

Perth and Kinross Council  
Planning & Development Management Committee – 18 October 2017  
Report of Handling by Interim Development Quality Manager

Erection of 77. dwellinghouses, formation of landscaping, open spaces and community woodland, and associated works on land North of Linden Park Road, Milnathort

Ref. No: 17/00806/FLM  
Ward No: P8 - Kinross-shire

### **Summary**

This report recommends approval of the application for a development comprising the erection of 77 dwellinghouses, formation of landscaping, open spaces and community woodland, and associated works on land north of Linden Park Road, Milnathort. The site, known as Pace Hill, is allocated for housing within the Perth and Kinross Local Development Plan 2014 (LDP) under site reference H49.

The development is considered to comply with the Strategic Development Plan TAYplan 2012 and the LDP. The proposal also complies with the Council's overarching economic, social and environmental objectives contained within the Community Plan, Corporate Plan and the Economic Development Strategy. The application is recommended for approval, subject to conditional control and the satisfactory conclusion of a planning obligation.

### **BACKGROUND AND PROPOSAL**

- 1 Full Planning Permission is sought for the erection of 77 dwellinghouses, formation of landscaping, open spaces and community woodland, and associated works. The site is allocated for housing within the Perth and Kinross Local Development Plan 2014 (LDP) under site reference H49 – Pace Hill, Milnathort.
- 2 The site is located on the northern edge of the Milnathort settlement boundary. The site comprises agricultural land and extends to approximately 4.7 hectares (Ha), 3.5 hectares Ha of which is the developed area as per the LDP allocation. It is bounded to the south by an existing residential development of Linden Park Road and to the north by the M90 motorway. To the west lies North Street, which leads towards Milnathort town centre, and to the east exists a tree belt with agricultural land beyond (which is allocated with the LDP for housing development under site H50 – Old Perth Road). The site itself slopes gradually down from south to north (from 135 metres Above Ordnance Datum (AOD)) to 125m AOD) with undulations across sections from east to west. Beyond the site boundary to the north the levels drop more steeply to the M90.
- 3 The proposed development layout indicates one vehicular access from North Street initially leading as a single road with paved courtyards, later splitting to create a circular distribution road and the majority of houses are orientated to

create a larger block of properties. A potential future access from the site to the adjacent site allocated site (H50) is identified in the northeast corner of the site. Non-vehicular access is also available from the west of the site near the junction with North Street, continued as pathway along Core Path MTH/133 along the northern boundary through the proposed community woodland and amenity space which would continue along the Core Path route to the east, across Old Perth Road and ultimately on to the network of public paths at Burleigh Castle towards the town and Loch Leven. This greenspace to the north accounts for the main open space provision, through which a number of additional trees and planting is indicated in the LDP site specific requirements. Other smaller areas of open space supplement the provision within the site, most notably with the retained woodland screen along the eastern boundary.

- 4 Of the 77 houses, 58 would be detached and semi-detached open market ranging in size from 2 to 5 bedrooms, all but three of which are two-storey. Affordable housing is proposed with 19 homes (25% of the total), comprising 2 bed terrace and semi-detached two-storey properties and 1 and 2 bed cottage flats. In total 18 different houses types are proposed. In terms of design the house types are contemporary variations to traditional proportions and features, with subtle changes through the site to the simple material palette of rendered and brick walls and concrete roof tiles.
- 5 At the pre-application and Proposal of Application Notice (PoAN) stages the requirement for supporting information was identified. The current application is supported by the following documents, the assessment of which will be addressed in the Appraisal section below:
  - Pre-Application Consultation (PAC) Report;
  - Design and Access Statement;
  - Flood Risk Assessment;
  - Transport Assessment;
  - Noise Assessment;
  - Landscape Impact Assessment;
  - Ecology and Biodiversity Assessment;
  - Arboricultural Assessment;
  - Site Investigation Report; and
  - Sustainability Checklist.

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

- 6 Directive 2011/92/EU required the 'competent authority' (in this case Perth and Kinross Council) when giving a planning consent for particular large scale projects to do so in the knowledge of any likely significant effects on the environment. The Directive therefore sets out a procedure that must be followed for certain types of project before 'development consent' can be given.
- 7 This procedure, known as EIA, is a means of drawing together, in a systematic way, an assessment of a project's likely significant environmental effects. This helps to ensure that the importance of the predicted effects, and the scope for

reducing any adverse effects, are properly understood by the public and the relevant competent authority before it makes its decision.

- 8 A screening opinion request (16/01237/SCRN refers) was submitted in July 2016, which found that EIA was not required in this instance by virtue that the proposal would not have significant effects on the environment having regard to its location, size, nature and character of development.

## **PRE-APPLICATION CONSULTATION**

- 9 The proposed development is classed as a Major development under class 9 of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. This sets out that there is a statutory requirement imposed on the applicant to undertake pre-application consultation activity with the local community.
- 10 A Proposal of Application Notice (PoAN) (reference 16/00008/PAN) was submitted on the 19 May 2016 initially in support of an earlier application which was withdrawn (16/01728/FLM refers). For the current application a public exhibition was held locally at Milnathort Town Hall on 7 September 2016 – which was in addition to the earlier event for the initial application on 10 June 2016. The ward Councillors at the time, Milnathort Community Council and neighbouring residents were all notified. The results of the community consultation have been submitted with the application as part of the Pre-Application Consultation (PAC) Report.

## **NATIONAL POLICY AND GUIDANCE**

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

### **National Planning Framework**

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

### **Scottish Planning Policy 2014**

- 13 Scottish Planning Policy (SPP) was published on 23 June 2014. It sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:

- The preparation of development plans
- The design of development, from initial concept through to delivery
- The determination of planning applications and appeals

14 Overarching topic areas relevant to this application include:

- Paragraphs 24 – 35: Sustainability
- Paragraphs 36 – 57: Placemaking

15 Specific detailed topic area paragraphs include:

A successful Sustainable Place

- Paragraphs 123 – 125 Maintaining a 5-year Effective Land Supply
- Paragraphs 126 – 131 Affordable Housing
- Paragraphs 135 – 151 Valuing the Historic Environment

16 A Low Carbon Place

- Paragraph 152 – 160 Delivering Heat and Electricity
- Paragraph 190 – Planning for Zero Waste

17 A Natural, Resilient Place

- Paragraphs 202 – 218 Valuing the Natural Environment
- Paragraphs 230 – 233 Maximising the Benefits of Green Infrastructure
- Paragraphs 254 – 268 Managing Flood Risk & Drainage

18 A Connected Place

- Paragraphs 286 – 291 Promoting Sustainable Transport and Active Travel
- Annex B – Parking Policies and Standards

19 The following Scottish Government Planning Advice Notes (PANs) are also of relevance:

- PAN 2/2010 Affordable Housing and Housing Land Audits
- PAN 1/2011 Planning and Noise
- PAN 2/2011 Planning and Archaeology
- PAN 1/2013 Environmental Impact Assessment
- PAN 44 Fitting New Housing Development into the Landscape
- PAN 51 Planning, Environmental Protection and Regulation
- PAN 52 Planning in Small Towns
- PAN 60 Planning for Natural Heritage
- PAN 61 Planning and Sustainable Urban Drainage Systems
- PAN 63 Waste Management Planning
- PAN 65 Planning and Open Space
- PAN 67 Housing Quality

- PAN 68 Design Statements
- PAN 69 Planning and Building Standards Advice on Flooding
- PAN 75 Planning for Transport
- PAN 77 Designing Safer Places
- PAN 78 Inclusive Design
- PAN 79 Water and Drainage
- PAN 83 Masterplanning

### **Designing Streets 2010**

- 20 Designing Streets is the first policy statement in Scotland for street design and marks a change in the emphasis of guidance on street design towards place-making and away from a system focused upon the dominance of motor vehicles. It has been created to support the Scottish Government's place-making agenda and is intended to sit alongside the 2001 planning policy document Designing Places, which sets out Government aspirations for design and the role of the planning system in delivering these.

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

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

### **Place Standard (2016)**

- 22 Place Standard is a tool accessible to all, which can be used to evaluate the quality of a place. This includes places that are well-established, undergoing change, or still being planned. The tool can also help users to identify priorities.

## **DEVELOPMENT PLAN**

### **TAYPlan Strategic Development Plan 2012-2032**

- 23 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.”*

- 24 The following sections of the TAYplan 2012 are of particular importance in the assessment of this application.

### **Policy 1 – Location Priorities**

- 25 Seeks to focus the majority of development in the region's principal settlements. Kinross/Milnathort is identified as a Tier 2 Settlement and has the

potential to make a major contribution the regional economy and will accommodate a smaller share of the region's additional development (most of which are directed to Tier 1 settlements such as the Perth Core Area).

## **Policy 2 – Shaping better quality places**

- 26 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.

## **Policy 3: Managing TAYplan's Assets**

- 27 Seeks to respect the regional distinctiveness and scenic value of the TAYplan area and presumes against development which would adversely affect environmental assets.

## **Policy 5: Housing**

- 28 States that Local Development Plans shall seek to have land allocated, which is effective or capable of becoming effective to meet the housing land requirement up to 10 years from the date of the plan adoption. The policy goes on to say that to assist in the delivery of build rates, Local Development Plan shall allocate sufficient land to ensure a generous supply of effective housing sites and to provide for flexibility and choice.

## **Policy 8 – Delivering the Strategic Development Plan**

- 29 States, *"To ensure that quality is designed-in to development and places, developer contributions shall be sought for new development to mitigate any adverse impact on infrastructure, services and amenities brought about by development including contributions towards schools, affordable housing, transport infrastructure and facilities (including road, rail, walking, cycling and public transport) and other community facilities in accordance with the Scottish Government Circular 1/2010"*.

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

- 30 The 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.
- 31 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."*

- 32 Within the LDP, the following policies are of particular importance in the assessment of this application.

### **Housing Land Allocation H49 – Pace Hill**

- 33 Identifies a residential site allocation for an indicative number of 50 residential units on a developable area of 3.5 Ha with a number of site specific developer requirements outlined as follows:

Ref	Location	Size	Number
H49	Pace Hill	3.5 ha	50
<b>Site Specific Developer Requirements</b>			
⇒ A mix of housing types and sizes including low cost housing.			
⇒ Road and access improvements to the satisfaction of the Council as Roads Authority.			
⇒ Provision of woodland screen planting along the north boundary of site incorporating public access.			
⇒ Provision of a multi-user path through woodland planting.			
⇒ Noise attenuation measures.			

### **Policy PM1A - Placemaking**

- 34 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**

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

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

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

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

- 37 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**

- 38 In identified areas, residential amenity will be protected and, where possible, improved. Small areas of private and public open space will be retained where of recreational or amenity value. Changes of use away from ancillary uses

such as local shops will be resisted unless supported by market evidence that the existing use is non-viable. Proposals will be encouraged where they satisfy the criteria set out and are compatible with the amenity and character of an area.

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

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

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

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

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

- 41 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 (TA) is required.

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

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

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

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

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

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

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

- 45 Areas or sites of known archaeological interest and their settings will be protected and there will be a strong presumption in favour of preservation in



situ. If not possible provision will be required for survey, excavation, recording and analysis.

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

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

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

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

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

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

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

- 49 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**

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

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

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

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

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

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

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

**Policy EP2 - New Development and Flooding**

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

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

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

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

- 56 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**

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

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

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

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

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

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

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

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

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

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

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

### **OTHER POLICIES**

- 63 The following supplementary guidance and documents are of particular importance in the assessment of this application:

- Developer Contributions and Affordable Housing Supplementary Guidance April 2016
- Flood Risk and Flood Risk Assessments – Developer Guidance June 2014
- Sustainable Design and Zero Carbon Development Supplementary Guidance May 2014
- Landscape Supplementary Guidance 2015

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

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

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

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

### **SITE HISTORY**

- 66 The following site/planning history is relevant to the current application:

**16/01237/SCRN:** An EIA Screening Opinion request was submitted in July 2016. It was determined that EIA was not required in this instance by virtue that the proposal would not have significant effects on the environment having regard to its location, size, nature and character of development.

**16/00008/PAN:** This Proposal of Application Notice (PoAN) for a 'Residential development with associated roads, SUDs and landscaping' was submitted on the 19 May 2016 and approved in July 2016.

**16/01728/FLM:** Sought full planning permission for the Erection of 80 dwellinghouses, formation of open space, landscaping and associated infrastructure works. Following concerns from officers in respect of layout and design, the application was withdrawn in January 2016.

**17/00885/FLL:** This application seeks full planning permission for the installation of drainage infrastructure and on land to the east of the application site and was submitted alongside and in support of this application. This application has been approved under delegated powers.

### **CONSULTATIONS**

#### **EXTERNAL**

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

- 67 Have no objection to the application. SEPA assessed the proposal in respect of flood risk and protection of the water environment (waste water and surface water drainage). In respect of the former they note no flood risk is apparent and run-off rates should be agreed within the local authority. In respect of the water environment, it is noted that connection to public sewerage infrastructure is proposed and that adequate SUDS (surface water) provision is made. General comment is made on sustainable waste management and contaminated land.

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

- 68 Advise that the potential for adverse effects on the integrity of the Loch Leven Special Protection Area (SPA) as a result of this development was considered in the allocation of the site in the LDP process. The site was screened out of the LDPs Habitats Regulations Appraisal as part of this process. It is noted that public drainage is proposed for foul drainage but the key issue is for surface

water drainage. The proposed SUDS will attenuate for a 1 in 200 year return plus 30% climate change allowance and then discharge at the greenfield rate; this is sufficient to protect the SPA. In terms of protected species it is noted that none were found in the surveys; however, potential within the catchment of Burleigh Burn exists from the SUDS outfall point. It is advised that within 200 metres upstream and downstream of the outfall further otter surveys are undertaken and a species protection plan be provided where findings support this. Three trees were identified to have moderate bat roost potential; if work is undertaken within 30 metres of these further a survey will be required to predict impact on bats for any license application.

### **Scottish Water**

- 69 No response has been received.

### **Transport Scotland**

- 70 Have no objection to the application.

### **BP**

- 71 Have no comment to make on the proposal. The safety and integrity of the BP Forties Pipeline will not be affected.

### **Milnathort Community Council**

- 72 Have objected to the proposal on the grounds of unsuitable access and transportation provision – including road safety, parking issues, impacts on roads/bridges; impacts on pedestrians/cyclists and traffic generated on local roads; inadequacy of infrastructure (water and sewerage); creation of precedent of scale of development; private interests (such as loss of views and loss of property value); and inaccuracy of biodiversity assessments.

### **Kinross Community Council**

- 73 While it is out of their area, Kinross Community Council have objected to the application on the grounds that the proposed development exceeds the level of development identified in the LDP. Examples of instances of other development, in Kinross, where this has also been the case have been cited. The impact on local infrastructure and services and the ecology status of Loch Leven is also highlighted.

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

- 74 Have no comment concerns or recommendations in respect of archaeological mitigation.

## **INTERNAL**

### **Strategy and Policy**

- 75 The response highlights the Development Plan policy context for the assessment. In respect of TAYplan Policy 5, as summarised in Para 29 above, is relevant. Specifically the need for a mix of house type, size and tenure for the needs of the locality is important, beyond defined affordable housing. This is met through 6 two bed properties in the proposal. In terms of the LDP the site specific requirements for allocation H49 are set out. In respect of the indicative capacity of 50 homes it is stressed that this should be considered in terms of ensuring an acceptable layout and design – as the only means to establish an appropriate level of development. Overall the proposal is considered to comply with Development Plan policy in terms of design, layout and mix of houses proposed.

### **Community Greenspace**

- 76 Have commented on the proposed public open space (POS), paths, play areas and flora species. The provision for POS areas refers to common maintenance responsibilities for residents which is contrary to Council policy. Such factoring should be restricted to small areas of amenity planting only and not POS; larger functional areas should be adopted by the Council. No specification of the proposed paths has been provided which should be clarified. No concerns are raised in respect of the proposed planting species; however, further clarification of species, locations of planting and maintenance is required. No equipped play area has been proposed on site and the development is outwith the catchment of existing play areas. An off-site contribution is therefore required to contribute to the upgrade and maintenance of the nearest play area so it can provide for the needs of residents.

### **Transport Planning (TP)**

- 77 A Transport Assessment (TA) was requested. The submitted TA has been reviewed and it is confirmed that this provides a robust assessment of the impact on the local road network. The proposed development would not cause significant detriment to the local network. Within the proposal the access and layout are satisfactory and the walking and cycle links proposed link well with existing networks. No objection to the proposal is therefore raised, subject to a condition relating to confirmation of roads and drainage arrangements prior to commencement of development.

### **Environmental Health (EH)**

- 78 Environmental Health have considered the proposal in respect of noise and had regard to the Noise Impact Assessment. This assessment has been undertaken in accordance with established guidance. The assessment concludes that there are no concerns in respect of amenity issues within the properties arising from noise from the M90 road. The EH service are in agreement with these findings and have no objection to the proposal.

### **Biodiversity Officer**

- 79 The information submitted to assess the possible presence of protected species is acceptable. No major impact has been identified and the conclusions and recommendations of the assessments are sound to protect against any possible negative impact. It is therefore recommended that conditions be attached to any permission granted in this regard.

### **Development Contributions Officer**

- 80 Sets out contribution requirements required through or as a result of the development. In respect of Affordable Housing, the LDP requires an equivalent 25% contribution of the total number of houses. The requirement here is therefore 19.25 units; 19 units are proposed within the development; however, a commuted sum is required for the remaining 0.25 contribution – a sum of £3,750. In respect of primary education, the catchment primary is Milnathort Primary School, which is operating at over the 80% trigger for contributions. Therefore contributions are required to address this constraint, which is applicable to the 57.75 open market houses only and not the 19 affordable homes. The payment for each education contribution is £6,460 – a total of £373,065. These contributions may be secured through a Section 75 Planning Obligation and payable on a phased basis.

### **Community Waste Advisor**

- 81 Advise that households within the development would be on a three bin system for waste and recycle collection. For the wider development a mini glass recycling facility is requested, the specifications and location for which should be agreed with Community Waste.

### **Structures and Flooding Team (SFT)**

- 82 Have no objection to the proposal.

### **Contaminated Land Officer**

- 83 Considered the submitted Site Investigation Report and confirmed no concerns are held in respect of contaminated land.

### **REPRESENTATIONS**

- 84 The application has attracted 66 letters of representation, of which all are in objection to the proposal. This includes comment from Milnathort Community Council, Kinross Community Council (as set out in Para 73 and 74 above respectively) and Kinross-shire Civic Trust. The following concerns have been raised:

- Contrary to Development Plan;
- Development on a greenfield site/agricultural land;
- Residential is not appropriate form of development;

- Overdevelopment/density of site against LDP allocation of 50 houses;
- Suitability and safety of the proposed access on North Street;
- Construction materials for access not appropriate;
- Congestion and safety on nearby roads;
- Suitability of pedestrian routes;
- Further deterioration to road/pavement surfaces;
- Loss of car parking;
- Flood risk;
- Viability of SUDS solution;
- Impact of population increase on local services and infrastructure – health, retail, public transport and primary and secondary education;
- Inadequate employment provision;
- Adequacy of water and drainage network;
- Noise pollution;
- Two-storey height of dwellings not appropriate;
- Impact on visual amenity;
- Loss of daylight/sunlight to nearby properties;
- Overlooking of nearby properties;
- Out of character with area;
- Loss of trees;
- Loss of open space;
- Wider belt of trees on southern boundary suggested;
- The ecology submissions are incomplete/incorrect for squirrels and bats;
- Damage to powerlines and property from development; and
- Inaccuracy with survey drawings.

85 The material planning concerns raised are summarised and salient points addressed in the Appraisal section of this report. The following raised concerns are not material considerations:

- Impacts on views;
- Impacts on property prices; and
- Setting of precedent for other development.

## **ADDITIONAL STATEMENTS**

86	Environment Statement	Not required
	Screening Opinion	Screened – EIA not required.
	Environmental Impact Assessment	Not required
	Appropriate Assessment	Not required
	Design Statement / Design and Access Statement	Submitted
	Report on Impact or Potential Impact	Not required



## APPRAISAL

### Policy Appraisal

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

### Principle

- 88 The application site is allocated in the LDP for residential development through Site H48 in Milnathort as a Tier 2 settlement. TAYplan Policy 1 (Location Priorities) identifies that Tier 2 settlements will accommodate a share of the region's development in addition to allocations and developments within Tier 1 settlements. The proposed development of this site for residential development in this context is considered to be consistent with the objectives of TAYplan Policy 1.
- 89 As advised, the site is allocated in the LDP, which identifies an indicative number of 50 residential units within a total developable area of approximately 3.5 Ha. It is clarified at this stage that the housing numbers reflected in the site allocation is purely an indicative figure to satisfy housing land supply requirements for the housing market area and the wider LDP housing numbers. This number does not reflect a fixed site capacity; the assessment of the site in terms of scale of development is borne out of detailed site layout designs, landscape capacity studies and site context appraisals presented within this planning application. The main outcome is to produce a high standard of development rather a constraint by specific housing numbers. This matter will be considered in the Design, Scale and Layout section below (Para 91 onwards). The principle of residential development complies with the associated Development Plan policy objectives in this regard.

### Site Specific Developer Requirements

- 90 As advised, the LDP allocation for the site sets out a number of specific requirements that require consideration as part of the detailed assessment of the proposal:

Ref	Location	Size	Number
H49	Pace Hill	3.5 ha	50
<b>Site Specific Developer Requirements</b>			
⇒ A mix of housing types and sizes including low cost housing.			
⇒ Road and access improvements to the satisfaction of the Council as Roads Authority.			
⇒ Provision of woodland screen planting along the north boundary of site incorporating public access.			
⇒ Provision of a multi-user path through woodland planting.			
⇒ Noise attenuation measures.			

## **Design, Scale and Layout**

- 91 As discussed above, one of the key considerations for assessing this application is to achieve a high standard of development. Policies PM1A and PM1B provide the objectives for and form a basis to achieving good placemaking in respect to the wider place and setting of the development proposed as well as the design and layout of the development itself. These considerations are in themselves interrelated and are supported by the site specific requirements for the allocation and other LDP policies which complement placemaking, landscape, amenity and design considerations.
- 92 Within the northern and eastern areas of the site it is proposed to retain and enhance existing woodland to form open space which would act as buffers to what would be the new settlement edge for Milnathort at this location and complements the further buffers beyond the site and settlement boundaries that would remain. Smaller areas of green space complement this provision. This meets the specific requirement for woodland screen planting along the northern boundary as set out in the LDP allocation. This strategic approach to the design also assists the integration of the development within the landscape and separation from existing land uses – such as the dwellings on Linden Park Road to the south.
- 93 The connection of the site to the wider place and facilities within Milnathort is also identified within the specific site requirements; improving the existing public access in the north of the site along Core Path MTHT/133 and movement corridors within the site layout. Within this layout efforts have been made to avoid the roads and access arrangements being car dominated through landscape edges and road features punctuating the roads to achieve slower road speeds and assist non-vehicular movement. The layout of the proposed houses predominantly facing on to streets and larger areas of parking behind or off the principal route complements this further.
- 94 The massing and scale of the individual dwellings are considered to be appropriate responding to site conditions and in recognition of the established residential areas to the south. The amenity concerns are discussed further below. The dwellings proposed provide a good level of garden ground for the new properties which is enhanced by the open space provision on site and ease of access to countryside paths beyond. The design of the dwellings are typical in their modern design and subject to securing appropriate finishing materials are considered acceptable; this could be verified through proposed planning condition 12.
- 95 Concern has been expressed regarding the proposed number of dwellings and specifically the density of development. The number of 50 houses within the LDP is indicative and density of the development is not considered in itself a determining factor for assessing the acceptability of this proposal or be a barrier to design with a higher or lower level of development. Instead LDP policy seeks the creation of good design, respecting the wider environment and connected to the wider place. As advised, the developed area, not including the substantial woodland and open space to the north of the site, extends to 3.5

Ha. Based on the proposed 77 dwellings this would equate to a development density of approximately 22 units per Ha – which can be regarded as medium density, albeit at the low end. While this is acknowledged to be higher than the immediate housing at Linden Park Road; those properties are large detached houses on large plots which are a type which would not meet the known demands in the area. Indeed, such a layout would be contrary to the site specific objective for a mix of housing types and sizes which is being provided here. The proposed density is nevertheless comparable to other edge of town areas in Milnathort, such as housing to the southwest of the town to the west of Bridgefauld Road.

- 96 Overall, it is considered that the proposed layout and design is considered to be appropriate in terms of the placemaking objectives within the LDP and national guidance. In particular the proposal provides a strong strategic framework of landscaping and open spaces to its external, countryside boundaries and provides a very good mix of housing sizes and types – with 18 house types proposed across open market, affordable housing and in addition to the specific requirements for the latter, 6 lower cost houses through 2 bedroom properties.

### **Landscape, Visual Impact and Open Spaces**

- 97 LDP Policy ER6 seeks to ensure development proposals have a good landscape framework within which the development can be set and, if necessary, can be screened. The site specific requirements further define the need for screen planting along the northern boundary as discussed above. The scale and type of design proposed is considered to be accommodated within the wider landscape capacity and would not cause undue adverse impact on the setting of Milnathort. Indeed, the strategic planting to the northern and eastern boundaries, as required in the LDP, will in time ensure integration within this landscape setting and provides wider public benefits for public access. In turn there will undoubtedly be a visual impact from a development of this type and scale, although it is considered that this would be acceptable subject to the mitigation of the strategic planting discussed. In this context in order to promote and secure the early planting of this structure planting framework; which is proposed through condition 16.
- 98 The public open spaces proposed are considered to provide a good level of amenity space for recreation and leisure for new and existing residents alike in terms of LDP Policy CF1 requirements. In terms of maintenance of these areas the applicant has indicated that a common maintenance responsibility for residents' is proposed. The Council's Community Greenspace (CG) Team have identified that this arrangement is contrary to Council policy, which seeks to have council adoption for larger areas of functional space with factoring arrangements being restricted to small areas of amenity planting only. It is therefore proposed to address this matter through proposed planning condition 16. The landscape planting and species are generally acceptable; however, further clarification of species, locations of planting and maintenance is also considered to be necessary. In respect of play areas it is noted that no equipped play is proposed on site. There are no concerns in this regard from CG, subject to a contribution being secured to contribute towards the upgrade

and maintenance of the nearest play area to meet the needs of future residents. These funds could be used in nearest area which is located at the Old Bowling Green, approximately 350 metres to the south of the site.

- 99 Overall, the proposed landscape approach is considered both reasonable and proportionate. Significant landscape enhancement will be secured, particularly around the outer edges of the site, providing a reasonable buffer, benefitting neighbouring amenity and consistent with the LDP site requirements, effectively ensuring the landscape character and visual amenity of the area is protected and enhanced, consistent with LDP Policies ER6 and CF1. The proposed mitigation in respect of play areas to supplement existing facilities would ensure compliance with Policy CF1B.

### **Affordable Housing**

- 100 LDP Policy RD4 requires that 25% of the total number of houses, above a threshold of 5 units, for which planning consent is being sought, is to be in the form of affordable housing. The application proposes the provision of 19 affordable units on site, which falls just short of this requirement – which would equate to 19.25 units. It is proposed that the 0.25 unit equivalent shortfall can however be secured through an appropriate commuted sum. These contributions can be secured through a Section 75 Obligation and the requirements of Policy RD4 would be fully met. It is also again highlighted that, beyond this statutory provision, the proposal does provide 6 smaller houses to also fulfil the site requirements for lower cost housing. This creates a wider variety of houses to meet local market demands.

### **Amenity**

- 101 It is noted that concerns have been expressed in representations about amenity impacts from the development, particularly the houses along the southern (common) boundary with Linden Park Road. The properties proposed in this area are two-storey detached. It is however noted that where the properties 'back' on to each other, the proposed houses are a minimum distance of 16 metres from common boundaries, and a minimum 25 metres back-to-back, with a proposed finished floor level 2.5-4 metres lower than these properties would be achieved. Furthermore, the existing trees would be supplemented to provide an enhanced buffer.
- 102 In this context the amenity for these properties are considered to be protected. It is not considered that the existing properties would experience any adverse impact through overlooking. The Building Research Establishment (BRE) document 'Site Layout Planning for Daylight and Sunlight – a guide to good practice 1991' sets guidelines on how to assess the potential impact on light. Fundamentally the development is proposed is entirely to the north of existing houses and this configuration and relationship ensures any possible impact is minimised. Given this orientation and separation distances a reasonable level of both daylight and sunlight will be maintained for neighbouring properties, both existing and proposed. Concern was also expressed about views from existing properties; however, as highlighted earlier the loss of a view is not a

material planning consideration. It is considered that in any case maintenance of an adequate separation and preservation of light levels illustrates that these proposed dwellings would not have an overbearing effect on the existing houses.

- 103 By association to the above the amenity level for the proposed properties is also considered to be acceptable with respect to overlooking and lighting considerations. The private amenity space afforded to each property is considered to be proportionate in scale to the dwelling house and will be capable of providing the standards expected for private use for leisure, airing clothing, recycling and waste storage. This proposal is adequate to cater for occupants needs in this regard. Again it is also highlighted that wider open space for recreation is being provided within the north and east of the site and wider services exist within the locality.
- 104 Overall, the policy criteria for Policy RD1 are considered to have been satisfied in the proposal.

### **Traffic, Transport and Access**

- 105 LDP Policy TA1 requires local road networks be capable of absorbing the additional traffic generated by the development and that a satisfactory access to the network is to be provided. SPP 2014 emphasises the importance of locating development in places well served by public transport and a wide choice of transport modes, including on foot and by cycle.
- 106 The application has been supported by a Transport Assessment (TA) which considers the site, its context and layout and tests the proposal against accessibility requirements for non-vehicular movement as well as vehicular accessibility. The TA is considered to provide a robust assessment in all respects. The concerns from third parties in representations in respect of access and traffic issues are noted and these have been reviewed in undertaking an assessment. It is considered that the proposed access on to North Street is considered to be acceptable. Indeed, it was accepted through the allocation process in the LDP that this would provide the only realistic connection to the public road network. Furthermore, it is not considered that the proposed development would cause any significant issues within the local road network – the traffic levels from this development can be accommodated. The applicant has indicated that a potential future vehicular access from this site is being allowed for but not directly provided through the woodland belt to the west, which would facilitate connection to the adjacent Site H50 (known in the LDP as Old Perth Road). There are no specific requirements within the LDP allocation for Site 49 to make such a connection and such a connection could undermine the preservation of the woodland belt as a buffer between the sites as the LDP allocations identifies. The site specific requirements for Site H50 calls for a multi-user route from Pace Hill to Old Perth Road not a vehicular access. The provision of an enhanced route on Core Path MTH/133, as discussed below, will address this. The benefits or otherwise for any vehicular connection is therefore not considered essential but could nevertheless be explored through applications for Site H50. In respect of the layout and design

of the internal road network an appropriate number of parking spaces are provided, ensuring parking requirements arising from the development remains within its boundaries. A condition is proposed to confirm final specifications of roads and drainage arrangements prior to commencement of development; proposed condition 11 refers.

- 107 In summary the proposed development is considered to comply with the requirements of LDP policies TA1A and TA1B.

### **Core Paths, Pedestrian and Cycle Routes**

- 108 In terms of walking and cycling accessibility, it is noted that excellent access is proposed within the site which provides onward connection to path networks to the north and routes to facilities and services within the town. It is approximately a 1 kilometre walking route to the Primary School, which is similar to many housing areas to the east of Milnathort. It has been highlighted through consultation that the specification of the internal paths and core path to the north of the site (Core Path MTHT/133) requires further detail for agreement for both during construction and permanently; which is proposed through condition 13. The upgrading of this path meets specific requirements for the LDP allocation for this site and also supports the requirement for the allocation of the nearby Site H50 – for the provision of a multi-user route from Pace Hill to Old Perth Road via Core Path MTHT/133. It is also deemed appropriate to require any diversions to the core path to be agreed and for a signage strategy to inform, and to further encourage, users that this route is still available both during and post-construction (proposed planning conditions 14 and 15 to address).
- 109 This provision overall is considered to comply with the site specific requirements in relation to public access being maintained and enhanced. It is also consistent with LDP policies TA1B and CF2 in this regard.

### **Biodiversity**

- 110 LDP Policies NE1 and EP7 are relevant considerations in respect of possible impacts arising from the development on the Loch Leven Special Protection Area (SPA). The applicant has submitted an Ecology and Biodiversity Assessment to consider such impacts. In their response, SNH advise that the potential for adverse effects on the integrity of the Loch Leven (SPA) will be addressed through the foul and surface water drainage arrangements and they have no concerns in this regard. The objectives of these policies are therefore met.
- 111 Other biodiversity considerations are relevant to the assessment. Through LDP Policy NE3, the Council has an obligation to protect and enhance all wildlife and wildlife habitats and consider whether the development would be likely to have an adverse effect on protected species. Concerns have been expressed in representation in this respect. The proposal seeks to develop existing fields currently used for growing arable crops, as such there is likely to be a relatively low impact on biodiversity. Both SNH and the Council's Biodiversity Officer

accept the competency and findings of the submitted assessments and the surveys therein. It is noted by SNH that potential exists near to the outfall for the proposed SUDS outfall for the presence of otters and that further surveys should be undertaken prior to the commencement of these works which should inform any necessary species protection plan. Proposed condition 2 addresses the further requirements for assessment in this regard. In respect of bats, three trees have modest roost potential and if works are undertaken within 30 metres of these further pre-commencement surveys are necessary; proposed condition 3 addressed.

- 112 In terms of wider and more general biodiversity consideration the development, has potential to provide opportunities to enhance the site for biodiversity by including bat roost and bird nest sites in the proposed buildings. The landscape proposals would provide a good mix of planting, with mixed native species hedging and woodland planting as well as meadow grass planting. It is considered that these measures and other mitigation are appropriate to protect other wildlife and provide enhancement of habitat; proposed conditions 4-10 refer.
- 113 Policy NE2 encourages the retention of trees and the promotion of development designs that take account of tree surveys within proposals. Existing trees or woodland, especially those with high value will be protected. The applicant has assessed the site and adjacent land in their Arboricultural Assessment; in turn this has informed the proposed tree retention and protection plan and the additional landscaping proposals. This assessment acknowledges that the woodland belt to the east of the application site is subject of a Tree Preservation Order (TPO) – which took effect on 20 February 2017. The area and trees covered by this TPO fall outwith the existing application site and all works proposed are, in turn, beyond the defined Root Protection Areas (RPA) of the trees except the upgrading of the existing core path and underground surface water drainage outfall pipe (up to the site boundary only) which fall within the defined RPA. To this extent it is accepted that the development proposed would cause only minimal direct impact on the trees covered by the TPO. It is considered necessary to seek verification of all construction works within the RPA (and associated Construction Exclusion Zones required under proposed Condition 6) and additionally verification of pathway specification (as proposed in Conditions 13 and 14). These measures would secure the provision of adequate mitigation and protection for trees including the area covered by the TPO, ensuring compliance with the objectives of Policy NE2. As advised above, the applicant proposed in a concurrent planning application (ref: 17/00885/FLL) for the installation of drainage infrastructure – from the outlet from the SUDS basin, through the woodland and farmland and ultimately to an outfall at the Hatton/Burleigh Burn. The potential impact on these trees from the greater length of drainage works is assessed through that application. In terms of trees on the site it is evident that one sole tree (a hawthorn shrub) within the site would be lost as a result of the proposal. Indeed these are being protected and supplemented through new tree planting, most notably in the community woodland proposal on the northern boundary but also along the southern boundary and interspersed throughout the site. Having regard to the retention and enhancements being proposed there are no

concerns with respect to Policy NE2. A planning condition is suggested to ensure compliance with the tree retention and protection proposals (proposed condition 6). This is supplemented by other conditions being recommended for landscaping provision discussed earlier (proposed condition 16).

- 114 In summary, both SNH and the Councils Biodiversity Officer has confirmed that the habitat and ecological survey undertaken is satisfactory, appropriately identifying the presence of key biodiversity features and good future biodiversity opportunities. Overall, the proposed approach and background findings are considered to be consistent with LDP Policies NE3, NE4 and ER6.

### **Cultural Heritage**

- 115 LDP Policy HE2 seeks to protect unscheduled sites of archaeological significance and their settings and, where it is likely that archaeological remains exist, the developer will be required to arrange for an archaeological evaluation to be carried out. Through assessment of the site and the known and potential archaeological value of the site and near to it, PKHT have confirmed that no archaeological recommendations or mitigation is necessary. There are no conflicts therefore with Policy HE2.

### **Flood Risk and Surface Water Drainage**

- 116 LDP policy EP2 states there will be 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.
- 117 In respect of flood risk there are no known or identified issues identified from available SEPA maps and no issues have been identified in the applicant's Flood Risk Assessment. Neither SEPA nor the Council's SFT have raised any concerns in respect of flood risk on the site or elsewhere as a result of the proposed development.
- 118 Policy EP3C requires all new development to employ SUDS measures. In line with regulations, when the development exceeds 50 dwellings, a minimum of two levels of SUDS treatment will be required, proposed to be provided in a variety of forms. Again neither SEPA nor the SFT have any concerns in this regard and are satisfied that adequate provision is made within the proposed SUDS system. The proposal raises no issues in this regard. The outfall for the SUDS is, as advised above, subject of a separate application.

### **Waste Collection**

- 119 Waste collection is considered to be appropriately addressed through the provision and access to individual properties. It is recommended that up to three mini glass recycling points are considered to be integrated within the site by the developer, which is recommended to be covered via an Informative.



## **Contaminated Land**

- 120 Policy EP12 requires consideration of possible contamination to land. The application has submitted a Site Investigation Report which concludes that there are no concerns in this regard. The Council's Contaminated Land Officer has confirmed there are no concerns for this site given the site's current and previous agricultural use.

## **Noise**

- 121 Policy EP8 seeks to protect sensitive receptors from development that generates high levels of noise and also protect proposed noise sensitive land uses from sources of unacceptable noise. As advised in the summary of Environmental Health's consultation response, the applicant submitted a Noise Impact Assessment to assess the possible impacts of noise from the M90 road on the proposed properties. EH agree with the conclusion of the report that this source of noise would cause no unacceptable amenity impacts on the proposed houses and therefore do not object to, or require any further mitigation measures as part of, the proposal. No concerns are held in respect of Policy EP8 in relation to noise.

## **OTHER CONSIDERATIONS**

### **Developer Contributions**

- 122 A Section 75 legal agreement is required to secure infrastructure associated with Site H49 to ensure it complies with Policy PM3 - Infrastructure Contributions and associated Supplementary Guidance on Developer Contributions. The specific requirements in this regard are set out in Legal Agreements below.

### **Phasing**

- 123 Discussion is provided above in respect of the need to ensure phasing details for the delivery of landscaping elements, such as open space and pathways and their connection. This matter is proposed to be addressed through proposed planning condition 16. Given the scale of residential development it is not recommended that any specific phasing of the housing itself is necessary.

### **Economic Impact**

- 124 During the construction period jobs will be created and sustained, supporting indirect employment and revenue that this volume of construction activity will generate from employees spending on local goods and services. Additional residents to the area will also support existing local employment and services in the area.
- 125 The Perth and Kinross Retail Study (2014) estimates that average convenience goods available expenditure in 2019 (per household) will be in the region of £2000 per annum and the average comparison goods available expenditure will

be in excess of £3600 per annum. Applying these figures to the overall scale of development proposed here, the estimated annual expenditure on convenience and comparison goods could conservatively be calculated to be in excess of £1 million.

- 126 Overall, the economic benefits of this allocated housing site are considered to be significant and not adversely compromising the ongoing viability of the neighbouring land uses, which are considered to be mutually compatible.

## **LEGAL AGREEMENTS**

- 127 A legal agreement under section 75 of the Town and Country Planning (Scotland) Act 1997 is required to secure infrastructure that will be impacted by the proposal. For this application the required contributions to be secured are:

- Affordable Housing;
- Primary Education;
- Open Space maintenance security; and
- Off-site Play Area contributions.

## **DIRECTION BY SCOTTISH MINISTERS**

- 128 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 EIA screening opinion, call in, or notification relating to this application.

## **CONCLUSION AND REASONS FOR RECOMMENDATION**

- 129 As set out in Para 87, planning legislation requires that decisions are made in accordance with Development Plan policy unless material considerations indicate otherwise. In this case the application seeks permission for the erection of 77 houses on a site that covers the extent of the residential allocation H49 identified in the Perth and Kinross LDP. Housing development in this location of Milnathort as a Tier 2 settlement is also compatible with the location priorities set out in TAYplan Policy 1.
- 130 The layout and design of the proposed development is considered to be acceptable. The internal layout and design of the dwellings is of a good standard. The proposed landscape framework and footpath access opportunities meets the site specific developer requirements as set out in allocation H49 and ensures a good standard of place and integration within the wider area. The site is reasonably well contained by existing landscape features and is within the defined development boundary; with positive enhancement to the northern edge being achieved. A good level of amenity for the new residents would be achieved and cause no unacceptable impact on the amenity of occupants of nearby properties. Collectively the development offers good potential for positive sense of place. The proposal will have an impact on the number of vehicles on the local road network; however, that impact is not considered to be significant and the levels indicated can be accommodated

without adverse impact. In respect of other considerations, the site has reasonably good accessibility to nearby services. Education impacts and other impacts on infrastructure associated with the proposal, such as play provision, can be mitigated and no objections have been received from consultees.

- 131 Overall, is considered competent and compliant with the key principles of the LDP and is recommended for approval, subject to appropriate detail and mitigation being secured via conditional control and an associated legal agreement. Account has been given to the matters raised in representation and these have been addressed in the appraisal above. There are no material considerations present however that warrants a refusal of the proposal.

## **RECOMMENDATION**

### **A Approve the application subject to the following direction and 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 the development is carried out in accordance with the approved drawings and documents.

- 2 Prior to the commencement of any development hereby approved, pre-construction surveys to identify the presence of any otter holts within 200 metres both upstream and downstream from proposed Sustainable Urban Drainage System (SUDS) outfall in the Hatton/Burleigh Burn shall be submitted to the Planning Authority for approval. If otters are identified within this area the survey should be supported by a species protection plan. Thereafter works shall be undertaken in complete accordance with the approved surveys and any species protection plan.

Reason: In the interests of employing best practice ecology and to ensure there is no adverse impact on Otters as a European Protected Species.

- 3 Prior to the commencement of any construction works within 30 metres of trees TN6, TN7 and TN9, highlighted in Annex 2 of the Phase 1 Habitat and Protected Species Survey Report by MacArthur Green, date 2 May 2017 as having moderate bat roost potential, further surveys of these trees is required to assess the impact of the works on roosting bats are required. These surveys shall be submitted to the Planning Authority for approval no more than 6 weeks before any such works is to commence. If the surveys identify the presence of roost(s), Scottish Natural Heritage will be consulted in respect of any need and implications for any application for a licence.

Reason: In the interests of employing best practice ecology and to ensure there is no adverse impact on bats as a European Protected Species.

- 4 In addition to the specific requirements of Conditions 2 and 3, should works not commence within 12 months of the approval further pre-construction ecological

surveys shall be required to be submitted to the planning authority for approval not more than 6 weeks prior to commencement of approved works. Thereafter any works shall be carried in in complete accordance with any mitigation or exclusion measures identified.

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).

- 5 In addition to the specific requirements of Conditions 2, 3 and 4, the conclusions and recommended action points within the supporting biodiversity survey submitted and hereby approved shall be fully adhered to, respected and undertaken as part of the construction phase of development.

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

- 6 Prior to the commencement of the development hereby approved, the following shall be submitted for the further written agreement of the Council as Planning Authority:
- a) A 1:200 scale site plan which identifies the Construction Exclusion Zone (CEZ) and Root Protection Areas (RPA). The CEZ and RPAs as agreed shall be strictly adhered to during construction of the development and the protection measures, once in place, shall remain in place for the duration of construction;
  - b) A scheme that details protection methods for the CEZ and for all trees on site (other than those marked for felling on the approved plans) which have RPAs which fall within the site shall be retained and protected (including those subject of Milnathort Tree Preservation Order No 1 2017). The scheme shall provide that all fencing adheres to BS 5837 2012: Trees in Relation to Design, Demolition and Construction and incorporate measures identified in the submitted 'Arboricultural Impact Assessment/Method Statement' prepared by Urban-Arb dated 5 May 2017; and
  - c) A scheme for the technical delivery of any development within the Root Protection Area (RPA) of the trees subject of the Milnathort Tree Preservation Order No 1 2017, such as pathways and underground drainage infrastructure. The pathway specifications shall comply with BS 5837 2012: Trees in Relation to Design, Demolition and Construction and the drainage infrastructure with The National Joint Utilities Group (NJUG) Guidelines Volume 4: NJUG Guidelines for the Planning, Installation and Maintenance of Utility Apparatus in Proximity to Trees and identify and incorporate appropriate mitigation measures for the protection of these trees.

Reason: In the interest of tree protection in the interests of biodiversity and amenity of the area.

- 7 Prior to the commencement of development, scheme outlining measures for the protection of 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 shall be submitted for the approval of the Planning Authority. 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. The approved scheme as agreed shall be implemented during construction of the development.

Reason: In order to prevent animals from being trapped within any open excavations.

- 8 No removal of vegetation, including trees and shrubs will be permitted between 1<sup>st</sup> March and 31 August inclusive, unless a competent ecologist has undertaken a careful and detailed check of vegetation for active birds' nests immediately before the vegetation is to be cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting birds on site. Any such written confirmation must be submitted to the planning authority for approval prior to commencement of works.

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 Where it is intended to create semi-natural habitats, all species used in the planting proposals as detailed in drawing No. C1533.004 Rev: A shall be locally native species of local provenance unless otherwise agreed in writing with the local planning authority.

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

- 10 The developer shall incorporate swift bricks and bat roost bricks at eaves height in a minimum of 50 properties, which shall be usable prior to the occupation of each property where the bricks have been installed.

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) or vulnerable bird populations.

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

Reason: In the interests of road safety and environmental quality; to ensure that a satisfactory standard of road and footpath is provided timeously in the interest of the amenity of the residents.

- 12 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 each dwellinghouse, whichever is the earlier.

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

- 13 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. For paths in the areas identified in the 'Arboricultural Impact Assessment/Method Statement' prepared by Urban-Arb dated 5 May 2017, the specification shall include incorporation of specifications suitable within any Root Protection Areas. The agreed detail shall thereafter be implemented prior to the completion of the development.

Reason: In the interest of pedestrian and cycle safety and protection of trees.

- 14 Prior to the commencement of the development hereby approved, a management plan indicating any temporary diversions and signage needed to facilitate the development and/or any works proposed to Core Path MTH/133 as part of the development shall be submitted for the further agreement of the Council as Planning Authority. The plan as agreed shall be implemented in accordance with the timings identified in the plan.

Reason: To ensure that public access is maintained at all reasonable times, to the local path network.

- 15 Prior to the commencement of development, a scheme for an onsite signage strategy for the direction and route of Core Path MTH/133 and other routes through the site, for the purposes of identifying public access routes, shall be submitted for further written approval prior to the Planning Authority. The strategy shall include details for the timing and delivery of the scheme following the completion of any temporary diversion agreed under Condition 14 and shall thereafter be provided in accordance with the approved details prior to the occupation of any dwellinghouse hereby approved.

Reason: In the interests of promoting recreational amenity facilities to the wider area, and to ensure a satisfactory standard of environmental quality.

- 16 Prior to the commencement of development, and notwithstanding the submitted detail, further landscaping specification and a landscape management plan shall be submitted to and agreed in writing by the Council as Planning Authority, which includes:

- a) Identification of long-term design objectives (including location and specification of species for all areas), management responsibilities and maintenance schedules for all landscape areas (other than small privately-owned domestic gardens); and

- b) a detailed delivery plan confirming the phased delivery of the site in respect of landscaping (including of public open spaces and pathways) and associated construction works. This plan shall specify that the phasing for delivery of the areas of open space, woodland and parkland indicated to the north, east and south of the site on the approved landscape and planting drawings shall be planted in accordance with the open space standards of the Planning Authority and completed in advance of the occupation of any phase of development.

Thereafter the landscape management plan and scheme shall be fully implemented as agreed

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

## **B JUSTIFICATION**

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

## **C PROCEDURAL NOTES**

Consent shall not to be issued until a Section 75 Agreement relating to planning contributions set out in Para 127 above has been completed. The legal agreement should be concluded and completed within 4 months of the date of any Committee approval. Failure to conclude a legal agreement within 4 months may result in the planning application being re-assessed through failing to comply with the associated policy requirements and will be ultimately recommended for refusal under delegated powers.

## **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 41 of the Development Management Procedure (Scotland) Regulations 2013. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. According to Regulation 41 the notice must be:
  - Displayed in a prominent place at or in the vicinity of the site of the development
  - Readily visible to the public
  - Printed on durable material
- 5 The applicant should be advised that in terms of Section 21 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to construct a new road prior to the commencement of roadworks. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environmental Protection Agency.
- 6 The applicant is advised that the detailed design of all SUDS shall conform to 'PKC Flooding and Flood Risk Guidance Document (June 2014)', or any subsequent update.

Associated with this, it is recommended that the following information and design should be embedded within the final drainage details:

- In the event that the soakaway overtops due to a capacity issue or siltation over time, the surrounding ground should be contoured such to allow a volume of water to be retained before it can overland flow elsewhere. I.e. the land would be graded down to the soakaway (very gently). This would make it easier to identify a problem with the soakaway in the future because it would pond around it. This would provide additional protection to surrounding land/property.
  - A clear indication of the design standard of all the SUDS features on the design and As-Built drawings.
- 7 Please consult the Street Naming and Numbering Officer, The Environment Service, Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth PH1 5GD.
  - 8 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.
  - 9 No work shall be commenced until an application for building warrant has been submitted and approved.



- 10 The applicant is recommended to contact the Council Contamination Officer immediately if any ground contamination is found during construction of the development.
- 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 incorporate a mini glass recycling point in strategic areas within the approved development to compliment the kerbside recycling services that will be provided. In order to comply with the 'Household Charter', each household should have access to 10 litres of recycling capacity per week, which would roughly equate to 3 mini glass points over the development. Further details of the requirements can be sought in discussion with the Council Waste Services Team.

Background Papers: 67 letters of representation  
Contact Officer: Jamie Scott  
Date: 5 October 2017

**Anne Condliffe**  
**Interim Development Quality Manager**

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