

PLANNING AND DEVELOPMENT MANAGEMENT COMMITTEE

Minute of meeting of the Planning and Development Management Committee held in the Council Chamber, Ground Floor, Council Building, 2 High Street, Perth on Wednesday 15 January 2020 at 10.00am.

Present: Councillors R McCall, B Brawn, H Anderson, M Barnacle, E Drysdale, T Gray, D Illingworth, I James, C Purves, C Reid, R Watters and W Wilson.

In Attendance: G Bissett, L Reid and D Salman (all Housing and Environment); D Littlejohn, K Smith, A Condliffe, J Scott, C Elliott and D Williams (all Corporate and Democratic Services).

Apologies: Councillor B Band.

Councillor R McCall, Convener, Presiding.

. WELCOME AND APOLOGIES

The Convener welcomed everyone present to the meeting.

. DECLARATIONS OF INTEREST

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

. MINUTES

The minute of meeting of the Planning and Development Management Committee of 17 December 2019 (Arts.) was submitted, approved as a correct record and authorised for signature.

. DEPUTATIONS

In terms of Standing Order 72, the Committee agreed to hear deputations in relation to the following planning applications:

Planning Application No.
19/01626/FLL

Art. No.
(2)(i)

APPLICATIONS FOR DETERMINATION

(1) Major Application

- (i) **19/00163/AMM – BLAIRGOWRIE – Erection of 2 retail units (Class 1), a neighbourhood centre comprising 3 retail units (Class 1), formation of parking areas, landscaping, SUDS pond and associated works (approval of matters specified by conditions 17/00939/IPM) (Phase 1A - Site MU5), land south west of Cemetery House Lodge, Perth Road, Blairgowrie – Report 20/4 – Westpark Partnership**

J Scott, Team Leader, introduced the report and advised members of the following updates:

- (i) Page 25, Para 1, Line 4 - The reference should read "A93" not A94.
- (ii) Conditions 7 be amended to include maintenance arrangements in the approved scheme.
- (iii) Condition 8 be amended to clarify the timing for providing any replacement planting that may be required.
- (iv) Condition 9 be replaced with a condition that provides further clarification as to what the CEMP must address as part of any Approval of Matters Specified in Conditions (AMSC).
- (v) Condition 10 be replaced as the Phase 1 investigation has already been undertaken as part of the Planning Permission in Principle.
- (vi) Condition 15 be amended to clarify that the scheme must be approved by the Planning Authority.

Resolved:

Grant, subject to the following updated conditions and amended condition 8 and informatives:

Conditions

1. The development hereby approved must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed by this decision notice.
Reason: To ensure that the development is carried out in accordance with the plans approved.
2. Prior to the development hereby approved being completed or brought into use, all matters regarding access, car parking, road layout, design and specification, including the disposal of surface water, shall be in accordance with the standards required by the Council as Roads Authority.
Reason: In the interest of vehicle and pedestrian safety and in accordance with the policies of the adopted Perth and Kinross Local Development Plan 2019.

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3. Prior to the commencement of development, a scheme to provide a right turn lane from the A93 (southbound) in to the development and a signalised pedestrian crossing on the A93 shall be submitted to, and approved in writing by, the Council as Planning Authority. The scheme shall confirm the location, specification, detailed design and delivery timescales of both the turn and pedestrian crossing. The approved scheme shall thereafter be implemented in full, prior to the occupation of the first retail unit.

Reason: In the interests of road and pedestrian safety.

4. Prior to the commencement of works on the development, the applicant shall submit for the written approval of the Planning Authority 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) arrangements for liaison with the Roads Authority regarding winter maintenance;
 - d) emergency arrangements detailing communication and contingency arrangements in the event of vehicle breakdown;
 - e) 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;
 - f) arrangements for cleaning of roads affected by material deposited from construction sites associated with the development;
 - g) 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;
 - h) details of information signs to inform other road users of construction traffic;
 - i) arrangements to ensure that access for emergency service vehicles are not impeded;
 - j) monitoring, reporting and implementation arrangements; and
 - k) arrangements for dealing with non-compliance.

The TMS as approved shall be strictly adhered to during the entire site construction programme all to the satisfaction of the Council as Planning Authority.

Reason: In the interests of road safety.

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5. Prior to the commencement of development, a scheme for the technical details, delivery phasing and signage needed for the diversion of Core Path BLAI/29 and for the future maintenance of the path within the site shall be submitted to, and approved in writing by, the Council as Planning Authority. This scheme shall also ensure that all existing rights of way, core paths within or adjacent to the completed development shall at all times be protected and remain operational during the construction phases. The scheme shall thereafter be implemented in full accordance with the approved details.

Reason: In the interest of sustainable transportation being maintained.

6. 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.

7. 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), and the subsequent maintenance of the scheme, shall be submitted to, and approved in writing by, the Council as Planning Authority. The design for the SUDs basin shall incorporate an emergency spillway for exceedance flood events to be directed towards a watercourse. Further, this design shall ensure that, where any outfall will affect the adjacent swamp/pond area, only clean water enters this wetland area. The scheme shall thereafter be implemented in full, prior to the occupation of the first retail unit and thereafter maintained in accordance with the approved scheme.

Reason: In the interest of protecting environmental quality and of biodiversity.

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8. Prior to the commencement of development, updated landscape proposals shall be submitted to, and approved in writing by, the Council as Planning Authority. The updated proposals shall include a planting scheme which incorporates increased native species, detail the delivery implementation and arrangements for maintenance, to the satisfaction of the Council as planning authority. The landscaping scheme, as approved, shall thereafter be implemented in full, in accordance with the approved scheme. Further, any planting which, within a period of 5 years from the completion of the approved phase of development, in the opinion of the Planning Authority is dying, has been severely damaged or is becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted in the next available planting season..

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

9. Development hereby approved shall not commence until a detailed Construction Environmental Management Plan (CEMP) detailing environmental mitigation measures and construction method statements, including specific measures for environmental monitoring during construction, shall be submitted to, and approved in writing by, the Council as Planning Authority, in consultation with Scottish Natural Heritage (SNH) and Scottish Environment Protection Agency (SEPA). Such details shall be submitted not less than two months prior to the agreed scheduled commencement date and shall incorporate detailed pollution avoidance and mitigation measures for all construction elements. Thereafter the development shall be fully undertaken in accordance with the agreed CEMP.

Reason: In the interests of protecting environmental quality and of biodiversity.

10. Development shall not begin until a scheme to deal with contamination on the site has been submitted to and approved in writing by the planning authority. The scheme shall contain details of proposals to deal with contamination to include:

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

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Before any residential or commercial unit is occupied the measures to mitigate all identified risks after intrusive investigation shall be fully implemented as approved by the Planning Authority.

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

11. Development shall not commence until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of archaeological investigation which has been submitted by the applicant and agreed in writing by the Council as Planning Authority, in consultation with Perth and Kinross Heritage Trust. Thereafter, the developer shall ensure that the programme of archaeological works is fully implemented including that all excavation, preservation, recording, recovery, analysis, publication and archiving of archaeological resources within the development site is undertaken. In addition, the developer shall afford access at all reasonable times to Perth and Kinross Heritage Trust or a nominated representative and shall allow them to observe work in progress.

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

12. Prior to the occupation of any retail unit hereby approved, a scheme for all external lighting shall be submitted to, and approved in writing by, the Council as Planning Authority. This scheme shall ensure appropriate alignment and provide sufficient screening so as to ensure that there is no direct illumination of neighbouring land including the A93 (Perth Road) and Ardblair Terrace and that light spillage beyond the boundaries of the site is minimised. The lighting scheme shall thereafter be implemented in full, prior to the occupation of each retail unit.

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

13. All plant or equipment on each building hereby approved 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 the interest of protecting residential amenity from noise generated by plant or equipment.

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14. Within any neighbouring residential property, noise levels shall be limited to an internal night time target noise level of 42 dB LAFmax, with window slightly open.
Reason: In the interest of protecting residential amenity from noise.
15. In the event of a justified noise complaint being received by the Council relating to the operation of the development hereby approved, the operator shall, at its own expense, employ a consultant approved by the Planning Authority to carry out a noise assessment which shall be submitted to, and approved in writing by, the Council as Planning Authority. The assessment will be carried out to an appropriate methodology agreed in writing with the Planning Authority. If the noise assessment shows that the noise levels do not comply with noise conditions, a scheme of noise mitigation shall be included with the noise assessment, specifying timescales for the implementation of the scheme and shall be submitted to the Planning Authority with 28 days of the assessment.
Reason: In the interest of protecting residential amenity.
16. All servicing and deliveries to any retail unit hereby approved must be within the core hours of 07:00 and 21:00 Monday to Saturday and within the hours of 09:00 and 17:00 hours on Sundays. Where any retail unit is to receive deliveries between the extended hours of 21:00 and 23:00 Monday to Saturday only, a Delivery/Servicing Noise Management Plan, outlining mitigation measures to reduce noise, shall be submitted to and approved in writing by the Council as Planning Authority prior to activity taking place during these hours. The servicing and delivery arrangements must be in accordance with the core hours or, where approved, in accordance with any scheme and mitigation approved under the extended hours.
Reason: To safeguard the amenity of neighbouring residential properties.
17. No removal of hedgerows, trees or shrubs that may be used by breeding birds shall take place between 1 March and 31 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 ensure adequate protection for the trees on the site during the construction, in the interests of the visual amenity of the area.

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18. All existing trees and hedgerows shown to be retained shall be protected by suitable fencing in accordance with BS5837:2012 (Trees in Relation to Construction). No materials, supplies, plant, machinery, soil heaps, changes in ground levels or construction activities shall be permitted within the protected areas without the written agreement of the Council as Planning Authority.
Reason: To ensure adequate protection for the trees on the site during the construction, in the interests of the visual amenity of the area.
19. Measures to protect animals from being trapped in open excavations and/or pipe and culverts shall be implemented for the duration of the construction works of the development hereby approved. The measures may include creation of sloping escape ramps for animals, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day and open pipework greater than 150 mm outside diameter being blanked off at the end of each working day.
Reason: In order to prevent animals from being trapped within any open excavations.
20. All road gullies within 500m of a waterbody or Sustainable Urban Drainage System (SUDs) pond shall have wildlife kerbs installed adjacent to the gully.
Reason: In the interests of protecting environmental quality and of biodiversity.

Justification

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

Informatives

1. The development hereby permitted shall be commenced no later than the expiration of two years from the date of this consent or from the date of subsequent approval of matters specified in conditions, or three years from the date of planning permission in principle, whichever is the later.
2. Under Section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the Planning Authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under Section 123(1) of that Act, which may result in enforcement action being taken.

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3. As soon as practicable after the development is complete, the person who completes the development is obliged by Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.
4. This development will require the 'Display of notice while development is carried out', under Section 27C (1) of the Town and Country Planning Act 1997, as amended, and Regulation 41 of the Development Management Procedure (Scotland) Regulations 2013. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. According to Regulation 41 the notice must be:
 - Displayed in a prominent place at or in the vicinity of the site of the development
 - Readily visible to the public
 - Printed on durable material.
5. The developer is advised to contact Mr David Strachan, Archaeologist to discuss terms of reference for work required Tel 01738 477080.
6. The applicant is advised that in terms of Section 21 of the Roads (Scotland) Act 1984 they must obtain from the Council as Roads Authority consent to construct a new road prior to the commencement of roadworks. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environment Protection Agency.
7. The applicant is advised that 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. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environment Protection Agency (SEPA).
8. Any changes to the approved site layout plan that requires a planning application shall also require a revised noise impact assessment to be submitted to demonstrate that the layout will not adversely affect the resultant noise levels to external and internal amenity spaces.
9. The applicant is reminded that this site is still subject to a Section 75 Legal Agreement, securing Developer Contribution requirements and other matters, as secured as part of planning permission 17/00939/IPM. This permission continues to be tied by this legal agreement and the associated requirements will continue to apply.
10. The applicant is reminded that, should any protected species be present a licence may be required from Scottish Natural Heritage. Failure to obtain a licence may

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constitute a criminal act under the Habitats Regulations and penalties are severe for non-compliance.

11. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended, it is an offence to remove, damage or destroy the nest of any wild birds while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act.
12. The applicant is recommended to discuss with the Council's Public Transport Unit the supply of bus services and public transport infrastructure to ensure an adequate public transport provision for the site.
13. The applicant is advised that the granting of planning consent does not guarantee a connection to Scottish Water's assets. The applicant must make a separate application to Scottish Water Planning & Development Services team for permission to connect to the public wastewater system and/or water network and all their requirements must be fully adhered to.
14. Construction work should minimise the impact on amenity to neighbouring residents, which could be achieved by limiting noise generating activities to Monday to Friday 07:00 to 19:00 and Saturday 08:00 to 13:00 with no noisy works out with these times or at any time on Sundays or Bank Holidays.
15. All planning conditions attached to the Planning Permission in Principle (PPP) approved on 21 December 2018 (application reference: 17/00939/IPM) continue to apply to the development hereby approved, unless otherwise provided for by condition of this application for the Approval of Matters Specified in Condition. Particular attention is drawn to Condition 27 of the PPP, which sets:
 - the maximum net sales floor area of any Food Retail Unit shall not exceed 1,900 square metres and shall be a minimum of 70% convenience goods and a maximum of 30% comparison goods; and
 - the maximum net sales floor area of any Non-Food Retail Unit shall not exceed 1,500 square metres and shall be a minimum of 60% for comparison goods and a maximum of 40% for convenience goods.
16. The stopping up or diversion of the Core Path BLAI/29 is subject to agreement under Section 208 of the Town and Country Planning (Scotland) Act 1997 (as amended). All relevant approvals in this regard should be in place prior to any stopping up or diversions taking place.

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(2) Local Application

- (i) 19/01626/FLL – KINROSS – Erection of 33 dwellinghouses, 8 flats, community lounge/guest suite, formation of parking areas, landscaping and associated works, site of former Windlestrae Hotel, Muirs, Kinross – Report 20/5 – Juniper Residential Ltd**

A Condliffe, Team Leader, introduced the report and advised members of the following updates:

- (i) Condition 2 reason – reference to the Local Development Plan be changed to the Local Development Plan 2 (2019).
- (ii) Condition 3 reason – reference to the Local Development Plan be changed to the Local Development Plan 2 (2019).
- (iii) Condition 10 be amended to clarify the condition applies to the Club building.
- (iv) Condition 12 be amended to include maintenance arrangement in the approved scheme and clarify the timing of the completion of work.
- (v) Informative 10 be removed as it is a duplicate of Informative 4.

Mr Miles and Ms Thomas, objectors to the application, followed by Mr Myles, Ms Shields and Mr Steele, on behalf of the applicant, addressed the Committee, and, following their respective representations, withdrew to the public benches.

Motion (Councillors T Gray and I James)

Grant, subject to the following conditions, informatives, and possible legal agreement:

- 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 2 (2019)**

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- 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 2 (2019) 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 and 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 in the Club building 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) and the subsequent maintenance of the scheme 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 occupation of the first residential unit.

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 to the satisfaction of the Council as Planning Authority, 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.

Justification

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

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.

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.

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.**

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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. 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 Environment Protection Agency.
11. 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.
12. 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.

First Amendment (Councillors R Watters and C Reid)

Defer consideration of the application for further information on the possibility of retaining the Category A Sycamore tree at the

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entrance from The Muirs, including removal of the 1 metre footpath and considering reducing the width of the junction.

Second Amendment (Councillors W Wilson and M Barnacle)

Refuse the application as it is contrary to:

1. Perth and Kinross Local Development Plan 2 (2019) Policies 1A and 1B(c), on the basis that the proposal constitutes overdevelopment of the site due to the lack of amenity space provided,
2. Perth and Kinross Local Development Plan 2 (2019), Policy 28A on the basis that the proposal does not preserve or and enhance the Kinross Conservation Area as it encroaches upon Market Park and impacts on its visual setting, and
3. Perth and Kinross Local Development Plan 2 (2019), Policy 40B on the basis that it has not been demonstrated that the loss of trees on the site is an exceptional case and unavoidable.

In terms of Standing Order 58 a roll call vote was taken.

4 members voted for the First Amendment as follows:
Councillors H Anderson, R McCall, C Reid and R Watters.

3 members voted for the Second Amendment as follows:
Councillors M Barnacle, C Purves and W Wilson.

5 members abstained from the vote as follows:
Councillors B Brawn, E Drysdale, T Gray, D Illingworth, and I James.

The First Amendment became the substantive Amendment.

7 members voted for the Motion as follows:
Councillors H Anderson, B Brawn, E Drysdale, T Gray, D Illingworth, I James and R McCall.

5 members voted for the Amendment as follows:
Councillors M Barnacle, C Purves, C Reid, R Watters and W Wilson.

Resolved:

In accordance with the Motion.

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