

Perth and Kinross Council  
Development Management Committee – 15 February 2017  
Report of Handling by Interim Head of Planning

Erection of a dwellinghouse at Land 40 Metres West of Devonlade, Main Street,  
Crook of Devon

Ref. No: 16/01313/FLL  
Ward No: N8 – Kinross-shire

**Summary**

This report recommends approval of the application for the erection of a dwellinghouse as the development is considered to comply with the relevant provisions of the Development Plan and therefore there are no material considerations apparent which would outweigh the Development Plan in this instance.

**BACKGROUND AND DESCRIPTION**

- 1 This application relates to an area of sloping ground to the west of a property known as Devon-Lade House, within the village settlement of Crook of Devon. At present the site is an open area of extended garden ground that serves Devon-Lade House. To the north of the site lies the lade that runs into the River Devon and to the south lies a number of residential properties which front on the A977 public road. At present the site is accessed through the grounds of Devon-Lade House.
- 2 This site has a long history with four previous failed attempts to deliver planning permission for residential development in 1994, 2011 and in 2012. The applications in 1994 were refused largely in relation to the proposed means of access, both from the public road and within the site itself. In 2011 the applicant again submitted an application in principle for the erection of a dwellinghouse within the site with access taken through the garden ground to the south of Devon-Lade (Ref: 11/01281/IPL). However this application was withdrawn following a request by the planning officer for more detailed information to demonstrate how the applicant would propose to access the site and develop the plot. A further application was then submitted in 2012, (12/01198/IPL) which was refused on grounds of an inadequate access and the impact this access would have on residential amenity. Planning permission in principle was then granted in August 2013 (13/00658/IPL) subject to conditions relating to finished floor levels and land raising (relating to flood mitigation) and also a condition to restrict the size of the house to single storey. That consent has now expired and the applicant has submitted this detailed application for a detached dwelling house.

- 3 This new application includes a new Flood Risk Assessment (FRA) and has been submitted in full to include full design details of the proposed development. The proposal seeks to provide access down the existing track to the south east and then to the north of the existing Devon-Lade. Part of the detached double garage, serving the existing house, is to be demolished and the access effectively wraps around the north of Devon-Lade and into the application site from the east.
- 4 The house is proposed to be located towards the eastern side of the application site to avoid the mature trees at the western end. The house is proposed to have a rectangular footprint and is positioned to the south of the lade and River Devon outwith the identified flood risk area. The house follows the building line created by the Devon-lade, Devon View and Ladeside which are located to the east of the site. Some small scale land raising is proposed on the access track with associated compensatory flood storage on the main part of the application site. The assessment of flood risk will be fully addressed within the appraisal below.
- 5 The house is proposed to have two levels of accommodation with the upper floor served by rooflights and dormer windows, together with a projecting two storey element on the north elevation facing the lade. The house is proposed to have a total of five bedrooms. The house is proposed to be 7.5m in height with finishing materials including harling and what appears to be a grey finished roof. An integral garage is also proposed.
- 6 The house is proposed to be erected on a newly formed level platform of land on an existing sloping part of the site and is proposed to have a finished floor level of 145.9m AOD. A series of small scale ornamental trees are proposed to be removed to accommodate the new house.
- 7 Members should be aware that this application has been submitted as a new full application which requires to be assessed on its own merits against current planning policy at both local and national level. Whilst there was a previous planning permission in principle granted on this site, it was granted under an older Development Plan, but has now expired.

## **NATIONAL POLICY AND GUIDANCE**

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

## **DEVELOPMENT PLAN**

- 9 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2012-2032 and the Perth and Kinross Local Development Plan 2014.

**TAYplan Strategic Development Plan 2012 – 2032 - Approved June 2012**

10 The overall vision of the Tay Plan states *“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 and visit and where businesses choose to invest and create jobs.”*

11 The principal policies are, in summary:

### **Policy 3: Managing Tayplan’s Assets**

12 Understanding and respecting the regional distinctiveness and scenic value of the TAYplan area through:

- ensuring development likely to have a significant effect on a designated or proposed Natura 2000 sites (either alone or in combination with other sites or projects), will be subject to an appropriate assessment. Appropriate mitigation requires to be identified where necessary to ensure there will be no adverse effect on the integrity of Natura 2000 sites in accordance with Scottish Planning Policy;
- and safeguarding habitats, sensitive green spaces, forestry, wetlands, floodplains (in-line with the water framework directive), carbon sinks, species and wildlife corridors, geodiversity, landscapes, parks, townscapes, archaeology, historic buildings and monuments and allow development where it does not adversely impact upon or preferably enhances these assets;

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

13 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.

14 The principal relevant policies are, in summary:

### **Policy PM1A - Placemaking**

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

### **Policy PM1B - Placemaking**

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

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

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

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

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

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

- 19 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 NE2B - Forestry, Woodland and Trees**

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

### **Policy NE3 - Biodiversity**

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

### **Policy HE2 – Listed Buildings**

- 22 Development should not adversely effect the special interest or setting of a listed building.

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

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

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

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

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

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

## **OTHER POLICIES**

- 26 **Developer Contributions and Affordable Housing Supplementary Guidance April 2016**
- 27 **Flood Risk and Flood Risk Assessment Guidance October 2014**

## **SITE HISTORY**

- 28 PK94/0753: Erection of two houses (in outline) – Refused Delegated Powers
- 29 PK94/1597: Erection of a house (in outline) – Application Withdrawn
- 30 11/01281/IPL: Erection of a dwellinghouse (in principle) – Application Withdrawn
- 31 12/01198/IPL Erection of a dwellinghouse (in principle) – Refused – Delegated Powers
- 32 13/00658/IPL Erection of a dwellinghouse (in principle) – Approved (expired) – Development Management Committee 21 August 2013

## **CONSULTATIONS**

### **EXTERNAL**

- 33 SEPA – initial objection on flood risk grounds but following receipt of new FRA objection withdrawn subject to condition

### **INTERNAL**

- 34 Flood Prevention Officer – no objection – details contained within appraisal
- 35 Transport Planning – no objection subject to conditions relating to parking and turning
- 36 Contributions Officer – no contribution required
- 37 Waste Services – no objection and information provided regarding type of collection
- 38 Environmental Health – no objection relating to contaminated land – Informative recommended.

## **REPRESENTATIONS**

- 39 A total of nine letters of representation were received during the first advertisement period for the application.

The representations have raised the following relevant issues: -

- Design and Scale
- Flood Risk
- Residential amenity
- Access and traffic safety at junction
- Surface water drainage
- History of refusal on site
- Failure to comply with condition of in principle consent regard single storey development and flood risk
- Contrary to local, regional and national policy
- Lack of landscaping
- Waste collection
- Bio Diversity
- Lack of safe and dry access for persons with protected characteristics contrary to Equalities Act
- Scottish Public Services Ombudsman complaint

- 40 Following receipt of an new FRA a second period of advertisement was undertaken where four further letters of representation were received including two from households who had objected previously. These objections include a letter from the Fossoway and District Community Council. As such a total of 11 letters of representation have been received. The same issues as raised above were received during the second advertisement period.
- 41 All the relevant planning issues which have been raised are covered in the Appraisal section of this report. The SPSO complaint related to the assessment of flood risk under the previous application. Given the receipt of an updated FRA the matter of flood risk which is referred to in the complaint has been fully re-assessed by statutory consultees under current policies.

## **ADDITIONAL STATEMENTS**

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Environment Statement	Not required
Screening Opinion	Not required
Environmental Impact Assessment	Not required
Appropriate Assessment	Not required
Design Statement / Design and Access Statement	Not required
Reports on Impact or Potential Impact	Flood Risk Assessment submitted

## **APPRAISAL**

### **Policy Appraisal**

- 43 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) requires the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The determining issues here are whether the proposals comply with Development Plan policy or if there are other material considerations, which justify a departure from policy. The most relevant policy to be considered are outlined in the policy section above. The other relevant policy considerations are outlined in the policy section above and will be considered in more detail below.
- 44 The site is located within the Blairgowrie settlement boundary where Policy RD1 of the LDP applies. Proposals will be encouraged where they satisfy the criteria set out in the policy in particular criteria a) Infill residential development at a density which represents the most efficient use of the site while respecting its environs and c) proposals which will improve the character and environment of the area. In addition the policy seeks to retain areas of private and public open space where they are of recreational or amenity value.

- 45 Policies PM1A and PM1B are also of relevance. These policies require proposals to contribute positively to the surrounding built and natural environment and to respect the character and amenity of the place.
- 46 Policy EP2 refers to flood risk and also relevant given the proximity of the site to a 1 in 200 year flood risk area.
- 47 For reasons set out elsewhere in this report I consider that this proposal to be in accordance with the above policies.

### **Principle**

- 48 Policy RD1 of the Local Development Plan (LDP) relates to development within residential areas. It states that infill residential development will be encouraged provided the development is compatible with the character and amenity of the area and makes appropriate use of the site whilst respecting its environs. Having visited that site I consider that the site itself to be of a sufficient size to accommodate a dwellinghouse of the size proposed whilst also providing more than adequate garden ground. This is similar to the conclusion reached on the previous application. It is also noted that whilst a number of objections have been made regarding development pattern within the village, there are a number of similar examples of backland development in the immediate vicinity of this site. I therefore do not accept the argument that the proposed plot would be inconsistent with the prevailing building pattern within the village. Furthermore, I am satisfied that the position and scale of the dwelling will ensure that there is no adverse impact on the amenity of the neighbouring plots to the south of the site. I also consider the scale and design of the dwelling to be appropriate and in accordance with Policy PM1A and B. A detailed assessment of the impact which the proposal has on residential amenity, together with an assessment of the design and scale of the dwelling will be given below. The proposal is therefore considered to be generally acceptable in terms of Policy RD1 of the LDP.

### **Design and Layout**

- 49 Policy PM1A and B together with policy RD1 require new development to respect the character and visual amenity of the area. It is noted that concerns are expressed in letters of representation regarding the scale and height of the proposed house and that Development Management Committee applied a condition to the previous in principle application restricting the size of the house to single storey. In this instance there is a mix of development types in the immediate vicinity. There are a mixture of full two storey, single storey and 1 ½ storey dwellings along Main Street. Whilst the buildings to the immediate south of the site are generally single storey, given the change in levels between the application site and properties to the south, a building of the size proposed (7.5m from ground to ridge) would not dominate the visual amenity or alter the character of the area significantly and is considered acceptable. The ground level at the boundary of the application site to the south is 149.00m. The



proposed house is to sit at a FFL of 145.09m, almost 4m lower than the ground level at the boundary. This is considered acceptable. The difference in levels is also considered sufficient to ensure the proposed dwelling does not impact on the setting of the adjacent category B listed Crook of Devon Inn and the Conservation Planner considers this to be acceptable. A condition is recommended to ensure details of all finishing materials are submitted for approval. The site benefits from existing landscaping which define the site well. Whilst the previous approval requested a detailed landscaping scheme, the retention indicated on the plan is considered sufficient in relation to the visual amenity of the site.

- 50 In terms of layout the house is positioned towards the eastern side of the plot, allowing the land to the west and north to be utilised as private garden ground and avoiding the need for any significant under building due to the sloping area to the south of the site. Furthermore the layout allows for an appropriate area of parking and turning of vehicles adjacent to the eastern boundary. Furthermore the existing landscaping and trees on site are indicated to be retained. These contribute to the character and visual amenity of the site and this is welcomed. A condition is recommended to ensure this. As such the layout of the site is considered to be acceptable and accordance with the relevant policies of the LDP.

### **Residential Amenity**

- 51 Policy RD1 and PM1A and B both refer to the requirement for new development to respect the amenity of neighbouring properties. In this instance the site is surrounded by existing residential development and there garden ground on the south, east and west sides. The existing dwellings to the west will be screened from the site by the existing mature trees in the western corner of the site. To the east is the applicant's, property. The eastern gable of the proposed dwellinghouse is positioned 7.8m from the eastern site boundary. The closest part of the east elevation is the integral garage and no windows are proposed here and there is an existing mature hedge on this boundary which is to be retained. There are therefore not considered to be any issues relating to overlooking from this elevation.
- 52 To the south are a number of existing dwellings which front onto the public road. Concerns have been expressed by these neighbours regarding the impact which the dwelling would have on their residential amenity. The ground level at the boundary of the application site to the south is 149.00m. The proposed house is to sit at a FFL of 145.09m, almost 4m lower than the ground level at the boundary. As such the scale of the dwelling when viewed from the south will be considerably reduced given the drop in ground levels which would be evident. Furthermore the house is proposed to be located 9.5m from the south boundary which meets the Council's guidelines in terms of window to boundary distances. Therefore given the distance to the boundary, the presence of the existing boundary treatment (which takes the form of a mature hedge) and the drop in levels apparent the proposed house will not have a significant impact on the amenity of neighbouring dwellings in terms of

overlooking and outlook. A condition is recommended to ensure that the existing boundary hedge along the south boundary is retained.

- 53 I am also satisfied that given the position of the house it will not result in any significant over shadowing to neighbouring properties or their garden and that any overshadowing which does occur will be on land within the applicant's control. Whilst it is noted that the previous, now expired decision, contained a condition, recommended by Committee, to limit the house to single storey, I am satisfied given the above assessment that a dwelling of the scale indicated is acceptable.
- 54 As such I am also satisfied that the application complies with the relevant criteria contained within policies RD1 and PM1A and B referring to residential amenity.

### **Flood Risk**

- 55 Policy EP2 of the LDP relates to flood risk and states that there is a general presumption against built development or land raising in areas where there is a significant probability of flooding from any source or where the proposal would increase flood risk elsewhere. Following submission of the application, and to ensure compliance with the most up to date planning policies at both local, regional and national level, the applicant was asked to submit an updated FRA. Following consultation with both SEPA and the Council's Flood Risk Officer the level of information presented in the FRA is considered to sufficient to allow them to make a detailed assessment of flood risk on the site against both national guidance and policy and the LDP. It is noted that a number of the letters of representation refer to the condition on the previous permission which does not allow land raising on the site. Whilst that is correct that condition is no longer relevant given the submission of a fresh application and an updated FRA and the issue of flood risk is being re-considered here.
- 56 The FRA indicates that the 200 year flood level is 143.46mAOD and this is confirmed as the functional flood plain at the site as defined under Scottish Planning Policy (SPP). An assessment of climate change by increasing the peak flow by 20% predicts a flood level of 143.79mAOD. Therefore, with the addition of 600mm freeboard the minimum finished floor level (FFL) of any development is 144.39mAOD. Drawing 16/01313/9 states the FFL for the dwellinghouse is set as 145.90mAOD and the garage at 145.3mAOD. These levels are above the minimum FFL of 144.39mAOD. This is considered to be acceptable by both SEPA and the Council's Flood Officer and in accordance with policy.

- 57 PKC flooding guidance states (under 6.2.3) that garden ground level should be 300mm above the 200year flood level including climate change. This level is 144.09mAOD including 300mm freeboard. However, this is pertinent to sites with flat topography. In circumstances where the site has varying topography, such as on a sloping site and/or adjacent to a watercourse, a relaxation of this requirement is applicable. Therefore, the garden levels indicated on Drawing 16/01313/9 are acceptable and this is confirmed by the Council's Flood Officer.
- 58 PKC flooding guidance states (under 6.2.6) that access/egress must be above the 200year including climate change flood level. This level is 143.79mAOD. Drawing 16/01313/9 states the proposed access/egress road is to be set at 144.09mAOD (after land raising). This level is above the minimum level and is acceptable. SEPA also indicate that SPP states that new development should be located away from the functional flood plain. The new access road and dwelling lie outwith the functional flood plain (as defined in SPP) as such there is safe and dry access for all people including those with protected characteristics.
- 59 SEPA recommend that an allowance for climate change is made and the consultants have assessed this and a small part of the access road falls within 1:200 year probability (when including climate change). As outlined within SEPA's "*Technical Flood Risk Guidance for Stakeholders*", they recommend an allowance for climate change; and consider that an additional allowance for climate change is for local authorities to determine. They acknowledge that the some landraising is proposed to enable safe access and egress during the 1:200 year event with an allowance for climate change. To offset the lost storage, compensatory storage will be provided as outline above.
- 60 SPP (para 265) states that "*Land raising should only be considered in exceptional circumstances, where it is shown to have a neutral or better impact on flood risk outside the raised area. Compensatory storage may be required*". This statement refers to land raising within the functional flood plain. The FRA and drawings 16/01313/9 and 16/01313/8 indicate that land raising of the access road and part of the platform for the terrace/dwellinghouse will be required as part of the development but this land raising is outwith the SPP defined functional flood plan.
- 61 Therefore, compensatory storage of 19 cubic metres is proposed. The Flood Officer notes that the functional floodplain as defined under SPP is ground at or below the 200year flood level not including climate change and this is an important issue in the determination of this application. The 200year flood level is 143.46mAOD. As such the land raising is occurring outwith the functional flood plan as it is clearly defined in SPP. Therefore, compensatory storage is not strictly required for any land raising of ground above this level. However, the compensatory storage outlined on 16/01313/9 and 16/01313/8 indicated as part of the development is welcomed. A condition requiring full details of the

Compensatory Storage is required. The proposal is therefore considered to be in accordance with SPP.

- 62 The Flood Officer has also requested that a condition is attached to state that there shall be no land raising on land below 143.46mAOD and it should be maintained in perpetuity. A topographical survey of the final ground levels on completion of the development will be required.
- 63 The FRA recommends that an Emergency Flood Action Plan is produced. However, as the development infrastructure is outwith the functional flood plain the Flood Officer does not require this to be added as a condition of the planning application.
- 64 Based on the conclusions of both SEPA and the PKC Flood Officer the proposal is considered to comply with Policy EP2 and the relevant national policy and guidance in relation to flood risk.

### **Ground Contamination**

- 65 Environmental Health have indicated that an inspection of the proposed development site did not raise any real concerns, although there was formerly a paper mill just to the west of the site. There is the potential for ground to become contaminated from this type of use and it is possible if this were present that it could migrate onto the proposed development site. A watching brief during redevelopment is therefore required which can be covered by an informative.

### **Economic Impact**

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

### **Access/Traffic/Transport**

- 67 The Council's Transport Planner has advised that he is aware of the earlier refusal of consent to an application affecting the same access location in 1994. However the A977 Main street, Crook of Devon now forms part of the local road network since it was de-trunked in 1996 and as such is no longer subject to the requirements of the Design Manual for Roads and Bridgeworks (DMRB). With regard to traffic volume, this route currently operates well within its capacity and as such he can find no cause to restrict such minor development within Crook of Devon.
- 68 In regards to sight lines, the guidance regards assessment of sight lines in urban zones have been revised by the Transport Research laboratory and now forms part of "Designing Streets" the Scottish Government Policy guide which was introduced in April 2010. Consequently the sight lines at this location are considered to be adequate.

- 69 It should be noted that this access is proposed to serve one additional house and is therefore not considered to have any significant detriment in regard to road safety.
- 70 Adequate parking and turning facilities are clearly indicated on the submitted drawings.
- 71 As such, on the basis of the above, the Council's Transport Planner has expressed no objection to the proposed development. Again this view is similar to that expressed in the Report of Handling for the previous application and there is no reason to depart from this previously established view. The proposal is therefore considered to accord with Policy TA1B of the LDP.

### **Bio Diversity/Trees**

- 72 The Council's Bio Diversity Officer was consulted on the potential impact which development of this site would have on natural heritage during assessment of the previous application. Discussions have also taken place with the officer regarding this application and he shares the same view as indicated on the previous application. It is noted that letters of representation raise concerns regarding the impact on otter, dipper, kingfisher, red squirrel and water vole. The wooded nature of river banks at this location will provide cover for both the dipper and Kingfisher, and therefore the Bio Diversity Officer has recommended a condition be included to protect these trees to the north of the site with appropriate fencing in accordance with BS 5837 2012 Trees in Relation to Design Demolition and Construction. Otters will be present in the river, but due to the managed nature of the site are unlikely to have a resting area along this stretch of the river, and as no work is planned that will affect the river, or lade then there is not considered to be an impact on otters.
- 73 The trees on site are not favoured by red squirrel and if there are red squirrels in the area it is probably due to them taking advantage of feeders in gardens, and a new house may well be viewed as a positive development for red squirrels in this location.
- 74 Finally, the river itself is not suitable habitat for water voles as it is fast flowing. The slow water in the lade is more suitable for water voles, but there were no signs of feeding or latrines that are typical indications of water vole presence.
- 75 The plans indicate that only small scale ornamental trees are proposed for felling to accommodate the dwelling with all mature trees on site to be retained.
- 76 Given the view of the Council's Bio Diversity Officer the proposed development will have no detrimental impact on protected species, subject to conditions, and the proposal therefore complies with policy NE3 of the LDP which relates to bio diversity.

## **Waste Collection**

- 77 Waste collection will be undertaken at kerb side on the public road with a three domestic bin system being utilised. Waste Services have been consulted on the application and offered no objection. It is not considered unreasonable for wheelie bins to be wheeled to the public road for collection from the application site as they are designed for that purpose. There is adequate storage available on the proposed hard standing areas within the site for the storage of waste bins. As such the waste collection arrangements for the site are considered acceptable.

## **Drainage**

- 78 The plans indicate that the site will be connected to the public drainage system which is considered to be in accordance with Policy EP3B of the LDP. Surface water will be drained utilising a Sustainable Urban Drainage System (SUDS) which complies with policy EP3C of the LDP. The exact design details of the system are secured through the building warrant process.

## **Developer Contributions**

### Education

- 79 The Council Developer Contributions Supplementary Guidance requires a financial contribution towards increased primary school capacity in areas where a primary school capacity constraint has been identified. A capacity constraint is defined as where a primary school is operating, or likely to be operating following completion of the proposed development and extant planning permissions, at or above 80% of total capacity.
- 80 This proposal is within the catchment of Fossoway Primary School. Education & Children's Services have no capacity concerns in this catchment area at this time.

### Transportation

- 81 The site is located outwith the area where a contribution towards transportation infrastructure is required.

## **LEGAL AGREEMENTS**

- 82 None required.

## **DIRECTION BY SCOTTISH MINISTERS**

- 83 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**

- 84 In conclusion, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, the proposal is considered to comply with the approved TAYplan 2012 and the adopted Local Development Plan 2014. I have taken account of material considerations and find none that would justify overriding the adopted Development Plan. On that basis the application is recommended for approval subject to conditions.

## **RECOMMENDATION**

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

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

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

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

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

- 3 Prior to the development hereby approved being completed or brought into use, the turning facilities shown on the approved drawings shall be implemented and thereafter maintained.

*Reason - In the interests of road safety; to ensure the provision of acceptable manoeuvring space within the curtilage of the site to enable a vehicle to enter and leave the site in forward gear.*

- 4 Prior to the development hereby approved being completed or brought into use, the car parking facilities shown on the approved drawings shall be implemented and thereafter maintained.

*Reason - In the interests of road safety; to ensure the provision of adequate off-street car parking facilities.*

- 5 Prior to the commencement of any construction works associated with the dwellinghouse hereby approved the full details of the compensatory flooding storage to make up for the land raising approved (16/01313/8) shall be submitted to and approved in writing by the Planning Authority. It shall subsequently be undertaken in full to the satisfaction of the Council as Planning Authority in consultation with the Structures and Flooding Team. Upon completion of the compensatory storage the Planning Authority shall be informed and an inspection undertaken by the Structures and Flooding Team. No construction works associated with the dwellinghouse hereby approved shall occur on site until the Planning Authority has confirmed in writing that the compensatory storage is acceptable and in accordance with the required details. The compensatory storage areas shall thereafter be maintained in perpetuity.

*Reason – In order to take account of flood risk from the adjacent watercourse.*

- 6 All land at or below 143.46mAOD (regarded as the functional Flood plain) shall be maintained at existing ground levels on completion of the development in perpetuity. A topographical survey of final ground levels shall be submitted to the Council as Planning Authority within 14 days of the completion or bringing into use of the dwellinghouse hereby approved, whichever is the earlier.

*Reason – In order to take account of flood risk from the adjacent watercourse.*

- 7 The existing trees and hedging on the boundaries, other than those marked for removal on the approved plans shall be retained in perpetuity to the satisfaction of the Council as Planning Authority.

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

## **B JUSTIFICATION**

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

## **C PROCEDURAL NOTES**

None.

## **D INFORMATIVES**

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period.



(See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).

- 2 Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
- 4 No work shall be commenced until an application for building warrant has been submitted and approved.
- 5 The Council shall be immediately notified in writing if any ground contamination is found during construction of the development, and thereafter a scheme to deal with the contamination shall be submitted to, and agreed in writing by, the Council as Planning Authority.

Background Papers: 11 letters of representation

Contact Officer: John Williamson – Ext 75360

Date: 27 January 2017

**NICK BRIAN**  
**INTERIM HEAD OF PLANNING**

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