

Perth and Kinross Council  
Planning & Development Management Committee – 26 September 2018  
Report of Handling by Interim Development Quality Manager (Report No. 18/296)

**PROPOSAL:** Alterations and extension to rail yard including associated works (revised design and layout and addition of welfare cabin)  
**LOCATION:** Yard, Moray Street, Blackford

Ref. No: 18/01191/FLL  
Ward No: P7 - Strathallan

### **Summary**

There is an extant consent on this site for a rail freight facility. This proposal seeks to make minor amendments to the layout of the site and the operation of the site. The proposed extent of development, including large scale crane, storage of containers, extensive hardstanding, fencing and associated lighting, is considered to be contrary to Policy PM1A and PM1B of the Local Development Plan as the proposal fails to complement its surroundings in terms of appearance, height and scale and fails to respect important views and skylines. This conclusion remains the same as the extant consent. Matters regarding the impact of the proposal on the local community relating to noise generation, traffic and transport, drainage and flood risk and the impact of the proposal on the open space and core paths in the area have been suitably addressed within the submission, supported by updated information which can be controlled through planning conditions. Likewise, the impact on biodiversity has also been addressed appropriately. These matters are outlined within the appraisal section below.

The bottling plant at the adjacent Highland Spring facility has recently been extended to increase production. The proposal to introduce distribution by rail, similar to the extant consent, helps to off-set that increase by transporting some of the increased production by rail. The reduction in carbon emissions associated with the development and the shift from road to rail freight distribution are considered to meet the overriding requirements of the National Planning Framework 3 and Scottish Planning Policy. These considerations remain relevant with this revised application and are considered sufficient to outweigh the Local Development Plan in this instance. The changes to the approved scheme are therefore recommended for approval subject to detailed conditions which restrict and control the operations of the site in order to protect the amenity of the local community.

### **BACKGROUND AND DESCRIPTION OF PROPOSAL**

- 1 Full planning consent is sought for a revision to the design and layout of the consented application for a new rail yard to serve Highland Spring in Blackford. The proposal also seeks to make some operational changes to the development. Planning consent was previously granted at the Development Management Committee on 16 March 2016 under reference [15/01637/FLL](#) for the alteration and extension of an existing Network Rail yard into a designated

area of open space adjacent to Moray Street in Blackford. This allowed for the creation of a new road, lay down area, parking bays, new rail sidings and associated crane, ancillary fencing, drainage and landscaping, providing the adjacent Highland Spring factory access to the railway network to transport its product.

- 2 The application site is bounded on its eastern side by the B801 Moray Street with Blackford Primary School beyond, to the north by the Perth to Stirling railway and to the south by residential dwellings on Abercairney Place and Close and a Waste Water Treatment Works. The Allan Water also runs along the southern boundary of the site. At the western end the site terminates to a point. The Panholes pedestrian level crossing is located close to the western corner of the site.
- 3 The current consent is extant and, subject to the satisfactory discharge of pre-commencement conditions, can be implemented on site.
- 4 This application seeks to revise the layout of the site and provide an additional welfare cabin. The proposal also seeks to make operational changes to the consented scheme. The amendments to the layout and operation of the site may be summarised as follows:
  - Provision of a connection onto the main railway line at the western side of the site (approved at eastern end adjacent to existing level crossing)
  - Revised track position to accommodate west connection
  - Train length increased from 10 to 11 wagons
  - Revised core path diversion
  - Crane Pad reduction
  - Revised location of acoustic barrier/operational footprint
  - Minor increase in crane width
  - Provision of welfare cabin
  - Revised turning head
  - Revised Network Rail compound
  - Revised location of Network Rail Road Rail Access point
  - Revised on-site parking arrangements
  - Morning train arrival (approximately 06:30)
- 5 The supporting letter submitted with the planning application provides a summary of the changes made to the previous application. A 'comparison layout' is also provided to demonstrate the changes to the proposal.

## **ENVIRONMENTAL IMPACT ASSESSMENT (EIA)**

- 6 Directive 2011/92/EU requires the 'competent authority' (in this case Perth and Kinross Council) when giving a planning permission for particular large scale projects to do so in the knowledge of any likely significant effects on the environment. The Directive therefore sets out a procedure that must be followed for certain types of project before 'development consent' can be given.

- 7 This procedure, known as Environmental Impact Assessment (EIA), is a means of drawing together, in a systematic way, an assessment of a project's likely significant environmental effects. 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 exercise has been undertaken for this revised proposal which concludes that no EIA is required. A copy of the screening opinion is available on the Council's Planning Portal (reference: [18/01191/FLL](#)).

## **NATIONAL POLICY AND GUIDANCE**

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

### **National Planning Framework**

- 10 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**

- 11 The Scottish Planning Policy (SPP) was published in June 2014 and sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:
  - The preparation of development plans;
  - The design of development, from initial concept through to delivery; and
  - The determination of planning applications and appeals.
- 12 The following sections of the SPP will be of particular importance in the assessment of this proposal:
  - Sustainability: paragraphs 24 – 35
  - Placemaking: paragraphs 36 – 57
  - Promoting Sustainable Transport and Active Travel: paragraphs 286 – 291

## **Planning Advice Notes**

- 13 The following Scottish Government Planning Advice Notes (PANs) and Guidance Documents are of relevance to the proposal:

- PAN 40 Development Management
- PAN 1/2011 Planning and Noise
- PAN 51 Planning, Environmental Protection and Regulation
- PAN 61 Planning and Sustainable Urban Drainage Systems
- PAN 68 Design Statements
- PAN 69 Planning and Building standards Advice on Flooding
- PAN 75 Planning for Transport
- PAN 77 Designing Safer Places

## **Creating Places 2013**

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

## **National Roads Development Guide 2014**

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

## **DEVELOPMENT PLAN**

- 16 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2016-2036 and the Perth and Kinross Local Development Plan 2014.

## **TAYPlan Strategic Development Plan 2016-2036**

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

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

- 18 The following sections of the TAYplan 2016 are of particular importance in the assessment of this application.

## **Policy 2: Shaping Better Quality Places**

- 19 Seeks to deliver distinctive places by ensuring that the arrangement, layout, design, density and mix of development are shaped through incorporating and enhancing natural and historic assets, natural processes, the multiple roles of infrastructure and networks, and local design context.

## **Policy 7: Energy, Waste and Resources**

- 20 Seeks to deliver a low/zero carbon future. Development proposals should ensure all areas of search, sites and routes for energy, waste and resource management infrastructure have been justified against a series of considerations including: the specific land take requirements, the proximity of resources, the sensitivity of the surrounding environment, health and safety considerations, cumulative impacts, strategic cross-boundary impacts, and consistency with the National Planning Framework.

## **Policy 9: Managing TAYPlans Assets**

- 21 Seeks to respect the regional distinctiveness and scenic value of the TAYplan area through safeguarding the integrity of natural and historic assets; including habitats, wild land, sensitive green spaces, forestry, water environment, wetlands, floodplains (in-line with the Water Framework Directive), carbon sinks, species and wildlife corridors, and also geo-diversity, landscapes, parks, townscapes, archaeology, historic battlefields, historic buildings and monuments; and by allowing development where it does not adversely impact upon or preferably enhances these assets.

## **Policy 10: Connecting People, Places and Markets**

- 22 Seek to enhance connectivity of people, places and markets by safeguarding land for strategic transport hubs and related infrastructure including those which are essential to support a modal shift and reduce the need to travel and support a reduction in carbon emissions and air pollution.

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

- 23 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. 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.”* It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
- 24 The principal relevant policies are, in summary:

## **Policy PM1A - Placemaking**

- 25 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**

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

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

- 27 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**

- 28 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 ED1A - Employment and Mixed Use Areas**

- 29 Areas identified for employment uses should be retained for such uses and any proposed development must be compatible with surrounding land uses and all six of the policy criteria, in particular retailing is not generally acceptable unless ancillary to the main use.

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

- 30 Development proposals that involve significant travel generation should be well served by all modes of transport (in particular walking, cycling and public transport), provide safe access and appropriate car parking. Supplementary Guidance will set out when a travel plan and transport assessment is required.

#### **Policy CF1A - Open Space Retention and Provision**

- 31 Development proposals resulting in the loss of Sports Pitches, Parks and Open Space which are of recreational or amenity value will not be permitted, except in circumstances where one or more of the criteria set out apply.

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

- 32 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**

- 33 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 - Non Designated Archaeology**

- 34 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 HE2 - Listed Buildings**

- 35 There is a presumption in favour of the retention and sympathetic restoration, correct maintenance and sensitive management of listed buildings to enable them to remain in active use. The layout, design, materials, scale, siting and use of any development which will affect a listed building or its setting should be appropriate to the building's character, appearance and setting.

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

- 36 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**

- 37 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 NE1C - Local Designations**

- 38 Development which would affect an area designated as being of local nature conservation or geological interest 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 local importance.

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

- 39 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**

- 40 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**

- 41 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 Area's Landscapes**

- 42 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 EP2 - New Development and Flooding**

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

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

- 44 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**

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

### **Policy EP5 - Nuisance from Artificial Light and Light**

- 46 Permission will not be granted for proposals where the lighting would result in obtrusive and / or intrusive effects.



## **Policy EP8 - Noise Pollution**

- 47 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.

## **Proposed Perth and Kinross Local Development Plan 2 (LDP2)**

- 48 Perth & Kinross Council is progressing with preparation of a new Local Development Plan to provide up-to-date Development Plan coverage for Perth & Kinross. When adopted, the Perth & Kinross Local Development Plan 2 (LDP2) will replace the current adopted Perth & Kinross Local Development Plan (LDP). The Proposed Local Development Plan 2 (LDP2) was approved at the Special Council meeting on 22 November 2017.
- 49 The representations received on the Proposed LDP2 and the Council's responses to these were considered at the Special Council meeting on 29 August 2018. The unresolved representation to the Proposed Plan after this period is likely to be considered at an Examination by independent Reporter(s) appointed by the Scottish Ministers, later this year. The Reporter(s) will thereafter present their conclusions and recommendations on the plan, which the Council must accept prior to adoption. It is only in exceptional circumstances that the Council can elect not to do this.
- 50 The Proposed LDP2 represents Perth & Kinross Council's settled view in relation to land use planning and as such it is a material consideration in the determination of planning applications. It sets out a clear, long-term vision and planning policies for Perth & Kinross to meet the development needs of the area up to 2028 and beyond. The Proposed LDP2 is considered consistent with the Strategic Development Plan (TAYplan) and Scottish Planning Policy (SPP) 2014. However, the outcome of the Examination could potentially result in modifications to the Plan. As such, currently limited weight can be given to its content where subject of a representation, and the policies and proposals of the plan are only referred to where they would materially alter the recommendation or decision.

## **SITE HISTORY**

- 51 15/00001/PSN Construction of a rail sidings yard 22 June 2015 – Confirmed as Not a Major Planning Application on 22 June 2015
- 52 [15/01045/SCRN](#) Construction of a rail sidings yard 24 June 2015 – EIA not required, 24 June 2015
- 53 [15/01637/FLL](#) Alterations and extension to the rail yard including associated works Application approved at Development Management Committee 17 March 2016
- 54 18/00883/SCRN Erection of a footbridge and path 12 June 2018 – EIA not required

## CONSULTATIONS

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

### External

56 **Scottish Water** – no objection

57 **Network Rail** – no comment

58 **Blackford Community Council** – seek the same conditions as extant consent to be applied. Concerns are expressed about noise and impact on residential amenity as well as commenting on core path diversion and how this is controlled. They consider elements of the proposal to be an improvement, however, detail relating to water supply and waste water drainage, provision of passenger rail facility and impact which development will have on this is lacking. Comments are made on flood mitigation and reduction in compensatory storage and position and operation of SUDS system, as well as the use of a landscaped area, construction traffic management, timing of installation of acoustic barrier.

59 **Historic Environment Scotland (HES)** – no objection

60 **Scottish Environment Protection Agency (SEPA)** – initial objection on grounds of lack of information relating to drainage and flood mitigation. Objection withdrawn following receipt of clarification relating to drainage and flooding proposals

### Internal

61 **Environmental Health (Contaminated Land)** – Comments remain as per extant consent. Informative recommended relating to potential for contaminated land to be found during works

62 **Environmental Health (Noise Odour)** – Additional noise information considered to be acceptable subject to conditions. No concerns relating to air quality. Details are outlined in appraisal section below.

63 **Transport Planning** – no objection subject to conditions

64 **Structures And Flooding** - initial objection on grounds of lack of information relating to drainage and flood mitigation. Objection withdrawn following receipt of clarification relating to drainage and flooding proposals

## REPRESENTATIONS

65 Four letters of representation, including one from Blackford Community Council, were received. The following matters are raised:

- Noise/Impact on Residential Amenity
- Accuracy of application form/submission
- Traffic generation/construction traffic management
- Flood risk and mitigation measures
- Detail of SUDS and drainage system
- Need to apply same conditions as extant consent
- Core Path diversion
- Water supply
- Passenger Rail Facility
- Impact on ecology
- Use of adjacent landscaped area
- Timing and phasing installation of acoustic barrier
- Dust pollution/water pollution

66 These issues are addressed in the Appraisal section of the report.

### **ADDITIONAL STATEMENTS**

67

Environment Statement	Not Required
Screening Opinion	Undertaken
Environmental Impact Assessment	Not Required
Appropriate Assessment	Not Required
Design Statement / Design and Access Statement	Not Required
Reports on Impact or Potential Impact	Transport Statement, Supporting Letter, Drainage Statement, Flood Risk Assessment, Visualisations, Consultation Statement, Noise Assessment, Ecology Report

### **APPRAISAL**

68 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) require the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The adopted Development Plan comprises the TAYplan Strategic Development Plan 2016–2036 and the Perth and Kinross Local Development Plan 2014. The relevant policy considerations are outlined in the policy section above and are considered in more detail below. In terms of other material considerations, this involves considerations of the Council's other approved policies and supplementary guidance, which are listed above.

#### **Policy Appraisal**

69 In terms of the principle of development on this site the principal policy of the LDP is Policy CF1 as the majority of the application site is zoned as open

space. Part of the application site is also protected for the development of future passenger rail and/or rail freight facilities. A small proportion of the site falls out with the settlement boundary of Blackford where Policy PM4 applies, however the extent of this area is considered to be negligible. Other key policy considerations are Policy EP2 which relates to flood risk, Policy EP3 which relates to drainage, Policy EP5 which relates to light pollution and Policy EP8 which relates to noise pollution. Policy PM1A and PM1B relating to placemaking and visual amenity are also key. The full list of policies are outlined in the policy section above and referred to throughout the appraisal below. As mentioned above there is an extant consent on this site for a very similar development. As such the assessment below will consider the proposal in the context of this extant consent which is a significant material consideration in the assessment of this application.

### **Noise and Residential Amenity**

- 70 Policy EP8 of the LDP relates to noise pollution and states that there is a presumption against the siting of development which will generate high levels of noise in the locality of existing noise sensitive land uses. The application site sits adjacent to a number of residential properties which are noise sensitive. The letters of representation received from neighbours relate to the potential noise generation of the use and the impact this would have on residential amenity. This revised submission includes an updated Noise Assessment to take account of the changes to the layout and operation of the site.
- 71 The extant consent includes a series of conditions to limit noise from the site and to ensure mechanisms and procedures are in place to address any noise complaints received.
- 72 This proposal is the result of physical and operational changes at the site and it is no longer a requirement to close the level crossing for trains to reverse into the site. Therefore, there would be quicker train entry and exit to the facility and fewer operational movements at the eastern end of the site where the primary school is located are required. The key change relating to noise subject to this revised application relates to the arrival of a train at 06:30hrs. The extant consent is conditioned to ensure that no operations, including train arrivals, commence on site until 07:00. Network Rail have allocated and identified possible train paths for the proposed yard and this will necessitate weekday trains arriving around 06:30 and 07:15 on a Saturday.
- 73 A Noise Assessment has been submitted to address these issues. The Council's Environmental Health (EH) department have been consulted on this revised noise information.
- 74 The revised noise assessment has taken into account the revised track positioning, the increase in train length which allows an additional wagon. The crane pad reduction and minor increase in crane width, which allows seven wagons to be unloaded at a time. The proposed early morning train arrivals have also been assessed and it is concluded that this would not have an adverse effect upon the community.

- 75 The noise assessment recommends that due to the physical and operational changes that the acoustic barrier should be repositioned to ensure acoustic capabilities are optimised. It further concludes that the cumulative assessment of noise from train movements and operations of the terminal with the proposed western rail connection, repositioning of crane pad and siding extension would meet the permitted limits for daytime operations previously set out in condition four of approved application 15/01637/FLL.
- 76 The noise from the introduction of early morning trains to the revised western connection have been measured in accordance with BS4142 night time period (LAeq 15mins) for weekday arrivals 06:00-07:00 and day time period (LAeq 1hour) for Saturday/Sunday morning arrivals 07:00-08:00. Noise levels calculated for the proposed early morning train arrivals indicate that the noise levels would be marginally lower compared to the presently permitted scheme as train movements into the terminal will be quicker as they no longer have to reverse into the sidings.
- 77 The noise assessment indicates that with previously proposed mitigation measures implemented, noise levels attributed to the operation of the site would be equivalent to, if not marginally better than, noise levels previously calculated for approved 15/01637/FLL consent. On the basis of this assessment, Environmental Health offer no objection to the application, subject to amendments to condition 3 for hours of operation to include the proposed revised early morning train movements and control over operational noise levels to included night time limit levels for early train movements (condition 4). In respect of condition 4, the applicant has proposed a limit of 43dB LAeq 15 minutes; however Environmental Health have recommended that this limit level should be 42 LAeq 15 minutes in line with BS4142:2014.
- 78 Blackford Community Council has raised concerns relating to the possibility of the hill opposite the site reflecting noise back into the village. It is considered that the hill opposite the site would not result in any enhancement in noise levels, given the distance from the operational area of the site and given that the hill is considered to be highly absorbent acoustically. Any negligible reflection effects would likely be directed vertically rather than back towards the village.
- 79 It is evident from the revised submission that the facility will generate noise and is located close to residential receptors. However, the mitigation outlined in the noise assessment, together with the recommended conditions from EH, are considered sufficient to control the extent of noise from the proposal sufficiently in order to protect residential amenity. As such, subject to the imposition of conditions limiting the timescale for operations on site (condition 3), controlling noise levels from the site (condition 4) and a condition which requires detailed noise compliance monitoring to be undertaken (condition 5), similar to the extant consent, I am satisfied that the revised proposal remains in accordance with the requirements of Policy EP8 of the LDP.

## **Vibration**

- 80 It is noted that this proposal will involve the loading and unloading of trains on the site utilising the proposed crane and the movement of containers on the site which may result in some vibration. Environmental Health have been asked to comment on this issue and indicated that they do not consider the vibration associated with the use proposed to be any greater than existing levels of vibration caused by fast moving trains on the railway network and have therefore concluded that this is not a significant concern. I do not consider the changes to the layout of the site or the proposed operational changes to alter this view.

## **Landscape and Visual Impact/Design/Layout**

- 81 The changes to the proposal are not considered to result in a significant change or alteration to the landscape and visual impact of the consented proposal. It was concluded in the assessment of the extant consent that the addition of the crane and acoustic barrier, along with the container storage area would have a substantial detrimental impact on visual amenity and will further erode what is considered to be an attractive rural edge of Blackford. It was concluded that the rural character of the edge of settlement will be completely lost should planning consent be granted. As such, the proposal was considered to be contrary to both Policy PM1A, as it failed to contribute positively to the surrounding built and natural environment, and to Policy PM1B, as the proposal failed to respect important views and the landscape character of this particular area and introduced a proposal which failed to complement its surroundings in terms of appearance, height and scale. This remains the case with the current proposal. Some of the viewpoints have been provided with this submission to demonstrate the changes proposed, which are considered to be limited. Whilst there have been some minor amendments to the layout of the site and a minor increase in the width of the crane, the overall impact on landscape and visual amenity will remain as per the previous assessment. As such it remains the case that it is necessary to consider whether there are material considerations apparent which would justify a departure from the Development Plan in this instance.
- 82 A detailed landscaping and planting scheme for the site was subject to a condition on the extant consent. A landscape layout and specification has been submitted with this revised application. The plan includes the provision of Poplar and Scots Pine as appropriate fast growing trees which will provide year round screening. On the basis of this submitted information I am satisfied that the landscaping scheme is appropriate. A condition is recommended to ensure that the planting is undertaken within an appropriate timescale (condition 18) and that any planting failing to establish is replaced (condition 19). The applicant has confirmed that this area will be maintained by Blackford Farms/Highland Spring.

## **Lighting**

- 83 Policy EP5 of the LDP relates to light pollution and seeks to prevent statutory nuisance from lighting. Consent will not be granted for proposals where lighting would result in obtrusive and intrusive effects. The placemaking policies and landscape policies of the LDP are also relevant in terms of the effect lighting may have on visual amenity and wider landscape character. The extant consent is subject to a condition relating to light spill from the site and the same condition is recommended here. The alterations made to the scheme are not considered to alter the conclusions relating to lighting outlined in the report on the extant permission and this condition is again recommended here (condition 2).

## **Traffic and Transport**

- 84 Policy TA1B of the LDP requires a full assessment of the impact of the development to pedestrian and traffic safety to be undertaken. The submission includes an updated Transport Statement (TS) which outlines the implications on the road network of the proposed development. This statement provides an indication of the existing Highland Spring operational characteristics, an assessment of the existing road network and details on the proposed characteristics and transport arrangements for the rail yard site.
- 85 The extant consent was approved on the basis that it will reduce the amount of HGV traffic travelling along Moray Street through Blackford together with the associated carbon reduction referred to elsewhere in this report.
- 86 An updated TS has been submitted with this application to assess the traffic impacts associated with this application. This assessment demonstrates that the traffic count remains similar to the consented scheme with the general principle that removing HGV traffic is positive.
- 87 It is noted that the traffic figures within the TS are estimates based upon Highland Spring's operational statistics and records. The traffic movements are influenced by market conditions and demand can fluctuate throughout the year. The statement has therefore been prepared based upon an annualised daily average. It is recognised that the traffic figures will be higher during periods of high demand and, conversely, lower at periods of lower demand.
- 88 It remains the case that this proposal will not generate any additional HGV traffic or influence the number of import/export movements to/from the bottling facility - these are determined by the volume of output from the existing bottling plant, which in itself is influenced by market demand. As such without this rail freight facility, any increase in the number of movements, in accordance with market demand, would all be by HGV through the village. The rail freight facility will allow for a significant volume of these trips to be made via rail, thereby removing such trips from travelling through the village. Every container which is transported via rail (be it import or export) removes the same trip from HGVs travelling through the village.

- 89 It is accepted that the new proposal will continue to involve a shunting operation using HGV vehicles between the bottling plant and the rail freight facility, as was the case with the consented scheme.
- 90 The amended layout to the facility allows scope for one additional wagon to be connected to the train, increasing the capacity of the site for rail haulage and further reducing the amount of HGV traffic associated with the existing bottling plant. The submission indicates that each train can accommodate 22 containers which will result in the equivalent of 22 HGVs being removed from travelling through the village.
- 91 As such the proposal for a rail freight facility remains in accordance with Policy TA1B of the LDP, whilst meeting the policy requirements of TAYplan and the guidance contained within Scottish Planning Policy regarding the movement of freight onto the railway.

### **Core Path/Right of Way**

- 92 Policy CF1 and CF2 of the LDP seek to protect core paths/well used routes and retain existing areas of recreational open space. The application site is located on an area of designated open space as identified within the LDP. The previous consent included a diversion to the core path around the proposed siding with the rail freight site to retain a link to the existing Panholes Pedestrian Level crossing. The diversion of the path was controlled by condition 20 within the extant consent, which required a detailed plan and phasing proposal for the diversion route to be submitted for approval.
- 93 Following extensive discussions between the applicant and Network Rail a new solution has been brought forward which includes the proposal for a pedestrian bridge over the railway to replace the pedestrian level crossing. The bridge is proposed further west from the existing crossing. This was subject to a separate planning application ([18/01311/FLL](#)) which was approved under delegated powers on 6 September 2018. On the basis of this bridge, the link to the existing Panholes Crossing is no longer possible due to the position of the proposed western rail connection onto the main line. A new link from the existing core path, west bound to the new bridge is indicated within the approved plans for the new bridge.
- 94 The existing path/pedestrian crossing is proposed to be stopped-up and replaced by the bridge. Given that the Panholes pedestrian level crossing is a key link from Blackford into the countryside, is a core path and a right of way, it is important to ensure this route is maintained. It is noted that in order to construct the bridge and the rail yard there is likely to be a period of closure of the crossing. In order to provide this improved bridge crossing I consider this to be a reasonable concession and this matter has been discussed and agreed with PKC Community Greenspace. A detailed assessment of the proposed bridge and the implications on public access has been undertaken and included within the Report of Handing for application [18/01311/FLL](#).



- 95 In terms of this application, a revised condition is proposed (condition 20) to take account of this situation. With the ideal situation being that the bridge is in place prior to the need for the existing crossing to be closed to accommodate the rail yard works. Alternatively, a temporary arrangement for diversion of the path and signage until completion of the bridge can also be addressed through the condition.

### **Open Space**

- 96 Policy CF1 and CF2 of the LDP seek to protect core paths/well used routes and retain existing areas of recreational open space. The previous approval allowed for part of this area of open space to the south west of the site to be occupied by the development. As such the principle of this has been accepted by the Planning Authority. This revised scheme proposes development on the same area, with some of the open space retained and planted with a landscaping scheme submitted. A link through the open space from Moray Street to the Panholes crossing will be lost but this was accepted as part of the existing consent. The remaining open space will be landscaped appropriately and will form a functional area of informal recreational space for the local community.

### **Flooding**

- 97 Policy EP2 relates to flooding and states that 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 possibility of flooding from any source.
- 98 It was concluded during assessment of the previous application that the site encroached into the functional floodplain. The FRA for the previous application proposed compensatory storage to offset the displaced volume and estimated the volume required to be 2,444m<sup>3</sup>. It was assumed in the previous FRA that all area within the provided footprint would be raised above the level of the functional floodplain and was the assessment was ultimately conservative.
- 99 Because the footprint of the proposed railway siding had been reduced, an updated Flood Risk Assessment (FRA) (dated June 2018) was prepared and has been submitted with this application. Additionally, as the design had been progressed to near completion, a more accurate 3D model of the development was provided which allowed for a more accurate understanding of post development ground levels. This allowed for a more refined analysis of displaced volumes.
- 100 This assessment indicates a change to the proposal in relation to flood mitigation. The information indicates that the off-site compensatory storage on the south side of the A9 consented as part of the approved permission is no longer required. An alternative flood mitigation proposal has been put forward in the form of on-site works.

- 101 The significant decrease in displaced flood volumes between the two proposals are a result of more up to date and better data being available as well as the reduction in the footprint of the proposed railway siding has now been put forward and has resulted in a much reduced requirement for compensatory storage.
- 102 Following consideration of this information the mitigation proposed is considered to be sufficient. Both SEPA and the Structures and Flooding Team have offered no objection in relation to flood risk and consider the mitigation measures to be appropriate subject to a condition to ensure the final detailed compensatory storage works are submitted for approval and are undertaken in full.
- 103 On the basis of the revised FRA, the provision of compensatory flood water storage and the removal of objections by SEPA and the Council's Flood Risk Team, I am satisfied that the revised proposal complies with the requirements of Policy EP2 of the LDP.

### **Drainage**

- 104 Policy EP3B relates to foul drainage and states that developments within or close to settlements should connect to the public sewer unless there are specific costing reasons as to why a public sewer connection is not possible. SEPA and the Council's Structures and Flooding Team initially objected to the application due to the lack of information relating to waste water and surface water drainage.
- 105 The approved scheme proposed a small-scale private drainage system with discharge in accordance with SEPA's guidelines and would be subject to a Controlled Activities Regulations (CAR) registration. This revised scheme, following clarification from the developer, proposes a similar drainage system and SEPA and Structures and Flooding have withdrawn their objections in this regard.
- 106 Any potential contaminated surface water run-off from the operation of the site will be dealt with through the drainage system for the site which includes a petrol/diesel interceptor. Any discharges to the Allan Water will accord with the relevant environmental regulations. Furthermore, a separate CAR License from SEPA will be required for the discharge to watercourse.
- 107 In terms of surface water drainage, Policy EP3C requires this to be achieved through a Sustainable Urban Drainage System (SUDS). The submission indicates that surface water drainage is to be disposed of to the Allan Water. The principle of SUDS is considered to be acceptable and the final detailed approval will be ensured through an appropriately worded planning condition (condition 28). SEPA and the Council's Structures and Flooding Team have agreed to this approach.

## **Public Water Supply**

- 108 The proposed welfare cabin will require a water supply. This would be subject to separate agreement with Scottish Water which is normal practise. The applicant's agent has, however, indicated that it is expected that the water supply will be taken from the existing water main running along the verge on Moray Street.

## **Passenger Rail Facility**

- 109 Part of the application site is designated in the LDP to be protected pending investigation of a potential long term project for development of a rail passenger and/or freight facilities at Blackford. This proposal relates to freight use of the area and therefore addresses this requirement in that respect. In terms of the provision of a passenger facility, the proposal involves the demolition of a former station building on the site, similar to the extant consent. Following the initial submission the applicant's agent was asked to clarify how the proposed application would impact on any future passenger rail facility on the site. Network Rail has also been consulted. The information from the applicant states that they have ongoing discussion with Network Rail and that this proposed development would not prevent them from operating a passenger rail facility from Blackford in the future, should they wish to do so, but not on this specific site. Network Rail has offered no objection to the proposal. Any proposal for a passenger facility would be limited given the physical development which is proposed to occur but without an objection from Network Rail in this regard I am satisfied that this matter is adequately addressed and that any future proposal for passenger rail at this location would have to be considered on its merits but would not necessarily be in this specific location. The applicant has also advised that any proposal for a new passenger rail station would require to follow Transport Scotland's Scottish Transport Appraisal Guidance (STAG) process. I do not consider the revised scheme to alter my conclusions in this regard.

## **Extent and Use of Site - Control of Growth - Third Party Use**

- 110 The operational use of the facility is controlled by condition through the extant consent through a detailed operational management and transport plan. This ensures that the extent of third party use of the site is specifically catered for and that timings for and the extent of third party vehicles utilising the site are agreed to ensure they relate appropriately to the shunting between the factory and rail yard and ensure the impact on the community is limited as much as possible. The wording of the condition requires provision that this operational plan is made available for discussion with the local community to ensure their needs are met as much as possible whilst allowing successful operation of the site. The same operational conditions are recommended on this application as per the extant consent (condition 15).
- 111 A condition is also recommended to limit the total number of export/import containers to 68 per day (condition 21). This condition, together with a condition restricting the operational hours of the site (condition 3), ensures that

the Council retains control over the future growth and use of the site in the interests of protecting residential amenity and traffic and pedestrian safety.

### **Contaminated Land**

- 112 Policy EP12 of the LDP indicates that any potential contaminated land on an application site requires to be considered. Part of the proposed development site was historically railway land which has the potential to be contaminated. A ground investigation has been carried out at the proposed development site and one soil sample has been analysed for chemical contamination. This information has been fully considered by the EH (Contaminated Land). This identified hydrocarbon contamination, although the levels present are not considered to be elevated to a point where the site was not suitable for the proposed use. However, there is the potential to find further contamination during the works and therefore a watching brief during redevelopment is required. This can be covered by an informative as per the conclusions on the extant consent (informative 5).

### **Biodiversity**

- 113 Policy NE3 of the LDP requires new development to take account of any potential impact on natural heritage including protected species and states that the Council should seek to protect and enhance all wildlife and wildlife habitats whether formally designated or not. An updated Ecology Assessment of the site has been carried out and submitted with this revised application. The conclusions are similar to that of the assessment prepared for the existing consent. The survey concludes that the ecological value of the site is low and indicates that there is an opportunity to improve the ecological value of the site by planting trees and providing more landscaping. It also provides a series of recommendations should development go ahead which relate to the timing of works. Similar conditions relating to any potential impact on the Allan Water and species within it can be suitably controlled through a planning condition seeking a construction method statement (condition 14). Furthermore, conditions are also recommend to ensure follow up otter and breeding bird surveys (conditions 23 and 24) are undertaken to establish whether there is any change on site to the findings in the ecology report.
- 114 On the basis of the submitted assessment I conclude that the proposal as submitted complies with the provisions of Policy NE3 of the LDP subject to conditions relating to the timing of works and follow up surveys.

### **Developer Contributions**

- 115 No developer contributions are required in this instance.

### **Air Quality**

- 116 Policy EP11 of the LDP requires all new development proposals to be considered in relation to any impact on air quality in the local area. Air Quality has been assessed as part of the submission. Due to the change in the way

goods are moved at the proposed site, air quality has been assessed taking into account the removal of HGVs but the increase in emissions from diesel trains and on site shunting vehicles.

- 117 The air quality assessment dated 29 June 2018 was undertaken by Cambridge Environmental Research Consultants (CERC). This assessment has been undertaken with more recent monitoring data and concluded that the new data set did not change the findings of the original 2015 assessment.
- 118 CERC concluded that the proposed changes would not have a significant effect at the construction or operational phase and therefore the conclusions of the 2015 assessment remain valid. Environmental Health have reviewed this submission and have no adverse comments to make with regards to ambient air quality, subject to controls at the construction stage including dust mitigation and this can be secured through a dust management plan (through the Construction Method Statement required through condition 14).
- 119 As such the proposal is considered to comply with Policy EP11 of the LDP.

### **Public Consultation**

- 120 As the application is not a major application there is no statutory requirement for public consultation with the community to be carried out. Nevertheless, Highland Spring did host consultation events for the community on the proposal. Details of these events are included with the submission.

### **Impact on Primary School**

- 121 Blackford Primary School is located close to the corner of Moray Street and Stirling Street which is adjacent to the junction into the site where HGVs will transport containers from the factory site into the application site. As such, whilst there is an overall reduction in HGVs passing the primary school on Moray Street, the number of movements on Stirling Street and at the junction close to the school will increase. It was concluded in the assessment of the previous application that the impact on the school can be minimised by a Traffic Management Plan to ensure that the movement of vehicles associated with the site are controlled and managed to minimise impact on the local community during peak times, such as school drop-off and pick-up times. The extant consent is subject to a condition to ensure the use of low emission, low noise shunt vehicles which would help to reduce emissions and noise generation close to the primary school and residents. The same conditions are recommended for this consent (condition 26). I do not consider this revised scheme to result in any increased impact on the primary school.

### **Setting of Listed Buildings and Scheduled Monument**

- 122 Policy HE3A and HE1A of the LDP requires the impact of any development on the character and setting of a listed building and scheduled monument to be assessed. In this instance the Old Parish Church of Blackford and Churchyard is located to the north east of the application site on the rising hill above the

application site which is a category B listed structure. I do not consider the minor visual changes to the scheme to alter the impact on the nearby listed buildings and scheduled monument. Historic Environment Scotland has offered no objection to the proposal. As such I consider the proposal to be consistent with the requirements of Policy HE3A of the LDP.

### **Long Term Plans for Site**

- 123 Whilst it is noted that the information provided by the applicant refers to the first five years of operation and no information regarding future use beyond this period has been indicated, I am satisfied that the Council will retain control over the use of the site through the conditions which are recommended relating to the operational use of the site and the transport management. Any significant changes to the site will require further planning applications which would be assessed on their own merits and which the local community would have the ability to consider and comment on.

### **Archaeology**

- 124 Policy HE1B of the LDP refers to archaeology and states that the Council will seek to protect areas or sites known of archaeological interest. In this instance Perth and Kinross Heritage Trust had the opportunity to comment on the proposal in relation to any archaeological interest and have no comment to make. Furthermore having examined the Council's mapping system there is no record of archaeological remains on this site. I therefore conclude that, similar to the extant consent, the proposal is in accordance with Policy HE1B of the LDP.

### **Application Form**

- 125 A letter of representation raises concerns relating to the accuracy of the application form and the failure to reference the creation of residential floor space in the form of the welfare cabin and also the provision of a connection to the public water supply. Whilst it is noted that these are oversights by the applicant's agent they do not prevent a recommendation being made. It is made clear from the detail included in the associated plans what is proposed to be developed.

### **Use of Landscape Area**

- 126 As detailed above, a landscaping scheme has been submitted for the remaining landscaped area between the facility and the application site and this is considered to be acceptable. Blackford Community Council wish for this area to be available to the local community and the applicant has indicated that this would be the case.

### **Economic and Strategic Impact and Carbon Reductions**

- 127 Scottish Planning Policy (SPP) seeks to support strong communities whilst also helping to grow the economy. It seeks to support economic growth and

regeneration, reduce the need to travel and promote road safety. It also seeks to facilitate and encourage freight servicing by rail. The aim of planning policy is to support and accommodate new investment and development in locations accessible by a range of means of transport and which seek to minimise the impact on existing transport networks and the environment and providing facilities for rail freight is also instrumental in reducing lorry miles on the road network. Scottish Government's ambition is to achieve at least an 80% reduction in greenhouse gas emissions by 2050, as set out in NPF3.

- 128 Wider planning policy and guidance states that the strategic economic importance of freight access to business should be recognised and appropriate arrangements made. TAYplan seeks to promote improved transport linkages, infrastructure improvements and support the promotion and delivery of transporting freight by rail and sea.
- 129 In this instance part of the application site is allocated within the LDP for a future rail freight facility. It is recognised that the site is located within close proximity to sensitive residential receptors and SPP acknowledges this stating that assessment of new freight facilities should be carried out "in consultation with stakeholders regarding location, but with consideration for residential areas and other sensitive environments".
- 130 The proposal to introduce the facility to transport goods by rail will ultimately reduce the number of HGV movements through Blackford and help to significantly improve the distribution facilities from the bottling plant.
- 131 The overall aim of the proposal is therefore considered to accord with national guidance and regional policy relating to provision of rail freight facilities and a reduction in HGV movements.
- 132 Clearly the national and regional policies also seek to achieve the above, whilst respecting environmental and residential considerations, to ensure that any large scale transport related development also results in benefit to the environment and local community. The balance reached in the assessment of the extant consent remains the case with this revised proposal. There are clear benefits to the proposal in respect of traffic and amenity in the village. I remain of the view that residual impacts on the local community can be controlled through conditions on any consent approved, which will control the extent and operations from the site and ensure adequate noise levels.
- 133 As outlined above the Scottish Government makes it clear through the National Planning Framework 3 and Scottish Planning Policy that it supports a modal shift of freight from road to rail. The development has a locational need, directly adjacent to the existing factory which therefore limits the HGV movements required out of the factory.
- 134 I remain of the same view reached in my conclusion in the extant permission that I consider the proposal to be an appropriate solution to enable the growth and expansion of an important business in Perthshire and the UK as a whole. The number of vehicles travelling through the village has increased due to a

growth in production; however this proposal will help to offset that carbon generation and reduce vehicles travelling through Blackford. Furthermore the facility will allow for HGVs which currently 'stack' on Stirling Street to utilise parking areas to prevent this from happening.

- 135 In consideration of the national policy supporting a shift from road to rail, I am required to balance the negative effects of the development and the fact that it would be contrary to the LDP against the locational need, adjacent to the factory and the carbon savings benefits of the scheme. My conclusions on this application remain the same as those outlined for the extant consent that the impact on landscape character and visual amenity of this revised scheme together with the loss of a well-used route and recreational land will be offset by the carbon reductions associated with the scheme and the reduction in HGV movements overall through Blackford.
- 136 It is considered that the contribution of the development to sustainable development, particularly through enabling modal shift of freight transport from road to rail, is a material consideration and taking into account the contribution it will make to carbon savings. Therefore, the benefits of the application are significant and are considered to outweigh the conflict with the Development Plan.

## **LEGAL AGREEMENTS**

- 137 Not required.

## **DIRECTION BY SCOTTISH MINISTERS**

- 138 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, regulations 30 – 33 there have been no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in or notification relating to this application.

## **CONCLUSION AND REASONS FOR RECOMMENDATION**

- 139 In conclusion, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, the revised proposal is considered to be contrary to Policy PM1A and B of the LDP as the proposal fails to complement its surroundings in terms of appearance, height and scale and fails to respect important views and skylines. The impact of the operation of the proposed site on the residential amenity of Blackford is a key consideration and, following the submission of an updated noise assessment to take account of the proposed alterations to the operation and layout of the site, EH have concluded that noise levels on the site can be suitably mitigated and controlled to ensure the impact on residential receptors is acceptable and meeting the British Standards in relation to methods for rating and assessing industrial and commercial sound. Furthermore, similar to the extant consent, a condition is recommended to ensure noise levels are controlled to meet a specific level (condition 4) and noise compliance monitoring (condition 5) is also to be secured through a



condition to ensure the applicant complies with the required noise levels. In terms of traffic and transportation the extension of the rail yard allows for a reduction in the number of HGVs from travelling through Blackford, with every container instead being shipped by rail meaning a HGV would not require to travel through Blackford. Whilst it is noted this will result in an increase in vehicle movements in the immediate vicinity of the two sites, as per my conclusions reached for the extant consent, it will ultimately reduce the number of vehicles travelling through Blackford and is therefore considered to be appropriate. SEPA and the Council's Flood Prevention Officer have confirmed that the revised proposals in relation to drainage and flooding are now acceptable and I am satisfied that the information provided is sufficient to meet the requirements of the LDP in this regard, subject to conditions. Therefore all matters regarding the impact of the revised proposal on the local community relating to noise generation, traffic and transport, drainage and flood risk and the impact of the proposal on the open space and core paths in the area have been suitably addressed within the submission and can be controlled through planning conditions.

- 140 For the reasons outlined above, in regard to the reduction in carbon emissions associated with the development, I consider the shift from road to rail freight distribution meets the overriding requirements of the National Planning Framework 3 and SPP. These issues are considered sufficient to outweigh the concerns, and incompatibility with LDP policy, relating to the visual impact of the proposal. As such the revised application is recommended for approval subject to conditions.

## **RECOMMENDATION**

### **Approve the application subject to the following conditions:**

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

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

- 2 All external lighting to be installed shall be sufficiently screened and aligned so as to ensure that there is no direct illumination of neighbouring land, woodland or watercourses and that light spillage beyond the boundaries of the site is minimised. No illumination of the site is permitted out with the operational hours outlined in condition 3 of this consent.

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

- 3 The hours of operation of the site and all associated operations shall be strictly limited to 07:00 to 22:00 Monday to Friday and 08:00 to 17:00 either Saturday or Sunday in any given week, other than between 06:00 and 07:00 Monday to Friday and between 07:00 and 08:00 on either Saturday or Sunday

in any given week, where one train is permitted to access the site for the purpose of decoupling and parking.

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

- 4 Noise levels shall be limited to 44dB LAeq 1 hour at any residential property when measured in accordance with BS4142:2014 to the satisfaction of the Council as Planning Authority between 07:00 and 22:00. Between 06:00 to 07:00 Monday to Friday noise levels attributed to the operation of train arrival shall be limited to 42dB LAeq15mins at any residential property when measured and corrected as necessary in line with BS4142:2014.

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

- 5 No part of the authorised development may be brought into use until a written scheme has been submitted to and approved in writing by the Council as Planning Authority for the monitoring of noise generated during the operational phase of the development. The scheme must specify the location from where noise will be monitored, the method of noise measurement and identify maximum noise levels appropriate to each location in accordance with the wording of condition 4 above. The monitoring programme as agreed in writing will be subject to annual review to establish the frequency of noise monitoring and the need for continued monitoring. In the event of noise monitoring evidencing breaches of condition 4 above, all operations on site shall cease until a scheme of mitigation has been submitted to and agreed in writing with the Planning Authority. The mitigation measures, as agreed, shall be implemented on site to the satisfaction of the Planning Authority. Testing of the crane prior to operations commencing is permitted subject to prior written agreement with the Planning Authority.

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

- 6 In the event that justified complaints for noise nuisance are received by the Council the applicant, unless otherwise agreed within the Planning Authority, at its own expense, shall employ a consultant approved by the Planning Authority to carry out an assessment of noise from the development, whether relating to noise from construction or operation of the site. The assessment will be carried out to an appropriate methodology agreed within the Planning Authority and the results of the assessment will be submitted to the Planning Authority within 28 days of the assessment. Those results must include a comparison of measured data with the requirements of the above conditions and all data which was collected in the Noise Impact Assessment associated with this application. The results of these assessments shall feed into the monitoring and mitigation referred to in condition 5 above.

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

- 7 Prior to the crane being brought into use, full details of the enclosure of the crane plant equipment shall be submitted to and approved in writing by the Council as Planning Authority. This shall be based upon the details included

within the Noise Assessment dated 22 January 2016 submitted with application 15/01637/FLL (ref: 15/01637/45) and shall ensure that the level of noise mitigation offered is met. The details as approved in writing shall be implemented as part of the site development and put in place prior to the operational use of the crane.

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

- 8 The acoustic barrier outlined within Noise Assessment dated June 2018 (ref: 18/01191/34) and outlined on the site plan (18/01191/2) shall be installed in its entirety prior the commencement of any operations on site and retained to the satisfaction of the Council as Planning Authority. The fence shall be coloured olive green to match the crane and shall provide a continuous acoustic barrier along the southern boundary of the site to the satisfaction of the Council as Planning Authority.

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

- 9 No audible alarms are permitted for use on the site.

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

- 10 Prior to the commencement of any operations on site, a noise management plan shall be submitted to, and approved in writing by, the Council as Planning Authority to minimise the impact of noise on local receptors. Thereafter, details and mitigation outlined in the noise management plan as approved shall be implemented on site in full.

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

- 11 All containers on the site shall be stacked at a maximum of 2 in height to the satisfaction of the Council as Planning Authority.

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

- 12 Prior to the commencement of any development, final details of the compensatory storage and channel alteration to be undertaken to replace the volume of floodplain lost as outlined in JBA Consulting Flood Risk Assessment dated June 2018 (or any updated Flood Risk Assessment approved in writing by the Planning Authority and SEPA) shall be submitted to, and approved in writing by, the Planning Authority in consultation with SEPA. The details, as approved in writing, shall be implemented as part of the site development and completed in full prior to the development being brought into use. The compensatory storage and channel alteration measures shall be retained in perpetuity.

Reason: In order to provide mitigation for development on the site and ensure appropriate compensatory storage for flood water is provided in accordance with national, regional and local policy.

13 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. 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 major commercial users 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 all to the satisfaction of the Council as Planning Authority.

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

14 Prior to commencement of development, a Construction Method Statement (CMS) detailing environmental mitigation measures including specific measures for environmental monitoring during construction, shall be submitted to and approved by the Planning Authority. This document shall take full account of the mitigation measures outlined in the Ecology Survey (ref: 18/01191/33). The CMS shall also include a detailed Dust Management Strategy which should

identify activities which have the potential to generate dust and propose appropriate mitigation measures to ensure nuisance conditions do not occur at sensitive receptors. The CMS, as approved, shall be strictly adhered to during construction of the scheme.

Reason: In order to protect the environment during construction operations.

- 15 Prior to the commencement of any operations on site a fully detailed Operational Traffic Management Plan shall be submitted to, and approved in writing by, the Planning Authority. This document shall include full details of how the site is intended to be operated taking into account the conditions and restrictions outlined within the consent hereby granted. It shall also provide full details as to how any small scale third party use of the site is to be implemented to minimise impact on the local community and control the amount of third party vehicles entering and leaving the site. The submission shall demonstrate that consultation with the local community has been undertaken in preparation of this plan and shall fully detail the outcome of this consultation process to demonstrate how matters raised by the local community are reflected within the plan. This operational plan shall be a fluid document which shall be updated to reflect any changes to the operation of the site, as determined by the Council as Planning Authority, and to address any substantiated concerns expressed by the local community regarding the operation of the site. The details, as approved, shall be implemented in full as part of the operation of the site to the satisfaction of the Council as Planning Authority.

Reason: In the interests of residential amenity, pedestrian and traffic safety and to ensure the Council retains control over the operation, growth and third party use of the site.

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

- 17 No part of the development shall be brought in to use until a Travel Plan (TP), aimed to encourage more sustainable means of travel, has been submitted and approved in writing by the Council, as Planning Authority. The TP will have particular regard to provision for walking, cycling and public transport access to and within the site and will identify the measures to be provided, the system of management, monitoring, review, reporting and the duration of the plan.

Reason: To encourage the use of sustainable modes of transport.

- 18 The landscaping and planting scheme indicated in approved documents 18/01191/3 and 39 shall be undertaken and implemented within the first

planting season following completion of the development and maintained the satisfaction of the Council as Planning Authority.

Reason: In the interests of visual amenity to ensure that adequate screening and landscaping containment for the development site is provided. To ensure that the partial loss of an area of designated open space is compensated for.

- 19 Any planting failing to become established within five years shall be replaced in the following planting season with others of similar size, species and number.

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

- 20 Prior to the commencement of development where works would preclude the use of Core Path (BLFD/3) and asserted Right of Way (29/3), a detailed plan and phasing proposal for the diversion works to the core path and asserted right of way shall be submitted to and approved in writing by the Planning Authority. The plan(s) shall fully detail the temporary arrangements, timescales and proposals for the diversion work to ensure that continued access to the adjacent core paths across the railway are provided both during construction and operation of the site, until a suitable alternative route is available. The detailed plan(s) shall also include a full specification of the temporary path, associated fencing and signage to ensure that the specification of any temporary path, associated fencing and signage shall ensure that the specification shall be of an equivalent standard to the core path/right of way. The details, as approved in writing, shall be implemented as part of the development site and completed to the satisfaction of the Planning Authority prior to the site being brought into use.

Reason: To ensure continued public access along the core path/right of way and to ensure appropriate diversion routes are in place.

- 21 Upon commencement of use of the development hereby approved, the maximum number of containers to be both imported and exported by rail from site shall not exceed 68 daily.

Reason: In order to ensure control over the future growth of the site and in the interests of residential amenity and pedestrian and traffic safety.

- 22 All containers on the site under the direct control of the applicants shall be of a dark recessive colour, to the satisfaction of this council as Planning Authority.

Reason: In the interests of visual amenity and in order to limit the visual impact of the proposed containers and provide a better relationship to the background landscape.

- 23 A pre-development otter survey shall be undertaken to re-check the survey work undertaken and submitted with the application. This should ensure that there is no destruction of holts; no construction works are closer than 30m from an otter holt and no natal holts have been identified. If any of the above are

found, the applicant will require a European Protected Species License from Scottish Natural Heritage (SNH). If any otter holts are found details of mitigation measures shall be submitted to the Council as Planning Authority for written approval in consultation with SNH. The mitigation measures, as approved shall be strictly adhered to during the development of the site.

Reason: To ensure the protection of otters on and around the site.

- 24 A pre-development survey of nesting and breeding birds shall be undertaken to establish if any nesting or breeding birds are present on site. If any nests are found details of mitigation measures shall be submitted to the Council as Planning Authority for written approval. The mitigation measures, as approved shall be strictly adhered to during the development of the site.

Reason: To ensure the protection of nesting and breeding birds.

- 25 All trenches and excavations on the site shall be fitted with measures to prevent animals from being trapped. This can include the creation of sloping escape ramps or by using planks within the excavations to allow animals to escape.

Reason: In order to prevent animals being trapped in open excavations.

- 26 The shunt vehicles between the development site and the adjacent Highland Spring factory shall be low emission, low noise vehicles and details of the exact type of vehicle to be used shall be submitted to, and approved in writing by, the Planning Authority. The details, as approved, shall be implemented as part of the site development and maintained thereafter, unless otherwise agreed in writing by this council as planning authority.

Reason: To reduce carbon emissions, meet Scottish Government targets and in the interest of residential amenity and to protect the amenity of Blackford Primary School.

- 27 All retained trees on the site and surrounding the site shall be protected during construction operations in accordance with BS 5837:2012 "Trees in relation to Design, Demolition and Construction". The protection scheme shall be installed immediately unless phasing has been proposed and approved. The approved Tree Protection measures shall not be removed breached or altered without prior written authorisation from the Council as Planning Authority and shall remain in a functional condition until completion of the entire development. If such protection measures are damaged beyond effective functioning then works that may compromise the protection of trees shall cease until the protection can be repaired or replaced with a specification that shall provide a similar degree of protection.

Reason: In order to protect retained trees on and around the application site.

- 28 Prior to the commencement of any development full design details of the proposed Sustainable Urban Drainage System (SUDS) shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA.

The details as approved shall be implemented on site as part of the site development and maintained in perpetuity. The SUDS design shall meet the requirement of the Simple Index Approach in the CIRIA SUDS manual (C753 2015).

Reason: To ensure adequate provision of surface water drainage on the site.

## **B JUSTIFICATION**

The proposal fails to accord with the Development Plan but there are considered to be sufficient material considerations apparent to justify a departure from the Development Plan in this instance.

## **C PROCEDURAL NOTES**

None

## **D INFORMATIVES**

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period (see section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
- 2 Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
- 4 No work shall be commenced until an application for building warrant has been submitted and approved.
- 5 An inspection of the proposed development site did not raise any real concerns, although historical mapping indicates there was previously a nearby use which may have resulted in contamination in the vicinity of the site. The applicant is advised that, given historical uses of the wider area, there may be potential for contamination within the site. Should any contamination be found during the approved works, works should cease and the Land Quality team should be contacted on 01738 475000 or [es@pkc.gov.uk](mailto:es@pkc.gov.uk) for further advice.
- 6 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.

- 7 The applicant is advised that the granting of planning permission 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.
- 8 The developer should be aware of the regulatory requirements outlined in SEPA's consultation response dated 27 August 2018.
- 9 The diversion of the footpath required at the western end of the site will require a formal Diversion Order. The developer shall make contact with the Council's Countryside Access Officer to discuss this requirement and all requirements of the diversion order shall be in place prior to works commencing on the diversion.

Background Papers: 4 letters of representation  
Contact Officer: John Williamson 01738 475360  
Date: 13 September 2018

**ANNE CONDLIFFE**  
**INTERIM DEVELOPMENT QUALITY MANAGER**

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You can also send us a text message on 07824 498145.
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