

Perth and Kinross Council
Development Control Committee – 20 September 2017
Report of Handling by Interim Head of Planning

Application under Section 42 of the Town and Country Planning (Scotland) Act 1997 to develop land to modify Conditions 8 (children's play area) and 9 (access) of planning permission at land north west of Lathro Farm, Kinross

Ref. No: 17/00886/FLM
Ward No: N8 Kinross-shire

Summary

This report recommends approval of an application under Section 42 of the Town and Country Planning (Scotland) Act 1997 to modify Conditions 8 (children's play area) and 9 (access) of planning permission 15/01512/FLM at land north west of Lathro Farm, Kinross. The development is considered to comply with the current Development Plan and is therefore recommended for approval, subject to certain conditions.

BACKGROUND AND PROPOSAL

- 1 The application site is situated on land in between the northern end of Kinross and the southern end of Milnathort and covers an area of over 33 hectares. The land is predominantly agricultural of undulating topography with a watercourse known as the North Queich bisecting the site from west to east.
- 2 The south of the site is bounded by established residential development and access off Gallowhill Road is available at the south west corner. The western boundary of the site is defined by the M90 motorway, whilst to the north are a mix of uses including, commercial, light industry and residential within the settlement of Milnathort. The eastern boundary of the site is defined by the A922 which is the main road linking Kinross and Milnathort. Also located at the eastern side of the site is Lathro Farm and its associated agricultural buildings.
- 3 The site is allocated (H47) in the Perth and Kinross Local Development Plan (LDP) 2014 for residential development and detailed planning permission was approved for the erection of 300 dwellings, formation of open space, landscaping and associated infrastructure by the Development Management Committee on 14 September 2016. Following completion of a Section 75 legal agreement, the decision notice was issued on 31 March 2017 and development of this consent is currently ongoing.
- 4 This planning application seeks to vary Conditions 8 and 9 which was attached to the consent through a planning application made under Section 42 of the Planning Act.
- 5 Condition 8 refers to the provision of a children play area within 6 months of the developer occupying the site. The developer is seeking to modify this condition to provide the play area within 6 months of occupation of the first residential unit within Phase 2.

- 6 Due to the scale of the development the developers purchase arrangement of the land has been based on two phases to coincide with the two phases referred to in the Planning Permission and associated Section 75 legal agreement.
- 7 During the application process and following discussions with the Planning Authority for the 300 dwellings, the location of the equipped play facility was agreed to be in a location now designated as being in Phase two and currently outwith the control of the developer to provide within the timescale specified.
- 8 Condition 9 refers to the provision of site access points on both the A922 and Gallowhill Road prior to the occupation of any residential plot.
- 9 Similar to Condition 8, due to the scale of the development the developers purchase arrangement of the land has been based on two phases to coincide with the two phases referred to in the Planning Permission and associated Section 75 legal agreement. The provision of the site access on Gallowhill Road will be within Phase 2 and currently not within the control of the developer to provide at this stage.
- 10 The applicant had initially included on the application form to seek modification of Condition 11 also but they have confirmed this was done in error and are not seeking any modification of this condition.

ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

- 11 An Environmental Impact Assessment was submitted with the 15/01512/FLM application. The site has not materially changed in terms of its sites characteristics and nor has the surrounding environs become any more (or less) sensitive to the development which is proposed. To this end it is the view of the Council (as the component Authority) that an Environmental Report is not required in this instance.

PRE-APPLICATION PROCESS

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

NATIONAL POLICY AND GUIDANCE

- 13 The Scottish Government expresses its planning policies through the National Planning Framework (NPF) 3, the Scottish Planning Policy (SPP) 2014 and Planning Advice Notes (PAN), Designing Places, Designing Streets and the National Roads Development Guide.

The 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
 - 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 65 Planning and Open Space
 - PAN 75 Planning for Transport

DEVELOPMENT PLAN

- 16 The Development Plan for the area consists of the Approved TAYplan Strategic Development Plan June 2012 and the Perth and Kinross Local Development Plan February 2014.

TAYplan Strategic Development Plan (June 2012)

- 17 TAYPlan sets out a vision for how the region will be in 2032 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 2032 the TAYplan region 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”

- 18 The following section of the TAYplan 2012 are of particular importance in the assessment of this application.

Policy 2 – Shaping better quality places

- 19 Seeks to ensure that climate change resilience is built into the natural and built environment, integrate new development with existing community infrastructure, ensure the integration of transport and land uses, ensure that waste management solutions are incorporated into development and ensure that high resource efficiency and low/zero carbon energy generation technologies are incorporated with development to reduce carbon emissions and energy consumption.

Perth and Kinross Local Development Plan 2014

- 20 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.

- 21 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.”

- 22 Under the LDP, the following policies are of particular importance in the assessment of this application.

Policy PM1A - Placemaking

- 23 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

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

Policy RD1 - Residential Areas

- 25 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 TA1A - Transport Standards and Accessibility Requirements

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

Policy TA1B - Transport Standards and Accessibility Requirements

- 27 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

- 28 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.

OTHER POLICIES

- 29 None

Planning Site History

- 30 The following history is of relevance;
- **14/00493/SCRN** – EIA Screening request submitted March 2014. Confirmation that EIA is required April 2014.
 - **14/00004/PAN** – Proposal of Application Notice (PAN) submitted April 2014. Content of PAN approved May 2014.
 - **14/01345/SCOP** - EIA Scoping requested July 2014. Content of EIA agreed September 2014.
 - **15/01512/FLM** – Erection of 300 dwellings, formation of open space, landscaping and associated infrastructure. Approved by Development Management Committee September 2016. Decision Notice issued 31 March 2017 following conclusion of the Section 75 Legal Agreement.
 - **17/00759/FLL** Erection of 13 dwellinghouses and associated works on land NW of Lathro Farm Kinross (pending consideration)
 - **17/00760/FLL** – Erection of 47 dwellings and associated works on land NW of Lathro Farm Kinross (currently for consideration on this Agenda)
 - **17/00893/FLL** Erection of 6 dwellinghouses, formation of open space, landscaping and associated infrastructure works for plots 1-6, relocation of SUDs basin, pump station and erection of substation revised layout and design) (currently for consideration on this Agenda)

CONSULTATIONS

External

Transport Scotland

- 31 No objection following confirmation that developer is not seeking to modify Condition 11.

Kinross Community Council

- 32 Object on the grounds that there is a risk that the play area may never be built and it should be redesigned to be included in Phase 1 instead.

Internal

Community Greenspace

- 33 No objection to the proposal but do consider that it would be beneficial for the play area to be incorporated into phase one (187 Houses) to meet the reason for the condition particularly as the land for phase two has not yet been secured.

Transport Planning

- 34 No objection to the proposal provided the junction on Gallowhill Road is formed and in use before the occupation of Phase 2.

REPRESENTATIONS

- 35 The application has attracted 6 letters of objection including Kinross-shire Civic Trust. The following issues were raised by the objectors:

- Play area may never get built
- Overlooking/privacy issues
- Adverse noise impact.
- Gallowhill Road not suitable for traffic associated with proposal

36 ADDITIONAL STATEMENTS

Environment Report	Not required
Screening Opinion	Not required
Environmental Impact Assessment	Not required
Appropriate Assessment	Not required
Design Statement/Design and Access Statement	Not required
Report on Impact or Potential Impact	Supporting Statement

APPRAISAL

- 37 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.

Policy

- 38 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) requires that planning decisions be made in accordance with the Development Plan unless material considerations indicate otherwise. The determining issues here are whether the proposals in principle comply with current Development Plan policy, or if there are other material considerations, which justify departure from policy.
- 39 The most relevant policies of the Development Plan are TAYplan Strategic Development plan 2012 and Perth and Kinross Local Development Plan 2014 including Supplementary Guidance.

Condition 8 – Play Area Provision

- 40 Condition 8 of the original consent requires the provision of a children play area within 6 months of the developer occupying the site. The developer is seeking to modify this condition for the play area to be provided within 6 months of occupation of the first residential unit within Phase 2.
- 41 Following the planning decision to approve the proposal in September 2016, the Planning Authority were informed that due to the scale of the development the developers purchase arrangements of the land is based on two phases to coincide with the two phases referred to in the Planning Permission and the associated Section 75 legal agreement.
- 42 The phased land purchase has therefore resulted in certain difficulties for both the developer and Planning Authority in terms of being able to discharge Conditions 8 and 9. During pre-application and application discussions, the location of the equipped play facility was agreed to be in a location now designated as being in Phase two and currently outwith the control of the developer to provide within the timescale specified.
- 43 Furthermore, the applicant argues that to have a condition requiring the play area be installed and fully operational within 6 months of their occupation of the site is both unreasonable and impracticable. Apart from the issue that the land constituting Phase 2 is not within their ownership, the play area will not be served by any roads or footpaths until such time as phase 2 is brought into use.
- 44 The applicant agrees that an early design approval of the play area is necessary and this element of the condition has been satisfied. Their request is that consideration is given to delaying the implementation of the installation until such time as the Phase 2 housing units are being brought into use.
- 45 The letters of objection submitted expressed concern that the play area may never be built if Phase 2 never happens and that 187 dwellings in Phase 1 will not have a play area. To help alleviate this concern, the applicant has now

offered to supply the agreed play area within Phase 1 for a temporary basis until such a point where it can relocate back to the originally agreed and approved location within Phase 2.

- 46 It is considered that this would be an acceptable solution to ensure Phase 1 does have a play area in place until a point in time where it can then be relocated to the Phase 2 area. Should Phase 2 not occur then Phase 1 will continue to have an accessible play area. Details of the exact location and timescales can be enforced by way of a planning condition and will *ensure the satisfactory provision and implementation of a children's play area* but at the same time provides for a logical approach to the development.

Condition 9

- 47 Condition 9 of the original consent refers to the provision of site access points on both the A922 and Gallowhill Road prior to the occupation of any residential plot.
- 48 Similar to Condition 8, the phased land purchase has resulted in certain difficulties for both the Developer and Planning Authority in discharging and enforcing Condition 9. The developers purchase of the land has been based on two phases to coincide with the two phases referred to in the Planning Permission and associated Section 75 legal agreement. The provision of the site access on Gallowhill Road will be within Phase 2 and currently not within the control of the developer to provide at this stage.
- 49 The condition requires that the design element of the condition is required at an early stage and this has been complied with by the applicant. However they request that consideration is given to delaying the implementation of Gallowhill junction until such time as the phase two housing units are being brought into use.
- 50 Transport Planning's views are that it would cause some difficulty but based on the practicalities of the land purchase arrangement it would be impossible to force the developer to provide the new junction on Gallowhill Road until such a time that they have purchased Phase 2 of the consented development.
- 51 It is considered that the proposed wording protects the requirement to ensure that the associated roads infrastructure is suitably upgraded in order to adequately accommodate the impact of the development proposed but at the same time provides for a logical approach to the development of the project.

Economic Impact

- 52 The 15/01512/FLM application outlined the considerable benefits the proposal will have for the area. The proposed changes to Conditions 8 and 9 will not change that and will not have an adverse impact on the local economy.

Non Material Considerations

- 53 Section 42 of the Town and Country Planning (Scotland) Act 1997 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.
- 54 Some representations submitted referred to issues such as noise and privacy. These issues are not relevant to the determination of this application and have been formally assessed as part of the 15/01512/FLM.

LEGAL AGREEMENTS

- 55 The current Section 75 Legal Agreement accounts for future planning applications including any Section 42 application. On this basis, it does not require to be updated in respect of the proposal.

DIRECTION BY SCOTTISH MINISTERS

- 56 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, regulations 30 – 32 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

- 57 Section 25 of the Act requires that determination of the proposal should be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise.
- 58 It is considered that the proposed modifications would not be contrary to the vision or wider spatial strategy of the Development Plan and would still deliver key Local Development Plan objectives.

RECOMMENDATION

A Approve the application subject to the following 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 consent.

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

- 2 Prior to the occupation of any residential plot, 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 unless otherwise agreed in writing.

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.

- 3 Prior to the occupation of any residential plot, details of the specification including materials of all footpaths and cycleways shall be submitted to the Planning Authority for further approval. The agreed detail shall thereafter be implemented prior to the completion of the development.

Reason: In the interest of pedestrian and cycle safety.

- 4 Permitted development rights associated with Classes 1A, 1B, 3A and 3B of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended), or any subsequent comparable classes in future legislation relating to development within the curtilage of a dwellinghouse are hereby revoked in full for all terraced dwellings, namely plot nos.29-32, 37-40, 55-58, 93-96, 104-107, 119-122, 138-141, 152-159, 181-184, 297-300 of the approved Site Layout Plan.

Reason: In the interests of visual and residential amenity; to ensure a satisfactory standard of local environmental quality and to avoid over-intensive development of individual plots.

- 5 The detailed landscaping and planting scheme as approved shall be commenced at the same time as commencement of the residential development and thereafter maintained to the satisfaction of the Council as Planning Authority.

Reason: In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality and in pursuance of suitably satisfying placemaking policy criteria of the adopted Perth and Kinross Local Development Plan 2014.

- 6 Any planting failing to become established within five years shall be replaced in the following planting season with others of similar sizes and species to the satisfaction of the Council as Planning Authority.

Reason: In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality and in pursuance of suitably satisfying placemaking policy criteria of the adopted Perth and Kinross Local Development Plan 2014.

- 7 The areas of public open space and parkland indicated on the approved landscape and planting drawings shall be planted in accordance with the open space standards of the Planning Authority and completed to phase with the adjacent dwellinghouses in accordance with a programme to be submitted to and agreed in writing with the Planning Authority prior to the commencement of the development. The scheme shall thereafter be maintained to the satisfaction of the Council as Planning Authority.

Reason: In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality and to reserve the rights of the Planning Authority.

- 8 Within one month of this decision, full details of the location and timescales of the temporary children's play area to be located within Phase 1 shall be submitted and approved by the Planning Authority. The agreed detail shall thereafter be implemented prior to the occupation of the first dwelling in Phase 1. For the avoidance of doubt should Phase 2 not occur the children's play area within Phase 1 will become a permanent fixture.

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

- 9 Prior to the implementation of this consent, a detailed layout of the proposed children's play area indicated in the site layout plan shall be submitted for the further approval of the Planning Authority. The play area(s) shall be designed, laid out and equipped in accordance with the Planning Authority's current criteria for play area provision within six months of the occupation on the first residential unit in Phase Two. The play area and its facilities/equipment shall thereafter be maintained to the satisfaction of the Council as Planning Authority.

Reason: In the interests of residential amenity and to ensure the satisfactory provision and implementation of a children's play area.

- 10 Prior to the implementation of this consent, full details of proposed site boundary openings forming new accesses onto the A922 and Gallowhill Road shall be submitted to the Planning Authority for further written approval. The A922 opening details as approved shall thereafter be implemented prior to the occupation of any residential unit within Phase 1 of the development. The Gallowhill Road opening details as approved shall thereafter be implemented prior to the occupation of any residential unit within Phase 2 of the development.

Reason: In order to ensure that the associated roads infrastructure is suitably upgraded in order to adequately accommodate the impact of the development proposed.

- 11 Prior to the implementation of this consent, details of the frontage landscaping treatment along the M90 trunk road boundary shall be submitted to, and approved by, the Planning Authority, after consultation with Transport Scotland. Reason: To ensure that there will be no distraction to drivers on the trunk road, and that the safety of the traffic on the trunk road will not be diminished.

- 12 Prior to the occupation of the development, a barrier/boundary feature of a type approved by the Planning Authority in consultation with Transport Scotland shall be provided and maintained along the proposed boundary of the site with the M90 trunk road.

Reason: To minimise the risk of pedestrians and animals gaining uncontrolled access to the trunk road with the consequential risk of accidents.

- 13 Prior to the implementation of this consent, a detailed delivery plan confirming the phased delivery of the site and construction works has been submitted and approved in writing by the Planning Authority. Once approved, the development shall be implemented in accordance with the delivery plan otherwise agreed in writing by the Planning Authority

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

- 14 The developer shall ensure that during the construction of the development that all surface water is controlled, treated and discharged under the principles of SUDS all to the satisfaction of the Council as Flood Authority.

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

- 15 The discharge of any surface water drainage shall be limited to the Greenfield runoff rate as calculated in Section 4.3 of the Flood Risk Assessment within the Environmental Impact Assessment Environmental Statement Vol.3 Technical Appendix A. All discharge rates shall be agreed in writing by the Planning Authority in consultation with the Flooding Team prior to the commencement of any works on site.

Reason: To reduce flood risk

- 16 Full drainage calculations and the final layout and depth of the proposed SUDS pond and associated infrastructure to be agreed in writing with the Council as Planning Authority, in consultation with Perth and Kinross Council Flooding Team. The agreed detail shall thereafter be implemented prior to the completion of development.

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

- 17 Unless otherwise agreed in writing by the Planning Authority the Finished Floor Level of all properties shall be a minimum of 600mm above the 200 year flood level.

Reason: To reduce the risk of flooding.

- 18 Unless otherwise agreed in writing by the Planning Authority, the garden level of all properties shall be a minimum of 300mm above the 200 year flood level.

Reason: To reduce the risk of flooding.

- 19 Prior to the implementation of this consent, the soffit level of all bridges/culverts shall be agreed in writing by Perth and Kinross Councils Flooding Team.

Reason: To reduce the risk of flooding.

- 20 All existing trees and hedgerows shall be retained and protected by suitable fencing in accordance with BS5837 2012 (Trees in Relation to Construction),

unless otherwise agreed in writing by the Planning Authority. The details of the protective fencing and its location shall be first submitted to and agreed in writing by the Planning Authority. No materials, supplies, plant, machinery, soil heaps, changes in ground levels or construction activities shall be permitted within the protected areas without the written consent of the Planning Authority and no fire shall be lit in the position where the flames could extend to within 5 metres of foliage, branches or trunks.

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

- 21 Prior to the implementation of this consent, 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, construction and operation programmes will be submitted to and be approved in writing by the Planning Authority, in consultation with Scottish Environment Protection Agency and Scottish Natural Heritage. The CEMP shall be updated and submitted not less than two months prior to the commencement of the second phase 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 unless otherwise agreed in writing by the Planning Authority.

Reason: In the interest of protecting environmental quality and of bio-diversity.

- 22 Prior to the implementation of this consent, the developer shall secure the implementation of a programme of archaeological works in accordance with a Written Scheme of Investigation which has been submitted by the applicant, agreed by Perth and Kinross Heritage Trust, and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with Perth and Kinross Heritage Trust.

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

- 23 Prior to the implementation of this consent, an evaluation for the potential of the site to be affected by contamination by a previous use should be undertaken.
- I. the nature, extent and type(s) of contamination on the site
 - II. measures to treat/remove contamination to ensure the site is fit for the use proposed
 - III. measures to deal with contamination during construction works
 - IV. condition of the site on completion of decontamination measures.

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

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

- 24 The hours of operation at the construction stage shall be Monday to Friday 07:00 to 19:00 hours, Saturday 08:00 to 13:00 hours and no workings on a Sunday, unless otherwise agreed in writing with the Planning Authority.

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

- 25 Prior to the implementation of this consent, detailed design of the earth bunding and acoustic barriers along the M90 boundary shall be submitted in writing to the Planning Authority for approval before the development commences so that together with existing landscape features noise levels within habitable rooms of proposed dwellings on the western part of the development are reduced.

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

- 26 As recommended in Section 7 of the Environmental Statement, trickle ventilators shall be installed with passive extract ventilation systems to all habitable rooms within line of sight to the M90 trunk road and South Street, Milnathort to provide acoustic attenuation of up to 42 dBDn, in its open position.

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

- 27 Prior to the implementation of this consent, a site specific plan, detailing bin storage areas, kerbside collection locations and recycling facilities shall be submitted to and approved in writing by the Planning Authority and thereafter undertaken in accordance with the approved details.

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

- 28 Prior to the implementation of this consent, details of all front driveway screening shall be submitted to the Planning Authority for further approval. The agreed detail shall be thereafter implemented prior to the occupation of each dwelling.

Reason: In the interest of visual amenity and in compliance with the National Roads Development Guide.

- 29 No removal of hedgerows, trees or shrubs that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided

written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

Reason: To protect any nesting birds.

- 30 No works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect animals from being trapped in open excavations and/or pipe and culverts are submitted to and approved in writing by the local planning authority. The measures may include creation of sloping escape ramps 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: To protect species being trapped.

- 31 Lighting will be designed, and positioned in such a way as to prevent light spillage into adjacent watercourses and woodland.

Reason: To protect the habitat for species.

- 32 No development, including earth moving, shall take place or material or machinery brought on site until protective fencing and warning signs have been erected on site in accordance with an approved Construction Method Statement. All protective fencing and warning signs will be maintained during the construction period in accordance with the approved details.

Reason: In the interest of natural heritage.

- 33 Pre-construction surveys shall be undertaken to ascertain the presence or absence of protected species and breeding birds and written confirmation that no protected species or birds will be harmed and/or that there are appropriate measures in place to protect said protected species and nesting bird interest on site. Any such written confirmation should be submitted to and agreed by the Planning Authority.

Where ecological surveys have identified the potential presence of roosting bats, no activities that could result in disturbance (such as tree felling, or associated operations) shall be carried out between the dates of 1st April and 1st October in any year. Any works undertaken during the specified periods should only be carried out under the direction of a licensed bat ecologist to ensure that an offence is not committed.

Reason: In the interest of natural heritage and protected species.

- 34 Where it is intended to create semi-natural habitats, all species used in the planting proposals as detailed in the landscape plans shall be locally native species of local provenance unless otherwise agreed in writing with the local Planning Authority.

Reason: In the interest of natural heritage.

- 35 All landscape maintenance measures shall be carried out in accordance with the details contained in the landscape plans as already submitted with the planning application and agreed with the Planning Authority.

Reason: In the interest of natural heritage.

- 36 All trees to be retained shall be protected in accordance with BS 5837 2012 Trees in Relation to Design, Demolition and Construction prior to any works commencing on site, and shall remain in place until all construction is completed.

Reason: To prevent harm to trees within or adjacent to the site.

B JUSTIFICATION

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

C PROCEDURAL NOTE

None required.

D INFORMATIVES

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
- 2 Under Section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the Planning Authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.
- 4 This development will require the 'Display of notice while development is carried out', under Section 27C (1) of the Town and Country Planning Act 1997, as amended, and Regulation 38 of the Development Management Procedure (Scotland) Regulations 2008. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. According to Regulation 38 the notice must be:

- Displayed in a prominent place at or in the vicinity of the site of the development.
- Readily visible to the public.
- Printed on durable material.

Background Papers: 6 letters of representation; Planning Decision Notice of 15/01512/FLM

Contact Officer: Steve Callan Ext 75337

Date: 4 September 2017

Nick Brian
Interim Head of Planning

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