 17 for residential areas of LDP2.

Residential Amenity

- 54 The site is bound to the west and north by residential development at The Muirs and Muirpark Road. The proposed development along these boundaries has maintained a minimum of 9m set back from the site boundary where facing windows are proposed. It is therefore considered that this distance is adequate to mitigate any impact on existing residential amenity from overlooking. In relation to loss of daylight and overshadowing the existing dwellings which share a boundary have south and east facing gardens. A solar study has been submitted in this regard and shows no significant detrimental impact in terms of loss of daylight/overshadowing.
- 55 Within the application site the layout of the proposed dwellinghouses have been configured so that all dwellings have adequate garden sizes. This has involved a revision to the central area to realign some rear garden boundaries and the adjustment of the garden boundaries of the terraced dwellings on the north and west boundary. These changes have not involved the alteration of any of the dwelling positions and all proposed access paths to the rear of plots have been retained.
- 56 The layout internally consists of single storey dwellings or single storey dwellings with accommodation at 1st floor served by dormers which have been positioned on the front elevations only. These houses have adequate amenity space, more than 60sq metres, but do not have 9m deep rear gardens. In this case the arrangement is acceptable as 9 metre window-to-boundary distances are to mitigate the impact of overlooking from first floor windows. These properties do not have upper floor windows to the rear and therefore do not raise any issues of overlooking to private amenity space. Furthermore 1.8m fences are proposed to separate these rear gardens and there would be no permitted development rights to add dormers as the dwellings would not meet the requirements.
- 57 The development provides retirement dwellings aimed at the over 55s, the site has a mix of house types and sizes but each dwelling/flat would be occupied by couples or single persons. The site has a mix of bungalows, 1½ storey dwellings and flats and the site does reflect a higher density of development in this respect. The extent in which private amenity space is used relates specifically to the dwelling's occupant. It is therefore particularly difficult to forecast the extent of garden ground required and ultimately overtime this will change with any new inhabitant. Nevertheless, it is important to seek an outside area that can perform the minimum to be expected of a garden i.e. clothes drying, dustbin storage and sitting out. In this case a sufficient amount of private amenity space to the rear of all dwellinghouses and flats is provided to perform the minimum expected of a garden ground taking account of the proposed dwellinghouse type.
- 58 Taking the aforementioned into account, the proposed development is considered to be in compliance with the Council Draft Placemaking Guide 2019 and LDP2 Policy 1A,1B and 17 in relation to residential amenity.

Contaminated Land

- 59 A site investigation has been carried out at the proposed development site. The initial ground gas monitoring results have indicated elevated levels of ground gas and further monitoring has taken place.
- 60 It has also been indicated that topsoil will be imported on to the site as part of the proposed development. It is important that any material brought onto the site be suitable for the proposed end use of the site. A contaminated land condition has been recommended by Environmental Health to cover these issues (Condition 16).

Air Quality

- 62 In relation to air quality, the proposal requires to be considered for its potential impact. The applicant has submitted a Transportation Statement (TS) which states that vehicle generation from the development during peak times would be 8 two-way vehicle trips, which equates to an average 1 vehicle trip every 7¹/₂ minutes. The report concludes that the '*proposal would have a negligible impact on the operation of the surrounding network.*' Environmental Health have concluded that the proposed development will not require a detailed air quality assessment. It is considered that there is no significant detrimental impact in terms of air quality and complies with Policy 57 Air Quality.

Noise

- 63 Policy 58 of the LDP2 relates to noise. The proposal includes a pumping station area at the surface water drainage area and a communal club lounge which will have a kitchen and visitor accommodation. There is the potential for noise from the operation of these elements and conditions are recommended to be included on any given permission to protect existing and future residential amenity (Conditions 9 and 10).

Roads and Access

- 64 The proposal utilises the existing access into the site and there will be a total of 70 parking spaces made up of 60 residential parking spaces and 10 visitor spaces.
- 65 The upgrading of the existing access road is proposed comprising a 5.5m wide road and a new 2.0m footway to improve access for all modes of travel and this is welcomed and required to facilitate the proposals. The proposed upgrade work will also improve the existing access as it adjoins the B996, improving both pedestrian safety and existing visibility splays as it ties into the footway on the B996.
- 66 Given the nature of use of the proposals, vehicle trip generation during peak times is lower than compared to non-age restricted residential developments. This is supported by the Trip Rate Information Computer System (TRICS) data provided from other existing retirement developments which show two way vehicle movements of 20 vehicles in the AM peak and 18 in the PM peak. It is my view that this is not a significant amount of traffic generation and likely to have negligible impact on the B996, particularly when the existing use as a 47 guest

room hotel is factored in. A request for a condition to upgrade two existing bus shelters has been made by the Public Transport Team. The two existing enclosed shelters are located on the Muirs. The scale of the proposal is not considered to require the upgrade of these shelters to make the development acceptable and therefore will not be required by condition.

- 67 The road layout has also included a pedestrian link to the core path network which is to the east maintaining current pedestrian links through the site.
- 68 Transport Planning has recommended conditions to cover the junction improvements and submission of a Construction Traffic Management Scheme (Condition 5 & 6). Street Lighting will be added as an informative as the Roads Construction Consent will cover this. The terms of LDP2 Policy 60 Transport Standards and Accessibility Requirements is considered to have been satisfied in this regard.

Drainage and Flooding

- 69 The proposed development will be serviced by Kinross Waste Water Treatment Works. Scottish Water has no objection to this planning application but note that further investigations may be required to be carried out once a formal application has been submitted to them.
- 70 The Flood Team have reviewed the information provided within the application and highlight that the proposed site lies within the surface water flood extents, as shown on the SEPA flood maps. They believe this flood extent is showing the existing pond on site and they confirm that they have no objection in relation to flood risk.
- 71 The MircoDrainage outputs for the surface water drainage have been revised with the Flood Team have reviewing further information on this. They are content with the methodology and a condition will be added to agree the final SUDs scheme (Condition 12).
- 72 The proposals are considered to satisfy the policy objectives of LDP2 Policy 53 Water Environment and Drainage.

Waste Collection

- 73 The road layout and turning provision allows for refuse vehicles to enter and leave the site in a forward gear with a kerbside collection proposed. Each dwelling/flat has been provided with storage for a three-bin system.

Conservation Considerations

- 74 The hotel, access road and grounds are located out with Kinross Conservation Area; however, a small area of the site which will accommodate the SUDs scheme is within the Conservation Area boundary. It is considered that, given the small scale of the proposed development within the Conservation Area and provided it is screened as per the submitted drawings, there would be no adverse impact on the character or appearance of the Conservation Area. As the rest of the development is well screened by existing development and vegetation there

would again be no adverse impact on the setting of the Conservation Area. The proposal is therefore considered to comply with Policy 28A Conservation Areas New Development of LDP2.

Natural Heritage and Biodiversity

- 75 The site is located within the Loch Leven Catchment Area which defines the larger drainage consultation area for Loch Leven. The designated Ramsar site and Special Protection Area (SPA) comprises of the loch boundaries only and are located 1km to the east of the application site.
- 76 The foul drainage on the site will be connected to the appropriate waste water treatment works which will be dealing with Phosphorus appropriately before any discharge enters the loch and therefore will have no likely significant effect on the SPA. This does not remove the need to consider any other potential impact pathways on the site like sediment or disturbance where these might occur. However, SNH have confirmed that site is nowhere near any connecting watercourse to the loch and there is no prospect of disturbing wildfowl from that site. They conclude that there is no likely significant effect on the SPA or Ramsar site from this proposal.
- 77 An Ecological Assessment and Bat Survey has been submitted and are in accordance with best practice. A dusk survey carried out in August 2019 confirmed that no bats were observed to enter or leave the building. No further survey effort is required with regards to bats, based on the findings of the survey.
- 78 The site has a number of trees, shrubs etc. which are to be removed and these have the potential to be a habitat for breeding birds. For all wild bird species in Great Britain, it is an offence to intentionally or recklessly kill, injure or take a bird; take, damage, destroy or interfere with a nest of any bird while it is in use or being built; or obstruct or prevent any bird from using its nest. A condition is recommended to advise that existing buildings, trees etc should not be removed from the site between 1st March and 31st August inclusive. (Condition 7)
- 79 Subject to conditional control (Conditions 7 and 8), the proposed works are assessed as not being detrimental to biodiversity interests and therefore not conflicting with Policy 41 Biodiversity.

Trees

- 80 The design and layout of the existing hotel grounds has been to provide areas of interest and recreation for guests over recent years. The garden layout is effectively two large lawn areas surrounded with linear plantings of mixed shrubs and conifers. Within the lawn areas there are well established Norway spruce specimens and within the shrub borders are assorted Lawson cypress cultivars.
- 81 The north boundary is formed with a linear planting principally rhododendron, which is proposed for removal. Adjacent to the south boundary the property known as Woodlands has an established hedgerow. Adjacent to the east boundary there is a mature woodland, which has Scots pine, oak and sycamore. The canopies of many of the deciduous tree species within the woodland edge extend into the development site and have potential to impact on the use of the

dwellinghouses, both from a nuisance perspective and safety concerns. The presence of these trees led to a reduction in dwelling numbers proposed for this area of the site in the previous application, the reduction has been carried through to this current proposal. The reduction has resulted in the dwellings having increased amenity space to the side which reduced the impact of the tree belt to the east by increasing the amount of amenity space out with the tree canopy. It is also noted that in Para 3.6 of the Arboricultural Implication Assessment and Tree Protection Proposals Report, the applicant's consultant arboriculturalist proposes crown lifting of the trees at this boundary before tree protection measures are erected. It is also noted that given the future residential use of the site, the structural integrity, health and condition of the trees forming the edge of the woodland is an issue, and as such they should be surveyed and their condition confirmed, with remedial works undertaken, this will be added as an informative for the applicant. A condition will be included to protect retained trees and hedges and that works comply with the Arboricultural Report (Condition 13 and 15).

- 82 There is a large sycamore at the site entrance which is proposed for removal to achieve the necessary 9m x 70m visibility splay. This particular tree has sustained storm damage in the past and its viability is questioned given its proximity to the main road. A suitable tree replacement is proposed to infill the gap in the existing edge trees.
- 83 The site is populated with several Lawson cypress cultivars and Norway spruce, which have estimated height of 13-15m, are non-native, and have limited amenity value as part of this ornamental planting. The specimen trees are considered to all be of a similar age and there is little evidence of any recent tree planting within the site within the last 15-20 years.
- 84 The development proposal would result in the loss of the majority of trees at the site. Whilst the existing landscaping was attractive to the former hotel users and local dog walkers, in terms of the potential impact on loss of amenity through tree removal, the impact would mainly be on the detached property Woodlands and the residents of Nos 7 – 17 Muirpark Road, Kinross. There is an established hedgerow bounding 'Woodlands' and its driveway on the south boundary, and a mature woodland on the east boundary. It is considered that if the larger conifers are removed, their loss would have limited impact if viewing from the south or east. The landscaping plan proposes planting along the north boundary of Market Park, which would consolidate the south boundaries of the site.
- 85 The soft landscaping plan by Keith Wood proposes 57 trees using multi stemmed, selected standard and heavy standard tree stock, within the site frontages and rear garden areas. In addition, evergreen and deciduous hedges are proposed between property garden within some rear gardens and at certain frontages. It is considered that the proposed plan if fully implemented would result in an attractive site, with proposed planting considered appropriate for the recognised residential use. The tree species proposed is appropriate for the site, and would serve to ameliorate the street scene, and provide amenity benefit for the future users of the site. The landscaping plan implantation is covered by condition (Condition 14)
- 86 The proposal is therefore considered to comply with Policy 40 Forestry, Woodland and Trees as the loss of trees on the site has been adequately mitigated (Condition 13, 14 and 15).

Tree Preservation Order Request

- 87 A request has been made for the promotion of a Tree Preservation Order (TPO) in a number of letters of representation. A TPO can be promoted where it appears that it would be expedient in the interest of amenity, and/or, that the trees, groups of trees or woodlands are of cultural or historical importance. In this case, it is indisputable that there will be considerable tree loss, however, the Enforcement Officer (Trees) does not consider that the trees represented at the site warrant the promotion of a TPO, as their contribution to amenity is considered limited, and are not of any cultural or historic importance.

Local Services

- 88 The site is located within a maximum 10 minute walking distance of the town centre, various pubs/restaurants, swimming pool, leisure centre, supermarket and the health centre.
- 89 Concerns have been raised that the local GP surgery does not have capacity. The NHS have been consulted as part of the planning application process and inline with protocol have made no comment on the proposal within the consultation period which is accepted as no objection to the proposal.

Developer Contributions

Affordable Housing

- 90 The Council's Affordable Housing Policy requires that 25% of the total number of houses, above a threshold of 5 units, for which planning permission is being sought is to be in the form of affordable housing.
- 91 The site contains a single dwellinghouse (The Bungalow, Windlestrae Hotel, Muirs, Kinross, KY13 8AS). The proposal will replace this dwellinghouse and will create an additional 40 units.
- 92 The affordable housing requirement is 10 units (40×0.25). The proposal includes 8 flatted affordable units on site. The remaining 2 unit requirement will be covered through a commuted sum in lieu of onsite provision. The commuted sum level for the Kinross Housing Market Area is £19,000 per unit.

Primary Education

- 93 The Council's Developer Contributions Supplementary Guidance requires a financial contribution towards increased primary school capacity in areas where a primary school capacity constraint has been identified. This proposal is within the catchment of Kinross Primary School for which contributions are being sought.
- 94 The proposal falls under the sheltered housing exemption in line with section 4.5 of the Developer Contributions and Affordable Housing Guidance. No contribution towards primary education is required. A condition is proposed restricting the age occupancy of the development in line with the requirements of the Developer (Condition 2).

Sustainability

- 95 LDP2 Policy 32 requires proposals for new buildings to demonstrate that at least 10% of the current carbon reduction emissions will be met through the installation and operation of zero and low-carbon generating technology.
- 96 The agent states that they have not got to this stage in the detailed construction drawings but confirm that they will meet the standard required under Scottish Building Standards and it is recognised that the Policy 32 requirement can be technically achieved. The exact nature and specification of these technologies can be verified prior to developing commencing and for the technology to be in place prior to occupation of the buildings to ensure the objectives of LDP2 Policy 32 are met (Condition 11).

Economic Impact

- 97 There is likely to be some economic benefit associated with the construction of this development. However, this is not considered to hold significant weight in the determination of this application.
- 98 The representations have also raised issues regarding the strain on local services however the increase in population would generate increased footfall and spending in the local economy.

LEGAL AGREEMENTS

- 99 If the commuted sum is not paid upfront then a legal agreement will be required.

DIRECTION BY SCOTTISH MINISTERS

- 100 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

- 101 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 2 and material considerations in this case and I am content that the development proposed does not conflict with the Development Plan.
- 102 Accordingly the proposal is recommended for approval subject to the following conditions.

RECOMMENDATION

Approve the application

Conditions and Reasons for Recommendation

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

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

2. The occupation of the residential accommodation hereby approved shall be restricted to occupants aged 55 and over and shall not be occupied as the sole or main residence of any occupant aged under 55 years of age.

Reason – For the avoidance of doubt and to ensure occupation of the development hereby approved complies with Policy PM3 – Infrastructure Contributions, of the Perth and Kinross Local Development Plan 2014.

3. Prior to the occupation of any phase of the development, the detail and timing of the on-site affordable apartment delivery shall be submitted to and agreed in writing by the Council as Planning Authority. The approved scheme shall thereafter be delivered and managed in accordance with the agreed delivery mechanism and timing.

Reason – To ensure the development is in accordance with the terms of the Perth and Kinross Council Local Development Plan 2014 and to comply with the Council's policy on Developer Contributions and Affordable Housing Supplementary Guidance 2016.

4. Prior to the commencement of the development hereby approved, details of the specification and colour of the proposed external finishing materials to be used shall be submitted to and agreed in writing by the Council as Planning Authority. The scheme as agreed shall be implemented prior to the completion or bringing into use of the development, whichever is the earlier.

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

5. Prior to the occupation of the development hereby approved, junction improvements works onto the B996 (Muir) as detailed in drawing number 19/01626/60 shall be constructed to the satisfaction of Perth & Kinross Council as Planning Authority.

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

6. Prior to the commencement of the development hereby approved, the applicant shall submit for the further written agreement of the Council as Planning Authority, in consultation with the Roads Authority (Structures), a Construction Traffic Management Scheme (TMS) which shall include the following:

- (a) restriction of construction traffic to approved routes and the measures to be put in place to avoid other routes being used;
- (b) timing of construction traffic to minimise impact on local communities particularly at school start and finishing times, on days when refuse collection is undertaken, on Sundays and during local events;
- (c) a code of conduct for HGV drivers to allow for queuing traffic to pass;
- (d) arrangements for liaison with the Roads Authority regarding winter maintenance;
- (e) emergency arrangements detailing communication and contingency arrangements in the event of vehicle breakdown;
- (f) arrangements for the cleaning of wheels and chassis of vehicles to prevent material from construction sites associated with the development being deposited on the road;
- (g) arrangements for cleaning of roads affected by material deposited from construction sites associated with the development;
- (h) arrangements for signage at site accesses and crossovers and on roads to be used by construction traffic in order to provide safe access for pedestrians, cyclists and equestrians;
- (i) details of information signs to inform other road users of construction traffic;
- (j) arrangements to ensure that access for emergency service vehicles are not impeded;
- (k) co-ordination with other significant developments known to use roads affected by construction traffic;
- (l) traffic arrangements in the immediate vicinity of temporary construction compounds;
- (m) the provision and installation of traffic counters at the applicant's expense at locations to be agreed prior to the commencement of construction;
- (n) monitoring, reporting and implementation arrangements;
- (o) arrangements for dealing with non-compliance; and
- (p) details of HGV movements to and from the site.

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

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

7. No removal of hedgerows, trees or shrubs or works to, or demolition of, buildings or structures that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared or building affected, and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

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

8. The conclusions and recommended action points within the supporting biodiversity survey by David Dodds Associates Ltd dated August 2019 submitted

and hereby approved (plan ref 19/01626/34) 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).

9. 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 residential amenity of the area.

10. Prior to the development hereby approved being completed or brought into use, an effective ventilation system commensurate with the nature and scale of cooking to be undertaken shall be installed and operated such that cooking odours are not exhausted into or escape into any neighbouring buildings. Thereafter the system shall be maintained.

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

11. Prior to the commencement of development hereby approved, a scheme shall be submitted to, and approved in writing by, the Council as Planning Authority that demonstrates how at least 10% of the current carbon emissions reduction set by the Scottish Buildings Standards will be met through the installation and operation of low and zero-carbon technologies. This scheme shall detail for each building:
 - a) the technology types;
 - b) illustrate, through technical calculations, that these will meet at least the 10% reduction;
 - c) their siting and location; and
 - d) ongoing operation and maintenance.

Once approved, the development shall be completed in accordance with the approved scheme and no individual unit shall be occupied until the scheme has been installed and operating.

Reason: To embed low and zero-carbon technologies within the development in the interest of environmental sustainability.

12. Prior to the commencement of development hereby approved, the final construction details for the disposal of surface water via a Sustainable Urban Drainage System (SUDs) shall be submitted to, and approved in writing by, the Council as Planning Authority. 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 – For clarity and in order to ensure that surface water arising from the development is adequately dealt with and that any sustainable urban drainage system (SUDS) does not increase flood risk elsewhere.

13. The conclusions and recommended action points within the supporting Arboricultural Implication Assessment and Tree Protection Report by Donald Rodger Associates Ltd dated September 2019 submitted and hereby approved (plan ref 19/01626/42) shall be fully adhered to, respected and undertaken as part of the construction phase of development.

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

14. The detailed landscaping and planting scheme which is hereby approved shall be completed within the first available planting season (October to March) after the completion or bringing into use of the development, whichever is the earlier. The approved scheme shall thereafter be maintained, with any planting which fails to become established within five years being replaced in the following planting season with others of a size and species as previously approved.

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

15. Prior to the commencement of any works on site, all trees on site and existing hedges which share a boundary with the 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.

16. Development shall not commence on site until an evaluation for the potential of the site to be affected by contamination by a previous use has been undertaken and, as a minimum, a Preliminary Risk Assessment (Phase 1 Desk Study) has been submitted for consideration and accepted by the Council as Planning Authority. If the preliminary risk assessment identifies the need for further assessment, an intrusive investigation shall be undertaken to identify;

- I. the nature, extent and type(s) of contamination on the site
- II. measures to treat/remove contamination to ensure the site is fit for the use proposed
- III. measures to deal with contamination during construction works
- IV. condition of the site on completion of decontamination measures.

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

Reason - In order to deal with any potential contamination of the site as a result of its former use.

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

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

If the payment is not paid up-front, a Section 75 Legal Agreement will require to be drafted in relation to securing on and off-site Affordable Housing provision. The Heads of Terms have been agreed by the applicant and the Council's Legal Services have been formally instructed.

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

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 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.

6. The findings and recommendations contained with the Bat Survey remain valid for a period of 18 months. If the approved planning permission is not implemented within 18 months of the date of the survey it is strongly recommended that an updated Bat Survey is undertaken prior to any works commencing. Failure to do so could potentially leave you open to prosecution should any bats be harmed as a result of the works. Please note that bats are protected by law, and it is a criminal offence to deliberately harm, capture, kill or disturb a bat or its resting place.
7. Existing buildings and structures may contain nesting birds between 1st March and 31st August inclusive. 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. 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.
9. Please consult the Street Naming and Numbering Officer, The Environment Service, Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth PH1 5GD for a new postal address. The form is downloadable from www.pkc.gov.uk and should be returned to snn@pkc.gov.uk
10. No work shall commence until an application for a Building Warrant has been submitted and approved.
11. The applicant should be 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 Environmental Protection Agency.
12. The applicant should be advised that in terms of Section 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.
13. Given the future residential use of the site, the structural integrity, health and condition of the trees forming the edge of the woodland is an issue, and as such they should be surveyed and their condition confirmed, and subject to our approval, remedial works undertaken if necessary.

Background Papers: 27 letters of representation
Contact Officer: Joanne Ferguson (75320)
Date: 24 December 2019

DAVID LITTLEJOHN
HEAD OF PLANNING & DEVELOPMENT

<p>If you or someone you know would like a copy of this document in another language or format, (on occasion, only a summary of the document will be provided in translation), this can be arranged by contacting the Customer Service Centre on 01738 475000.</p>
--

<p>You can also send us a text message on 07824 498145.</p>

<p>All Council Services can offer a telephone translation facility.</p>
