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Council Building  
2 High Street  
Perth  
PH1 5PH

Tuesday, 28 November 2017

A Meeting of the **Planning and Development Management Committee** will be held in the **Council Chamber, 2 High Street, Perth, PH1 5PH** on **Wednesday, 06 December 2017 at 10:00.**

If you have any queries please contact Committee Services on (01738) 475000 or email [Committee@pkc.gov.uk](mailto:Committee@pkc.gov.uk).

**BERNADETTE MALONE**  
Chief Executive

***Those attending the meeting are requested to ensure that all electronic equipment is in silent mode.***

**Members:**

Councillor Murray Lyle (Convener)  
Councillor Bob Brawn (Vice-Convener)  
Councillor Henry Anderson  
Councillor Bob Band  
Councillor Michael Barnacle  
Councillor Harry Coates  
Councillor Eric Drysdale  
Councillor Tom Gray  
Councillor Ian James  
Councillor Anne Jarvis  
Councillor Roz McCall  
Councillor Richard Watters  
Councillor Willie Wilson



## **Planning and Development Management Committee**

**Wednesday, 06 December 2017**

### **AGENDA**

***MEMBERS ARE REMINDED OF THEIR OBLIGATION TO DECLARE ANY FINANCIAL OR NON-FINANCIAL INTEREST WHICH THEY MAY HAVE IN ANY ITEM ON THIS AGENDA IN ACCORDANCE WITH THE COUNCILLORS' CODE OF CONDUCT.***

- 1 WELCOME AND APOLOGIES**
- 2 DECLARATIONS OF INTEREST**
- 3 MINUTE OF MEETING OF THE PLANNING AND DEVELOPMENT MANAGEMENT COMMITTEE OF 15 NOVEMBER 2017 FOR APPROVAL AND SIGNATURE 5 - 18**
- 4 DEPUTATIONS**
- 5 APPLICATIONS FOR DETERMINATION**
- (1) APPLICATIONS PREVIOUSLY CONSIDERED**
- (i) 17/00806/FLM - MILNATHORT - ERECTION OF 77 DWELLINGHOUSES, FORMATION OF LANDSCAPING, OPEN SPACES AND COMMUNITY WOODLAND AND ASSOCIATED WORKS ON LAND NORTH OF LINDEN PARK ROAD, MILNATHORT 19 - 66**  
Report by Interim Development Quality Manager (recommendation - approve) (copy herewith 17/396)
- (2) MAJOR APPLICATIONS**
- (i) 17/00204/AMM - PERTH - ERECTION OF 71 DWELLINGHOUSES (APPROVAL OF MATTERS SPECIFIED IN CONDITIONS 12/01692/IPM - PHASE 3) ON LAND TO THE WEST OF CHERRYBANK GARDENS, PERTH 67 - 92**  
Report by Interim Development Quality Manager (recommendation - approve) (copy herewith 17/397)
- (3) LOCAL APPLICATIONS**

- |       |  |           |
|-------|--|-----------|
| (i)   | <b>17/00546/FLL - BLACKFORD - EXTRACTION OF SAND AND GRAVEL ON LAND 200 METRES SOUTH EAST OF MILTON OF PANHOLES, BLACKFORD</b><br>Report by Interim Development Quality Manager (recommendation - approve) (copy herewith 17/398)        | 93 - 114  |
| (ii)  | <b>17/00992/FLL - DUNKELD - SITING OF A MOBILE CRUSHER AND SCREENER ON LAND 200 METRES SOUTH OF 1 DEANS PARK, DEANS PARK, DUNKELD</b><br>Report by Interim Development Quality Manager (recommendation - approve) (copy herewith 17/399) | 115 - 132 |
| (iii) | <b>17/01563/FLL - FEARNAN - ERECTION OF A REPLACEMENT DWELLINGHOUSE AT SITE OF FORMER BRUAICH COTTAGE, FEARNAN</b><br>Report by Interim Development Quality Manager (recommendation - approve) (copy herewith 17/400)                    | 133 - 148 |

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## PLANNING AND DEVELOPMENT MANAGEMENT COMMITTEE

Minute of meeting of the Planning and Development Management Committee held in the Council Chamber, Ground Floor, Council Building, 2 High Street, Perth on Wednesday 15 November 2017 at 10.00am.

Present: Councillors M Lyle, B Brawn, H Anderson, B Band, M Barnacle, H Coates, E Drysdale, T Gray, I James, A Jarvis, R McCall R Watters and W Wilson.

In Attendance: Councillor L Simpson; N Brian, A Condliffe, D Niven, M Petrie, J Scott, C Stewart and D Salman ( all The Environment Service); G Fogg, K Molley and D Williams (all Corporate and Democratic Services).

Councillor M Lyle, Convener, Presiding.

### . WELCOME AND APOLOGIES

The Convener welcomed everyone present to the meeting. There were no apologies for absence.

### . DECLARATIONS OF INTEREST

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

### . MINUTES

The minute of meeting of the Development Management Committee of 18 October 2017 (Arts. \*\*\_\*\*) was submitted, approved as a correct record and authorised for signature.

### . DEPUTATIONS

In terms of Standing Order 59, the Committee agreed to hear deputations in relation to the following planning applications:

**Planning Application No.**  
17/00088/IPM

**Art. No.**  
\*\*(1)(i)

### . APPLICATIONS FOR DETERMINATION

#### (1) Major Applications

- (i) **17/00088/IPM – STANLEY – Mixed use development/expansion at Stanley Village – Report 17/379 – Muir Homes Ltd**

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Mr and Mrs Burke followed by Mr Ewan McIntyre, agent for the applicant, addressed the Committee and, following their respective representations, withdrew to the public benches. J Scott, Team Leader, requested that, should the Committee be minded to grant the application, condition 28, as outlined in Report 17/379, be removed, as it was no longer required.

**Resolved:**

**Grant**, subject to the following terms, conditions and informatives, with condition 28, as outlined in Report 17/379, removed:

**Direction**

Perth and Kinross Council direct that sub-sections (2)(a)(i) and (3) of Section 59 of the Town and Country Planning (Scotland) Act 1997 apply as respects the in Principle Permission (17/00088/IPM) with the substitution of the period of 3 years referred to in each of those subsections, with the period of 14 years.

**Conditions**

1. Application for the approval required by a condition imposed on this Planning Permission in Principle shall conform with the requirements of Regulation 12 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 and of Section 59 (2) and (3) of the Town and Country Planning (Scotland) Act 1997 as amended by Section 21 of the Planning etc. (Scotland) Act 2006 and, in particular, must be made before whichever is the latest of the following:
  - (i) the expiration of 6 months from the date on which an earlier application for the requisite approval was refused, or
  - (ii) the expiration of 6 months from the date on which an appeal against such refusal was dismissed.
2. The site layout plan and housing numbers as submitted are purely indicative and are not approved.
3. No works in connection with the development of each site hereby approved shall take place until full details of the siting, design, external appearance and landscaping of the development and the means of access serving the development (hereinafter referred to as the 'matters specified by condition') have been submitted to and approved in writing by the Planning Authority. The specified matters include:
  - (i) a revised detailed phasing plan for each site;
  - (ii) a detailed levels survey (existing and proposed) and cross sections showing proposed finished ground and floor levels of all buildings forming part

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- of the development phase, relative to existing ground levels and a fixed datum point.
- (iii) the siting, design, height and external materials of all buildings or structures;
  - (iv) the details of all roads, footpaths, cycleways, core path connections throughout the development;
  - (v) details of any screen walls/fencing to be provided;
  - (vi) measures to maximise environmental sustainability through design, orientation and planting or any other means;
  - (vi) details of all landscaping, structure planting and screening associated with the development of each site;
  - (vii) the lighting of all streets and footpaths;
  - (viii) the layout of play areas and the equipment to be installed;
  - (ix) full details of the proposed means of disposal of foul and surface water from the development.
  - (x) details of car charging points to be provided within the development.
4. Prior to the start of any work on site, an agreed construction programme shall be submitted to and approved in writing by the Planning Authority. The construction programme shall accord with the phase outlined below.
- (i) the employment land development must be fully serviced before the occupation of the first residential dwelling of H34;
5. No work shall start on the relevant parts of the site unless the trees to be retained as identified in the submitted surveys have been protected by suitable fencing in accordance with BS5837 2012 (Trees in Relation to Construction). The details of the protective fencing and its location shall be first submitted to and agreed in writing by the Planning Authority. No materials, supplies, plant, machinery, soil heaps, changes in ground levels or construction activities shall be permitted within the protected areas without the written consent of the Planning Authority and no fire shall be lit in the position where the flames could extend to within 5 metres of foliage, branches or trunks.
6. All existing rights of way, core paths within or adjacent to the completed development shall at all times be protected and remain operational during the construction phases.
7. The development hereby approved shall not exceed 431 residential units and 3,000 sqm Ground Floor Area (GFA) of Class 4 (Office) use, in addition to the 69 residential units already consented on the application sites.

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8. Prior to the occupation and use of the approved development all matters regarding access, car parking, public transport facilities, walking and cycling facilities, the 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 (as detailed in the National Roads Development Guide) and to the satisfaction of the Planning Authority. Technical Approval will be required for any structures & all walls/embankments that act singly or together to support a carriageway or footpath & retain over 1.5m fill will require Technical Approval.
9. Prior to the commencement of works on the development, the applicant shall submit for the written approval of the Planning Authority a Construction Traffic Management Scheme (TMS) which shall include the following:
  - a) restriction of construction traffic to approved routes and the measures to be put in place to avoid other routes being used;
  - b) timing of construction traffic to minimise impact on local communities particularly at school start and finishing times, on days when refuse collection is undertaken, on Sundays and during local events;
  - c) arrangements for liaison with the Roads Authority regarding winter maintenance;
  - d) emergency arrangements detailing communication and contingency arrangements in the event of vehicle breakdown;
  - e) arrangements for the cleaning of wheels and chassis of vehicles to prevent material from construction sites associated with the development being deposited on the road;
  - f) arrangements for cleaning of roads affected by material deposited from construction sites associated with the development;
  - g) arrangements for signage at site accesses and crossovers and on roads to be used by construction traffic in order to provide safe access for pedestrians, cyclists and equestrians;
  - h) details of information signs to inform other road users of construction traffic;
  - i) arrangements to ensure that access for emergency service vehicles are not impeded;
  - j) monitoring, reporting and implementation arrangements; and
  - k) arrangements for dealing with non-compliance.
10. 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.



No part of the development shall be occupied until a Green Travel Plan (GTP), aimed to encourage more sustainable means of travel, has been submitted and approved in writing by the Council. The GTP 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 (including the provision of new and/or enhanced public transport services), the system of management, monitoring, review, reporting and the duration of the plan.

11. Schemes of hard and soft landscaping works shall be submitted to the Local Planning Authority as part of the Matters Specified by Condition application for that phase of development.

Details of the schemes shall include:

- (i) existing and proposed finished ground levels relative to a fixed datum point;
- (ii) existing landscape features and vegetation to be retained;
- (iii) existing and proposed services including cables, pipelines and substations;
- (iv) the location of new trees, shrubs, hedges, grassed areas and water features;
- (v) a schedule of plants to comprise species, plant sizes and proposed numbers and density;
- (vi) the location, design and materials of all hard landscaping works including walls, fences, gates, any other means of enclosure, street furniture and play equipment;
- (vii) an indication of existing trees, shrubs and hedges to be removed;
- (viii) a programme for the completion and subsequent maintenance of the proposed landscaping;
- (ix) a woodland management plan;
- (x) separation distances between residential buildings and edge trees;
- (xi) separation distances between residential buildings and existing woodland.

All soft and hard landscaping proposals shall be carried out in accordance with the approved scheme and shall be completed during the planting season immediately following the commencement of the development on that part of the site, or such other date as may be agreed in writing with the Planning Authority.

Any planting which, within a period of 5 years from the completion of the development, in the opinion of the Planning Authority is dying, has been severely damaged or is becoming seriously diseased, shall be replaced by

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- plants of similar size and species to those originally required to be planted.
12. Full drainage calculations and the final layout and depth of the proposed SUDS ponds and associated infrastructure to be agreed in writing with the Council as Planning Authority, in consultation with Perth and Kinross Council Flooding Team. The agreed detail shall thereafter be implemented prior to the completion of development.
  13. As part of any Application for Matters Subject to Conditions application for sites H30 and H31 a detail Flood Risk Assessment must be submitted for the approval of the Planning Authority in consultation with SEPA.
  14. As part of any Application for Matters Subject to Conditions application for site H31 a feasibility study with regards de-culverting the watercourse to restore it to its natural state must be submitted for the approval of the Planning Authority in consultation with SEPA.
  15. Prior to the submission for approval of further detailed applications a Feasibility Study shall be submitted in writing for the approval of the Planning Authority to assess the technical feasibility and financial viability of heat network/district heating for this site, identifying any available sources of heat (either within the site or offsite) and other factors such as where land will be safeguarded for future district heating infrastructure.  
The accompanying Design and Access Statement or other document as agreed by the Council should show/demonstrate how the findings of the feasibility study has been incorporated into the finalised design and layout of the proposal.
  16. All surface or foul water arising from the development must be collected and diverted away from Network Rail Property. Any Sustainable Urban Drainage Scheme should not be sited within 10 metres of railway infrastructure and should be designed with long term maintenance plans which meet the needs of the development.
  17. If not already in place, and prior to the commencement of development the applicant must provide a suitable trespass proof fence (rivetless palisade or expanded mesh) of at least 1.8 metres in height adjacent to Network Rail's boundary and provision for the fence's future maintenance and renewal should be made. Network Rail's existing boundary measure must not be removed without prior permission.
  18. Where trees/shrubs are to be planted adjacent to the railway boundary they should be positioned at a distance agreed by Network Rail. For the avoidance of doubt from

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the distance should be greater than their predicted mature tree height. Clarification from Network Rail should also be sought on the proposed tree species as certain broad leaf deciduous species are not permitted adjacent to the railway boundary.

19. Prior to the commencement of development details of all changes in ground levels, laying of foundations, and operation of mechanical plant in proximity to the rail line must be submitted to and approved by Network Rail's Asset Protection Engineer. For the avoidance of doubt, where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. by a "possession" which must be booked via Network Rail's Asset Protection Engineer and are subject to a minimum prior notice period for booking of 20 weeks.
20. As part of any detailed application for each site a detailed protected species surveys including breeding birds covering the site shall be submitted as part of the specified matters requiring to be the subject of a further formal planning application for the approval of the Council as Planning Authority. The report shall include appropriate mitigations to protect any identified species.
21. Should the development hereby approved does not commence (or, having commenced, is suspended for more than 12 months) within 12 months from the date of the planning consent, the ecological surveys shall be reviewed and, where necessary, amended and updated. Further ecological surveys shall establish if there have been any changes in the presence of any protected species and identify any likely new ecological impacts that might arise from any changes. Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, the original approved ecological measures will be revised and new or amended measures, and a timetable for their implementation, will be submitted to and approved in writing by the local planning authority prior to the commencement of development. Works will then be carried out in accordance with the approved revised ecological measures and timetable.
22. The conclusions and recommended action points within the supporting Ecological Assessment submitted and hereby approved shall be fully adhered to, respected and undertaken as part of the construction phase of development.
23. No works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect animals from being trapped in open

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excavations and/or pipe and culverts are submitted to and approved in writing by the Council as Planning Authority and implemented thereafter. The measures should 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.

24. Prior to occupation of any buildings on site a minimum of 30% of all completed 2 storey houses shall incorporate a minimum of 2 bat bricks (e.g. build-in Woodstone Bat Box) and swift nest bricks (e.g. WoodStone Build-in Swift Nest Box A) shall be incorporated at eaves height.
25. Prior to commencement of development a Dust Management Plan shall be prepared and submitted to the Planning Authority for approval in consultation with Environmental Health. This shall include details of any required monitoring for dust and particulates (PM<sub>10</sub>) and shall be maintained throughout the construction process.
26. Noise shall be reassessed at the detailed planning application stage for each site to ensure that a suitable level of residential amenity can be achieved at all residential receptors.
27. The development shall be in accordance with the requirements of Perth & Kinross Council's Developer Contributions and Affordable Housing Supplementary Guidance 2016 in line with Policy RD4: Affordable Housing of the Perth & Kinross Local Development Plan 2014.
29. The development shall be in accordance with the requirements of Perth & Kinross Council's Developer Contributions and Affordable Housing Supplementary Guidance 2016 in line with Policy PM3: Infrastructure Contributions of the Perth & Kinross Local Development Plan 2014 with particular regard to transport infrastructure.
30. For each phase of the development, a site specific plan, detailing bin storage areas, kerbside collection locations and recycling facilities shall be submitted to and approved in writing by the Planning Authority and thereafter undertaken in accordance with the approved details.

**Justification**

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

**Procedural Notes**

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1. Consent shall not to be issued until the Section 75 Agreement relating to transport infrastructure contributions has been completed and signed to reflect the current planning reference 17/00088/IPM.
2. 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 will result in the planning application having to be re-assessed through failing to comply with the associated developer contributions policy and will be ultimately recommended for refusal under delegated powers.

**Informatives**

1. 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.
2. Applicants are advised that should their application for 'matters specified by condition' be refused and/or their appeal against such refusal dismissed outwith the three year time limit they are entitled to submit a revised application for 'matters specified by condition' within six months after the date of refusal of the earlier application or of the dismissal of an appeal against such refusal
3. The applicant is advised that to enable some of the negative suspensive conditions to be fulfilled works which are operational development may have to be undertaken outwith the application site. These works themselves may require the submission of a planning application.
4. The applicant is advised that in terms of Section 56 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environment Protection Agency.
5. The applicant is advised that in terms of Section 21 of the Roads (Scotland) Act 1984 they must obtain from the Council as Roads Authority consent to construct a new road prior to the commencement of roadworks. Advice on the disposal of surface water must be sought at the initial

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- stages of design from Scottish Water and the Scottish Environment Protection Agency.
6. The applicants are advised that they must apply to the Roads Authority for construction consent to form a new street. Please contact The Construction and Maintenance Manager, The Environment Service, Perth and Kinross Council, Pullar House, Perth.
  7. 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.
  8. The applicant is advised that the works may need a license under the Water (Controlled Activities) Regulations 2005 (CAR). The applicant should contact SEPA's Perth Environmental Protection and Improvement Team (Tel: 01738 627989) in regard to this. The applicant should ensure that all works on site comply with the best practice guidelines laid out in SEPA's published Pollution Prevention Guidance, found at [www.sepa.org.uk](http://www.sepa.org.uk)
  9. The Council's Community Waste Adviser in the Environment Service should be contacted to clarify the bin storage and recycling requirements for the development.
  10. 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.
  11. The applicant is reminded that, should any protected species be present a licence may be required from Scottish Natural Heritage to disturb a protected species. Failure to obtain a licence may constitute a criminal act under the Habitats Regulations and penalties are severe for non-compliance.
  12. The Council shall be immediately notified in writing if any ground contamination is found during construction of the development, and thereafter a scheme to deal with the contamination shall be submitted to, and agreed in writing by, the Council as Planning Authority.
  13. Construction works must be undertaken in a safe manner which does not disturb the operation of the neighbouring railway. Applicants must be aware of any embankments and supporting structures which are in close proximity to their development.
  14. The applicant should be aware that any proposal for noise or vibration sensitive use adjacent to the railway may

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result in neighbour issues arising. Every endeavour should be made by the applicant in relation to adequate protection of the uses contained within the site.

15. Public rights of access and servitude must be acquired from Network Rail for the proposed footpath link incorporating the Overbridge 133/135 between Site H33 to Site H34.

- (ii) **17/00204/AMM – PERTH – Application for approval of matters specified in conditions of 12/01692/IPM for erection of 70 dwellinghouses and associated works on land to the West of Cherrybank Gardens, Perth – Report 17/380 – Bellway Homes Ltd**

This item was withdrawn from consideration prior to the meeting.

- (iii) **17/00357/AMM – ERROL – Erection of a restaurant/farm shop, formation of parking areas and associated works (approval of matters specified in conditions 16/00298/IPM – Phase 1) on land West of Horn Farm Cottage, Errol – Report 17/381 – Mr James Farquharson**

A Condliffe, Interim Development Quality Manager, requested that, should the Committee be minded to grant the application, condition 12, as outlined in Report 17/381, be removed, as it was no longer required.

**Resolved:**

**Grant**, subject to the following terms, conditions and informatives, with condition 12, as outlined in Report 17/381, removed:

**Direction**

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.

**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.
2. 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

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Planning Authority. The scheme as agreed shall be implemented prior to the completion or bringing into use of the development, whichever is the earlier.

3. The detailed landscaping and planting scheme which is hereby approved shall be completed within the first available planting season (October to March) after the completion or bringing into use of the development, whichever is the earlier. The approved scheme shall thereafter be maintained, with any planting which fails to become established within five years being replaced in the following planting season with others of a size and species as previously approved.
4. 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.
5. No landraising or the erection of solid boundaries within the 1 in 200 year floodplain identified on drawing number 17/00357/11 is permitted.
6. The car parking area located within the 1 in 200 year floodplain identified on drawing number 17/00357/11 shall be constructed using a permeable surface and maintained in perpetuity to the satisfaction of the Council as Planning Authority.
7. Servicing of and deliveries to the premises shall be carried out between 0700 and 1900 Monday to Saturday only, with no servicing or deliveries permitted on Sundays.
8. All plant or equipment shall be so enclosed, attenuated and/or maintained such that any noise therefrom shall not exceed Noise Rating 35 between 0700 and 2300 hours daily, or Noise Rating 25 between 2300 and 0700 hours daily, within any neighbouring residential property, with all windows slightly open, when measured and/ or calculated and plotted on a rating curve chart.
9. Prior to the development hereby approved being completed or brought into use, an effective ventilation system commensurate with the nature and scale of cooking to be undertaken shall be installed and operated such that cooking odours are not exhausted into or escape into any neighbouring buildings. Thereafter the system shall be maintained.
10. Prior to the installation of any external lighting, the details of all external lighting shall be submitted for the further written agreement of the Council as Planning Authority. The scheme shall include details of light spill, brightness of the lighting and the proposed hours of operation. The



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- agreed lighting scheme shall be implemented and maintained in full accordance with the agreed scheme.
11. All external lighting shall be sufficiently screened and aligned so as to ensure that there is no direct illumination of neighbouring land and that light spillage beyond the boundaries of the site is minimised to a degree that it does not adversely affect the amenity of the neighbouring land.
  13. Prior to the commencement of the development hereby approved, a Construction Method Statement (CMS), a Site Waste Management Plan (SWMP), a Drainage Management Plan (DMP) and Environmental Management Plan (EMP) detailing pollution prevention and control measures will be submitted to and be approved in writing by the Planning Authority. Such details shall be submitted not less than two months prior to the agreed scheduled commencement date and shall incorporate detailed pollution avoidance and mitigation measures for all construction elements. Thereafter the development of that phase shall be fully undertaken in accordance with the agreed details.
  14. Concurrent with the initiation of the development hereby approved and for the duration of construction, a temporary surface water treatment facility shall be implemented on site and maintained for the duration of the approved development works. The temporary surface water treatment facility shall remain in place until the permanent surface water drainage scheme is implemented unless otherwise agreed in writing by the Council as Planning Authority.

**Justification**

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

**Informatives**

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

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- 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. In accordance with 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 is advised that in terms of Sections 56 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environmental Protection Agency.
  6. No work shall be commenced until an application for building warrant has been submitted and approved.

**(2) Proposal of Application Notice (PAN)**

- (i) 17/00008/PAN – BANKFOOT – Proposed creation of sand and gravel borrow pit and associated ready mix concrete and asphalt plants, on land South of Loak Farm, Near Bankfoot, Perthshire – Report 17/382**

Members noted the issues identified by the Interim Head of Planning's report.

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Perth and Kinross Council  
Development Management Committee – 6 December 2017  
Report of Handling by Interim Development Quality Manger

**Proposal:** Erection of 77 dwellinghouses, formation of landscaping, open spaces and community woodland, and associated works

**Location:** Land North of Linden Park Road, Milnathort

Ref. No: 17/00806/FLM  
Ward No: N8 - 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 at 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 2017 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 This application was previously considered by this committee at the meeting of 18 October 2017 (Report 17/340 refers); where committee resolved to defer consideration of the application. A copy of the previous committee report is appended for information and reference (**Appendix 1**).
- 2 The deferral was made for the following reason:
  - (i) To undertake a site visit by members and officers to consider transport and noise matters.
- 3 All other issues in relation to the application (as set out in Report 17/340) remain the same.

**CONSULTATIONS**

- 4 No additional consultation is required.

## **REPRESENTATIONS**

- 5 No re-notification procedures were required and therefore no further representation has been received. All representations associated with the application remain valid and are as detailed in the original report (appended).

## **APPRAISAL**

- 6 Following deferral of the application no additional information has been requested of, or submitted by, the applicant. As advised above, the site visit undertaken by Members and officers which took place on Thursday 9 November 2017, considered transport and noise matters.

### **Transport**

- 7 As Report 17/340 advises, a Transport Assessment was submitted in support of the application. This document was considered by the Council's Transport Planning (TP) team in the consultation process. TP agree with the TA conclusion that the development would not cause significant detriment to the local road network and traffic generated by the development can be accommodated. The proposed access and layout arrangements are also considered satisfactory by TP. In respect of the proposed access on to North Street it is confirmed that the introduction of a road table, together with the extension of the 30 miles per hour speed limit beyond the boundary of the development and advance warning signage, ensures adequate visibility for motorist both north and southwards. The proposed location of the pedestrian crossing to the footway to the west of North Street provides good visibility for pedestrians. Internal links to this crossing point are provided within the site that link well with the wider network, including the improved Core Path MTHT/133. It is confirmed that parking provision within the site meets the standards set out in the National Roads Development Guide.
- 8 The development proposed raises no issues with Local Development Plan (LDP) and, subject to the inclusion of planning conditions 11 and 12 securing appropriate provision and timing of roads and drainage arrangements, is considered to comply with LDP policies TA1A, TA1B and CF2.

### **Noise**

- 9 As Report 17/340 advises, a Noise Assessment was submitted in support of the application. This assessment considers the impact of noise from the M90 road on the dwellings proposed. The report presents noise levels from the road as measured from two points within the site (which are adjacent to the properties that would be most exposed to this noise source). It concludes that during the day and night, the sound of the traffic on the M90 would have no adverse impact on the residents of the houses that would be closest to the road and at the west end of the site the significance is neutral and of no effect. The noise levels are found to be within guidelines as set out in Planning Advice Note 1/2011: Planning and Noise. The report's findings have been considered by the Council's Environmental Health team who are in agreement with the findings and agree that the residents of the proposed houses would have a satisfactory level of

amenity. EH therefore do not object to the application and do not advise that any noise mitigation measures are required.

- 10 The development proposed is therefore considered to comply with the objectives of LDP Policy EP8.

### **LEGAL AGREEMENT**

- 11 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**

- 12 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**

- 13 As set out in Para 87 of Report 17/340 (Appendix 1), 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.
- 14 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.

- 15 Overall, the application 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 (and in Report 17/340 appended). 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, a 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 commencement of development design details and a detailed phasing plan shall be submitted to the Planning Authority for written approval for the following matters:
- a) the provision of site access;
  - b) roads and footpaths layout, design and specification (including arrangements for the disposal of surface water); and
  - c) car parking provision.

All of the above shall be designed in accordance with the standards required by the Planning Authority in consultation with the Roads Authority. Once the design is approved, no dwellinghouse within the respective phase/area of the development as agreed in the phasing plan shall be occupied unless this infrastructure has been constructed and is operational to the reasonable satisfaction of the Planning 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 occupation of any dwellinghouse in the development hereby approved all arrangements for the disposal of all surface water (including temporary arrangements during construction) through Sustainable Urban Drainage Systems (SUDS) from the site shall be constructed and fully operational to the satisfaction of the Planning Authority in consultation with the Flood Prevention Authority.

Reason: To ensure surface water drainage is provided timeously in the interests of flood risk management and environmental quality.

- 13 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 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.

- 14 Prior to the occupation of any dwellinghouse hereby approved, 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.

- 15 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 MTHT/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.

- 16 Prior to the commencement of development, a scheme for an onsite signage strategy for the direction and route of Core Path MTHT/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.

- 17 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**

- 16 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**

- 17 Consent shall not to be issued until a Section 75 Agreement relating to planning contributions set out in Para 11 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 (summarised in Appendix 1)

Contact Officer: Jamie Scott

Date: 23 November 2017

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

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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 onto 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 MTHT/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 in-direct 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 MTHT/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 MTHT/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**

- 132 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**

- 133 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: 17 November 2017

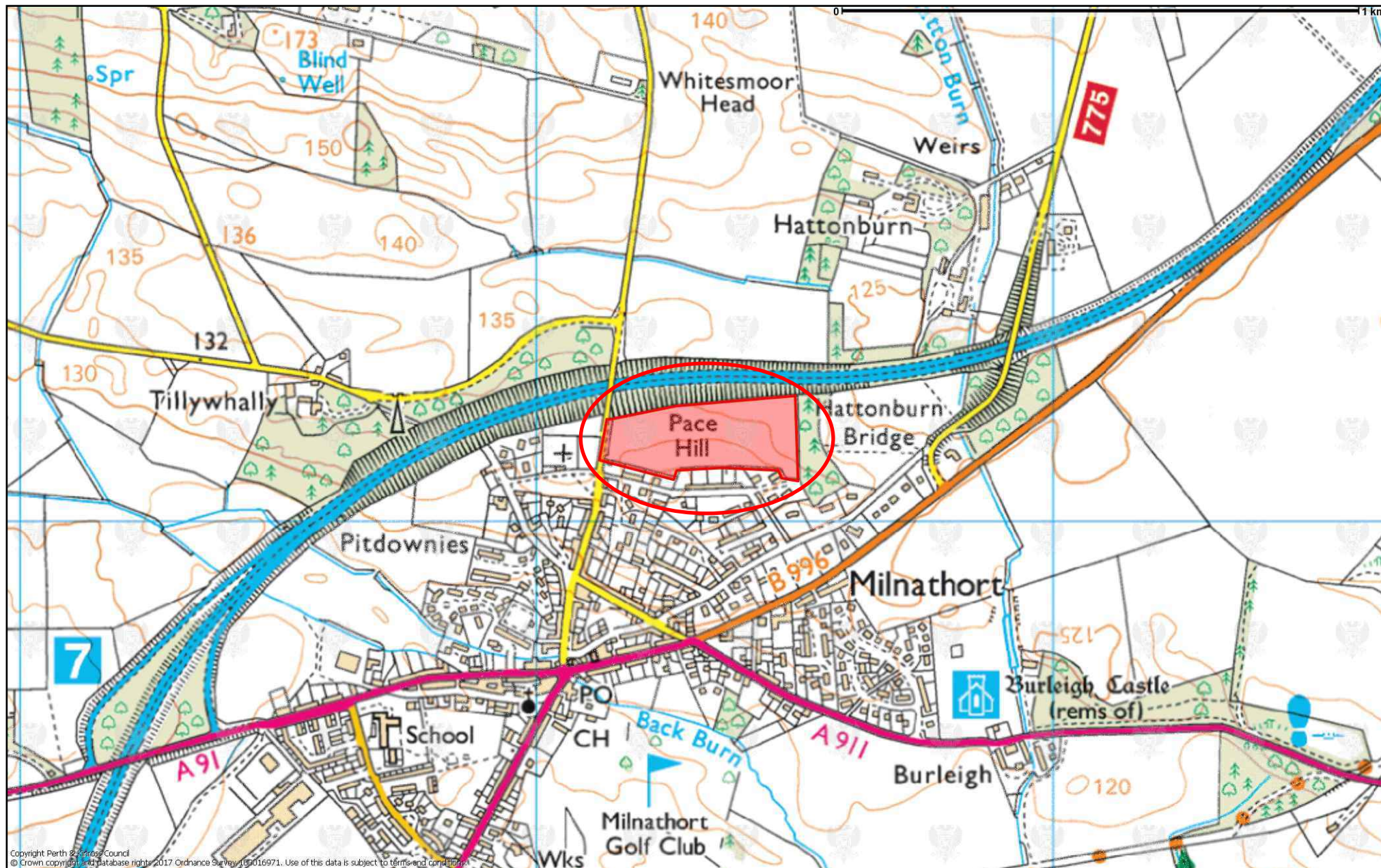
**ANNE CONDLIFFE**  
**INTERIM DEVELOPMENT QUALITY MANAGER**

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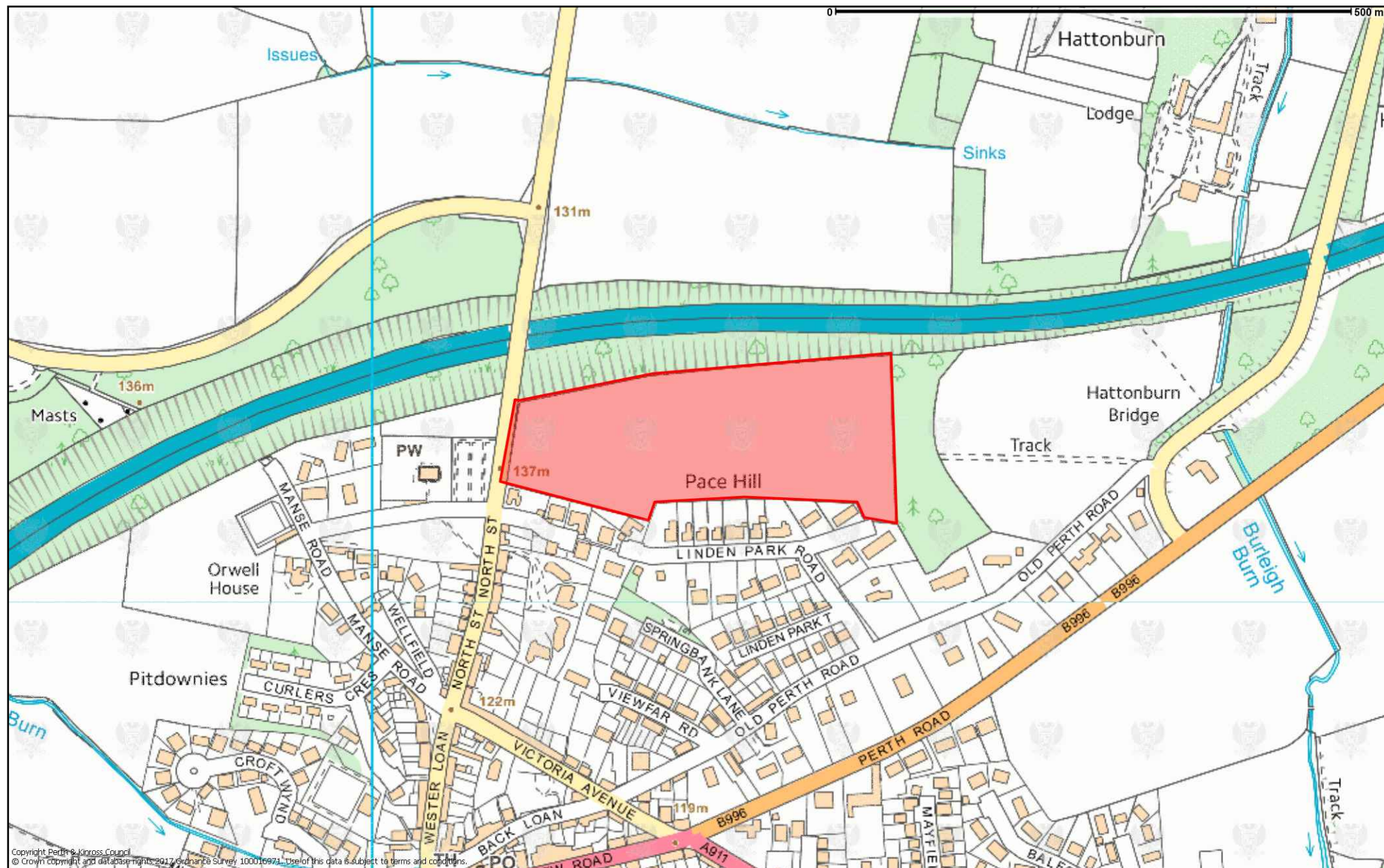
17/00806/FLM

Erection of 77no. dwellinghouses, formation of landscaping, open spaces and community woodland, and associated works









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17/00806/FLM

Erection of 77no. dwellinghouses, formation of landscaping, open spaces and community woodland, and associated works





Perth and Kinross Council  
Planning & Development Management Committee – 6 December 2017  
Report of Handling by Interim Development Quality Manager

**Proposal:** Erection of 70 dwellinghouses and associated works (approval of matters specified by conditions 12/01692/IPM)

**Location:** Land to the west of Cherrybank Gardens, Perth.

Ref. No: 17/00204/AMM

Ward No: 10 Perth City South

**Summary**

This report recommends approval of the Associated Matters Specified by Condition application to formally develop the final residential phase of the mixed use (residential and employment) approval granted under application 12/01692/IPM at land to the west of Cherrybank Gardens

The proposal is considered to comply with the relevant provisions of the Development Plan and there are no material considerations apparent which would outweigh the Development Plan. This proposal is consistent with the approved masterplan for the site and is therefore recommended for approval, subject to conditions and conclusion of a Section 75 legal agreement.

**BACKGROUND AND PROPOSAL**

- 1 The planning application site is located to the western edge of Perth in between Cherrybank Gardens and the services at Broxden Roundabout. The site extends to some 3.7 Hectares (ha) and was previously agricultural use. It now forms part of a wider site area covered by 'In Principle' approval 12/01692/IPM for residential and employment use. Phases 1-3 for 164 units was approved (15/00809/AMM) in December 2015 and construction of these phases is currently ongoing with 29 completed and 17 occupied at the time of writing. The application site also forms part of a site allocated (MU1) in the Perth and Kinross Local Development Plan 2014 for residential and employment use.
- 2 The topography of the site slopes from the M90 down to the Glasgow Road. A number of watercourses run through the site on a north/south axis, existing detention ponds (that are part of the Perth Flood Defence scheme) are within the northern part of the site. The site is very visible from Glasgow Road and is a key gateway site into Perth.
- 3 The M90 motorway is located to the south of the site with Cherrybank Gardens to the east and the A93 Glasgow Road to the north of the site. West of the application site is the area of employment land approved by the 12/01692/IPM

consent. Beyond this is the Broxden Park and Ride site as well as other roadside services that have been developed to the south of the existing Glasgow Road/ Lamberkine Drive roundabout. A mix of residential and business uses are located to the north west of the site's Glasgow Road boundary.

- 4 As with the 15/00809/AMM application, this proposal seeks to formally discharge conditions 2 (iv; v, vi, vii, iix, ix and x), 4, 5, 7, 13, 14, 15, 16, 17, 19, 21 associated with the residential element of 12/01692/IPM and establish the development of 70 dwellings, open space and associated infrastructure on the final residential phase approved in the masterplan.
- 5 Layout and House Design (Conditions 2, 4, 19): Residential development is proposed for this phase of development at the north western corner side which is adjacent to the ongoing development and fronts Glasgow Road. The detailed layout and house types provided for the final phase of 70 dwellings largely follows the approved masterplan for the site and the similar house types are proposed.
- 6 A mix of house types is proposed, incorporating mainly detached with some semi-detached and terraced units, all of 2 storey height. The proposed mix is as follows:
  - 3 bed terrace: 4 dwellings
  - 3 bed semi-detached: 10 dwellings
  - 3 bed detached: 9 dwellings
  - 4 bed detached: 42 dwellings
  - 5 bed detached: 5 dwellings
- 7 A standard palette of materials has been proposed for the dwellings consisting of brick basecourse, dry dash render and concrete roof tiles. It will be the same as the previous phases with only exception being the introduction of solar panels on each roof to help meet current Building Standards regulations.
- 8 Vehicular access (Conditions 2 and 4 of permission 12/01692/IPM): Formation of a new access off Glasgow Road and another one in the south east corner off Necessity Brae has been achieved through the 15/00809/AMM permission. The plans show this phase connecting with the main access road through the site and providing access to the approved employment area to the west which will also provide access onto Glasgow Road.
- 9 Pedestrian/cycle access (Conditions 2, 4 and 9): The plans show this phase will connect up with the approved network of pedestrian and cycle routes integrated into the overall site and link up with the existing network in the area as well as neighbouring sites and land uses such as the employment area, Necessity Brae and Cherrybank Gardens.
- 10 Transport Infrastructure (Conditions 2, 3, 4, 11): The proposed road network largely follows the approved masterplan and a road hierarchy is evident in the submitted plans.

- 11 Flood Risk Assessment (FRA) (Condition 20): The applicant has re-submitted the FRA that was submitted with the IPM application.
- 12 Air Quality Assessment (Condition 21): The applicant has re-submitted the Air Quality Assessment that was submitted with the IPM application.
- 13 Other associated infrastructure (Conditions 5, 6, 7, 16 and 17): Drainage infrastructure plans in the form of a sustainable urban drainage system (SUDS) is proposed to connect up with the approved SUDs ponds at the northern edge of the site.
- 14 This report refers to the corresponding conditions of the 'In Principle Consent' and how they are proposed to be addressed through the current application.

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

- 15 As the proposal is a Matters Specified by Condition application the environmental impact was assessed at 'In Principle' stage. An Environmental Report is not required to be submitted at this stage of the planning process

### **PRE-APPLICATION CONSULTATION**

- 16 The proposed development is classed as a Major development under class 9 of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. However, because the proposal is a Matters Specified by Condition application the requirements for pre-application consultation are not required at this stage of the planning process.

### **NATIONAL POLICY and GUIDANCE**

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

#### **National Planning Framework**

- 18 The 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.

#### **The Scottish Planning Policy 2014**

- 19 The SPP is a statement of Scottish Government policy on land use planning. The following sections of the SPP will be of particular importance in the assessment of this proposal:-

- Sustainability : paragraphs 24 – 35
- Placemaking : paragraphs 36 – 57
- Valuing the Natural Environment : paragraphs 193 – 218
- Maximising the Benefits of Green Infrastructure: paragraphs 219 – 233
- Managing Flood Risk and Drainage: paragraphs 254 – 268
- Promoting Sustainable Transport and Active Travel : paragraphs 269 - 291

20 The following Scottish Government Planning Advice Notes (PAN) are of relevance to the proposal:

- PAN 2/2010 Affordable Housing and Housing Land Audits
- PAN 1/2011 Planning and Noise
- PAN 51 Planning, Environmental Protection and Regulation
- 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 & Building Standards Advice on Flooding
- PAN 75 Planning for Transport
- PAN 79 Water and Drainage
- PAN 83 Masterplanning

### **Designing Places 2001**

21 The first policy statement which marks the Scottish Government's determination to raise standards of urban and rural development.

### **Designing Streets 2010**

22 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**

23 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**

- 24 The Development Plan for the area consists of the TAYplan Strategic Development Plan 2016 and the Perth and Kinross Local Development Plan 2014.

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

- 25 The vision states *“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.”*

### **Policy 1: Locational Priorities**

- 26 Seeks to focus the majority of development in the region’s principal settlements. Perth Core Area is identified as a Tier 1 Settlement with the potential to accommodate the majority of the region’s additional development over the plan period and make a major contribution to the region’s economy.

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

- 27 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 4: Homes**

- 28 Seeks to ensure there is a minimum of 5 years effective housing land supply at all times. Land should be allocated within each Housing market Area to provide a generous supply of land to assist in the delivery of 25,020 units up to year 2028 and a further 16,680 by 2036.

### **Policy 6: Developer Contributions**

- 29 Seeks to ensure suitable infrastructure is in place to facilitate new development, developer contributions shall be sought to mitigate any adverse impact on infrastructure, services and amenities brought about by development. This may include contributions towards schools, the delivery of affordable housing, transport infrastructure and facilities (including road, rail, walking, cycling and public transport), green infrastructure and other community facilities in accordance with the Scottish Government Circular 3/2012: Planning Obligations and Good Neighbour Agreements.

### **Policy 8: Green Networks**

- 30 Seeks to protect and enhance green and blue networks by ensuring that:



- i. development does not lead to the fragmentation of existing green networks;
- ii. development incorporates new multifunctional green networks (that link with existing green networks) of appropriate quantity and quality to meet the needs arising from the nature of the development itself; and,
- iii. the provision of networks of green infrastructure is a core component of any relevant design framework, development brief or masterplan

### **Policy 9: Managing TAYplans Assets**

- 31 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.

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

- 32 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
- 33 The application site is located within the settlement boundary of Perth City, sandwiched between Glasgow Road and Necessity Brae, north of the M90 bypass. The principal relevant policies are in summary:

#### **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.

#### **Policy PM1B - Placemaking**

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

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

- 36 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 HE2 - Listed Buildings**

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

- 38 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**

- 39 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**

- 40 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**

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

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

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

#### **Policy EP11 - Air Quality Management Areas**

- 43 Development proposals within or adjacent to designated Air Quality Management Areas which would adversely affect air quality may not be permitted.

#### **Policy ED1B - Employment and Mixed Use Areas**

- 44 Within areas identified for mixed use a range of uses such as housing, offices, light industry, surgeries and leisure uses would be acceptable providing they

are compatible with the amenity of adjoining uses. Proposals for predominately one use on a mixed use site will not be acceptable.

### **TA1B - Transport**

- 45 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.

### **OTHER POLICIES**

- 46 The following supplementary guidance and documents are of particular importance in the assessment of this application;
- Developer Contributions Supplementary Guidance including Affordable Housing April 2016
  - Flood Risk and Flood Risk Assessments – Developer Guidance June 2014
  - Sustainable Design and Zero Carbon Development Supplementary Guidance May 2014
  - Green Infrastructure Supplementary Guidance (Draft) July 2014
  - Perth and Kinross Retail Study 2014

### **Planning Site History**

- 47 The following history is of relevance;
- **00/00362/OUT** National Garden for Scotland offices, business units, hotel, restaurant, trunk road service area and associated roads parking and landscaping (in outline). Application approved by Development Management Committee July 2001.
  - **04/01500/OUT** Renewal of planning consent 00/00362/OUT for development of a National Garden for Scotland (including entrance, plant sales, retail, restaurant and exhibition facilities); Scottish Tartan Centre; offices and Class 4 Business units; Hotel and restaurant development and associated facilities; Trunk Road Service Area (including: Travelodge, family restaurant/pub, petrol filling station and associated infrastructure); Roads and Transport Infrastructure; parking; landscaping and associated features and ancillary development (in outline). Application approved by Development Management Committee November 2004.
  - **11/00010/PAN** Mixed use development comprising of residential and employment uses, landscaping and associated infrastructure. Content of PAN approved October 2011.
  - **12/01692/IPM** Mixed use development comprising of residential and employment uses (Class 4), new vehicular access, pedestrian access, open space, landscaping and associated infrastructure (In Principle). Application approved by Development Management Committee August 2013.

- **15/01116/MPO** Modification of Section 75 Agreement associated with permission 00/00362/OUT. Approved under delegated powers August 2015.
- **15/00809/AMM** Erection of 164 dwellings, open space, play area and associated infrastructure. Approved by Development Management Committee December 2015.

## **CONSULTATIONS**

### **EXTERNAL**

#### **48 Transport Scotland**

No objection to the proposal as a financial contribution towards trunk road network improvements at the A9/A90 Broxden Roundabout has been paid via the 15/00809/AMM permission.

#### **49 Scottish Environment Protection Agency**

No objection to the proposal.

#### **50 Scottish Water**

No response received.

### **INTERNAL**

#### **51 Environmental Health**

No objection to the proposal regarding air quality or noise.

#### **52 Waste Services**

Advice is provided on the roads requirements for the type and size of refuse vehicles that will be used on the site.

#### **53 Developer Contributions Officer including Affordable Housing;**

##### Affordable Housing

The affordable housing requirement for this proposal is 25% and the required on-site provision was provided through Phases 1-3 and the remainder of the affordable requirement will be delivered through a commuted sum.

##### Primary Education

The application falls within the Craigie Primary School Catchment area and the Finalised Primary Education and New Housing Contributions Policy will need to be applied to this application.

## Transport Infrastructure

Transport infrastructure contribution is not required as the site has in-principle consent under 12/01692/IPM which was approved prior to the adoption of the Transport Infrastructure Supplementary Guidance.

### 54 **Flood Risk and Structures**

No objection to the proposal. Condition recommended to ensure there is no flood risk and the integrity of the Perth Flood Prevention Scheme is not compromised.

### 55 **Transport Planning**

No objection to the proposal.

### 56 **Community Greenspace**

No response received

## **REPRESENTATIONS**

- 57 The application has attracted no letters of representations for or against the proposal.

## **ADDITIONAL STATEMENTS**

|    |                                              |                                                                                                                      |
|----|----------------------------------------------|----------------------------------------------------------------------------------------------------------------------|
| 58 | Environment Statement                        | Submitted with IPM application                                                                                       |
|    | Screening Opinion                            | Undertaken for IPM application                                                                                       |
|    | Environmental Impact Assessment              | Yes – Submitted with IPM application                                                                                 |
|    | Appropriate Assessment                       | Appropriate assessment not required.                                                                                 |
|    | Design Statement/Design and Access Statement | Submitted with IPM application                                                                                       |
|    | Report on Impact or Potential Impact         | Flood Risk Assessment, Air Quality Assessment, Noise Assessment, Site Waste Management Plan, Site Investigation Plan |

## **APPRAISAL**

### **Policy Appraisal**

- 59 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. The most relevant policies of the Development Plan are listed in the policy section above.

- 60 TAYplan Policy 1 (Location Priorities) states that Tier 1 settlements should make a major contribution to the regional economy over the next 20 years. The site is situated within the Tier 1 settlement of Perth City and the proposed development of 70 dwellings at this location satisfies TAYplan Policy.
- 61 The site is located within the LDP site MU1 and is allocated for mixed use development. The principle of residential development has been established through IPM Consent 12/01692/IPM which has established a material planning commitment given to the principle of a large proportion of residential development within LDP site MU1. The proposed residential density of the current submission of 70 dwellings will result in a slightly higher number of units (234) than the allocation of the entire residential element of 200 units but is considered to be an acceptable scale of development and density at this location.
- 62 It is considered that the proposal accords with the majority of the policy requirements detailed in the Development Plan. The development of residential units as detailed in layout plan is consistent with its allocation in the LDP and the masterplan approved with the 12/01692/IPM application.

### **Landscape and Visual**

- 63 The landscape quality of this site is a key, valuable asset as it currently offers a highly visible gateway when arriving and departing Perth via Glasgow Road.
- 64 Due to its topography the site offers a considerable landscape asset for the area and it is important that the existing landscape framework is largely retained, enhanced and maintained in perpetuity as a result of this proposal.

### **Listed Buildings**

- 65 In this case the category C listed group of laundry, coach house and hen house at West Woodlands lies approximately 220m to the north of the site. Pitheavlis Cottages which are category B listed are approximately 350m to the east of the proposals boundary. Both groups still retain a sense of their original semi-rural setting, although West Woodlands has been eroded more significantly due to encroaching development over the years.
- 66 The approved landscaping and flood protection corridor at the edge of the overall development site will protect the setting of West Woodlands to a degree by preserving a degree of open, green character along the Glasgow Road corridor.
- 67 Pitheavlis Cottages will retain their prominence against a largely open landscape backdrop. The tree/landscaping belt around the perimeter of the overall site will mitigate this impact to an extent and the Conservation Officer is satisfied there will only be a low impact on nearby Pitheavlis Cottages and the

listed buildings at West Woodlands are considered to be a suitable distance away.

### **Open Space and Play Area Provision**

- 68 As this this the final phase of the residential element much of the open space, planting and the play area are being provided by the 15/00809/AMM consent. A grassed and planted bank above the SUDs pond adjacent to Glasgow Road will in time help continue the landscape corridor that already screens the Persimmon Homes development at Cherrybank and Cherrybank Gardens. Condition 5 will ensure the landscaping requirements will be met.
- 69 A children's play area is already in place as part of the 15/00809/AMM near the southern boundary of the site close to the proposed entrance and is immediately east of this phase. The play area is designed to a high standard to meet the requirements for the entire site and is considered acceptable.

### **Drainage and Flooding**

- 70 The proposed development lies within the catchment of the River Tay. Runoff from the site enters the Scouring Burn, which becomes Craigie Burn downstream and east of the site before discharging into the River Tay in the South Inch area of Perth.
- 71 There are three watercourses within the overall site, one of which runs along western boundary of the site and currently drains into two flood storage ponds which forms part of the existing Perth Flood Defence Scheme.
- 72 Three SUDs ponds have been constructed along the northern boundary and will form part of the landscape corridor and open space provision. The SUDs ponds will be adopted and maintained by Scottish Water.
- 73 Consultation with the Council's Flooding Section provided detailed comments regarding flood risk, greenfield run-off, floor levels and SUDs. SEPA have no objection to the proposal. Conditional control (No.10) can ensure that the construction phase achieves the necessary control of drainage arrangements to meet the requirements of the Flooding Section and not compromise the integrity of the existing Perth Flood Prevention Scheme.

### **Air Quality**

- 74 The construction activities associated with the site are likely to result in dust and particulate matter being released. Wind blow from dried out exposures associated with cut and fill operations to create the development platforms are likely to be the main source as well as construction vehicular movement distributing material within, to and off the site.
- 75 The Air Quality Assessment confirms that residents living in proximity to such a site can potentially be affected by dust up to 1 km from the source, although

continual or severe concerns regarding dust sources are likely to be experienced near to dust sources, and generally within 100 metres.

- 76 Given the distance of potential receptors the assessment confirms that the likelihood of a dust nuisance occurring is considered small which could be limited further by deploying Best Practice Measures, this could be incorporated into an updated Construction Environmental Management Plan (CEMP) (Condition 8) to help reduce the impact of construction activities. Environmental Health has no objection to the proposal on air quality grounds.

### **Noise**

- 77 The planning system has an important role to play in preventing and limiting noise pollution. Although the planning system cannot tackle existing noise problems directly, it has the task of guiding development to the most suitable locations and regulating the layout and design of new development. The noise implications of development can be a material consideration in determining applications for planning permission.
- 78 A detailed noise assessment for the site was undertaken for the IPM application and was re-submitted with the current application. Environmental Health have no objection on noise grounds as the proposed dwellings are an acceptable distance from the M90 to not require additional acoustic control.

### **Transport and Access**

- 79 The site plan provides a secondary road serving the dwellings and connects with the established road from the Glasgow Road junction to Necessity Brae. The plan also proposes access into the future neighbouring employment area should this phase come forward for development in the future.
- 80 Pedestrian/cycle links will be provided between the development site and the existing local facilities. Condition 3 will ensure it is done to the required standard. This phase also provides access to Phase 2 of the employment area of the approved masterplan.
- 81 Overall the proposal provides acceptable vehicle access onto Glasgow Road and permeability for pedestrians and other non motorised users through the rest of the site connecting with local facilities including Necessity Brae.

### **Transport Wider Network**

- 82 Broxden Interchange has known performance issues with extensive queues. Past modelling of the roundabout has indicated that capacity will be further impacted upon by this proposed development.
- 83 It is recognised that development of MU1 will add to congestion issues and the land owner has paid a significant financial contribution to Transport Scotland to help mitigate its impact and no further transport related contribution is required for this phase.

## **Sustainable Transport**

- 84 In terms of sustainability the site is located in a highly sustainable location adjacent to the Park and Ride site that will encourage the use of public transport and provides a frequent and attractive service into Perth city centre and to the bus and rail stations. A green travel plan for the site has been submitted for the first three phases and Transport Planning raised no issues with it. The plans also provide links to the paths and cycle paths being delivered by 15/00809/AMM and these are linked to the existing core path network that should encourage future residents and employees to walk and cycle.

## **Car Parking**

- 85 The site plan provides car parking opportunities down the side of 24 dwellings at key points and thereby significantly reduces the potential visual impact of cars when the development is complete. Transport Planning are satisfied that the parking arrangements now broadly complies with the National Roads Development Guide.

## **Design, Scale and Layout**

- 86 The proposed development utilises the existing landscape and topography to shape the layout of the site. The layout broadly follows the parameters set in the approved masterplan for the site and is therefore supported. The proposal takes account of the sites importance as a gateway into the City of Perth. The design of the site has been guided by existing field boundaries, planting, watercourses and natural features. Generally, the proposed layout takes cognisance of Designing Streets and the National Roads Development Guide and incorporates appropriate natural surveillance of open space, the children's play area and the main pedestrian and cycle routes.
- 87 The proposal consists of two storey detached, semi-detached and terraced dwellings providing a mixture of house types for the current market. The layout includes a hierarchy of surfaces that assist in achieving a sense of place with proposed 'secondary treatments' on street edges. The street layout is considered to be usable and broadly achieves Designing Streets (2010) policy objectives.
- 88 The proposed layout and linkages ensure the site has appropriate levels of permeability and future connectivity for all modes of transport, especially pedestrians and cyclists with footpaths connecting to existing infrastructure on Glasgow Road and onto public transport connections.
- 89 The massing and scale of the dwellings can be accommodated within the plots without having an adverse impact on the amenity of nearby properties and works within the parameters of the established landscape framework. The proposed 70 dwellings is considered to be acceptable and most dwellings will benefit from reasonably generous garden sizes. The density of the development would equate to a medium scale of 19 dwelling per hectare which



is an indicator that the scale of development and relationship between houses is acceptable. None of the properties will adversely impact on the amenity enjoyed by neighbouring properties or land uses in terms of overlooking or overshadowing. It is considered appropriate to remove permitted development rights (Condition 4) from the proposed terraced plots where the private amenity space is tightest and future development, including house extensions and outbuildings would have the greatest impact on neighbouring amenity.

- 90 In terms of house design and finish, the elevations and external finishes are consistent with the current adjacent development. The current development is being constructed to a high standard and the material composition is therefore considered appropriate.
- 91 The proposals are considered appropriate in terms of design, scale and form and the development is considered to satisfy the policy objectives of Designing Places, Designing Streets and Council Placemaking Policy. It is considered that the proposed density of development represents an efficient use of the site whilst still respecting the surrounding environment.

### **Approved Masterplan, Phasing and Employment Land**

- 92 The 12/01692/IPM consent approved an overall masterplan for a mixed use development (residential and employment). The masterplan detailed the phasing and delivery of all the land south of Glasgow Road right up to and beyond the existing services (Travelodge Hotel, Happy Harvester Restaurant, McDonalds Restaurant) at Broxden. The masterplan and phasing plan shows 4 residential phases and 2 employment phases. Condition 3 of 12/01692/IPM identifies triggers by what phase of the residential development the employment land phases are required to be fully serviced.
- 93 The applicant has re-orientated the phasing of the residential development and whilst they are currently on Phase 2, it is in fact within Phase 3 of the approved 12/01692/IPM masterplan. To ensure there is no compromise with Condition 3 (i) of 12/01692/IPM a revised phasing plan has been submitted to show they are currently on Phase 2 and not Phase 3 and that this application will be the 4<sup>th</sup> and final residential phase. The revised phasing plan is considered acceptable and a logical way of being built out.
- 94 In addition the landowner of the employment land has provided detailed evidence that Phase 1 of the employment land is fully serviced with all utility providers. This further ensures there will be no compromise of Condition 3 (i) of 12/01692/IPM with the occupation of the first dwelling within what is now Phase 2.

### **Affordable Housing**

- 95 The affordable housing requirement for this proposal is 25% and this equates to 17.5 dwellings. It has been agreed that the required onsite provision was provided through Phases 1-3 and the remainder of the affordable requirement will be delivered through a commuted sum. The commuted sum for the Perth

Housing Market Area (HMA) is £26,500 per unit, with the total contribution required amounting to £463,750 (17.5 x £26,500). A Section 75 legal agreement will be required to secure this commuted payment.

### **Primary Education**

- 96 The application falls within the Craigie Primary School Catchment area and Education and Children's Services request that the Finalised Primary Education and New Housing Contributions Policy be applied to this application.
- 97 The education contribution will be calculated on 52.5 units, with contributions not required from the 17.5 affordable units. The contribution requirement therefore totals £339,150 (52.5 x £6,460). A Section 75 legal agreement will be required to secure this commuted payment.

### **Transport Infrastructure**

- 98 Transport infrastructure contribution is not required in this instance as the site has in-principle consent under 12/01692/IPM which was approved prior to the adoption of the Transport Infrastructure Supplementary Guidance.

### **Economic Development**

- 99 The economic impact of 70 residential dwellings is considered to be reasonably significant in assisting in the Perth Housing Market delivery. Employment opportunities will exist during the construction phase and consequently achieve increased available expenditure through net growth in residential occupation, resulting in a positive impact on consumer spend within the Perth City market area.
- 100 The Perth and Kinross Retail Study in 2014 estimates that average convenience goods available expenditure in 2019 per household will be £2,047 per annum and the average comparison goods available expenditure per household will be £3,634 per annum. Based on these figures and 70 dwellings the estimated annual expenditure on convenience and compassion goods will be in the region of £256,000 per annum.

### **LEGAL AGREEMENTS**

- 101 A Section 75 Legal Agreement has been drafted to secure the following:
- Off-site Affordable Housing provision (17.5 units commuted sum at £26,500 per unit);
  - Commuted sum for primary school education provision (£339,150);
  - Open Space provision and maintenance;

### **DIRECTION BY SCOTTISH MINISTERS**

- 102 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, regulations 30 – 32 there have been no

directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in or notification relating to this application.

## **CONCLUSION AND REASONS FOR RECOMMENDATION**

- 103 Section 25 of the Act requires that the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise.
- 104 In this respect, the proposal is considered to satisfactorily comply with the adopted Perth and Kinross Local Development Plan 2014 and TAYplan 2016. I have taken account of material considerations and find none that would justify overriding the adopted Development Plan. On that basis the application is recommended for approval subject to conditions and completion of a Section 75 legal agreement.

## **RECOMMENDATION**

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

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

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

- 2 Prior to the occupation of any residential plot, all matters regarding access, car parking, road layout, design and specification, including the disposal of surface water, shall be in accordance with the standards required by the Council as Roads Authority and to the satisfaction of the Planning Authority.

Reason: In the interest of vehicle and pedestrian safety and in accordance with the policies of the adopted Perth and Kinross Local Development Plan 2014.

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

Reason: In the interest of pedestrian safety.

- 4 Permitted development rights associated with Classes 1A, 1B, 3A and 3B of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended), or any subsequent comparable classes in future legislation relating to development within the curtilage of a dwellinghouse, are hereby revoked in full for all terraced dwellings (4) (Plots 54, 55, 56, 57) as detailed on the approved Site Layout Plan (drawing number: PB/Site 2/01 Rev F).

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

- 5 Notwithstanding the submitted drawing, an updated detailed landscaping and planting scheme for the site shall be submitted for the further approval of this Planning Authority prior to the commencement of the development. The scheme shall include details of the height and slopes of any mounding or recontouring of the site, species, height, size and density of trees and shrubs to be planted and the scheme as subsequently approved shall be implemented fully within one calendar year of the commencement of development and thereafter maintained to the satisfaction of the Council as Planning Authority.

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

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

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

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

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

- 8 Prior to commencement of development, an updated and detailed Construction Environmental Management Plan (CEMP) detailing environmental mitigation measures and construction method statements, including specific measures for environmental monitoring during construction, shall be submitted to and approved in writing by the Planning Authority. Such details shall be submitted not less than two month prior to the agreed scheduled commencement date and shall incorporate detailed pollution avoidance and mitigation measures for all construction elements. Thereafter the approved CEMP shall thereafter be fully respected and adhered to through the construction phase of the development.

Reason: To ensure the construction phase is carefully managed to minimise landscape impacts and mitigate for any associated impacts on ecology, neighbours, general public and the wider environment.

- 9 For the duration of all construction activities, where site boundaries affect trees, the development shall fully comply with, respect and remain in full accordance with BS5837 2012: *'Trees in relation to construction, demolition and construction. Recommendations'*.

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

- 10 Concurrent with the initiation of the development hereby approved and for the duration of construction, a temporary surface water treatment facility shall be implemented on site and maintained for the duration of the approved development works. The temporary surface water treatment facility shall remain in place until the permanent surface water drainage scheme is implemented unless otherwise agreed in writing by the Council as Planning Authority.

Reason: To ensure the appropriate management of construction surface water run-off to minimise flooding and avoid discharge of sediment/pollution to the local water environment or neighbouring property, in the interests of residential and environmental amenity.

## **B JUSTIFICATION**

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

## **C PROCEDURAL NOTES**

Consent shall not to be issued until a Section 75 Agreement relating to planning contributions has been completed and signed to reflect the current planning reference 17/00204/AMM. 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 will result in the planning application being re-assessed through failing to comply with the associated developer contributions policy and will be ultimately recommended for refusal under delegated powers:

- Affordable housing contribution
- Education contribution
- Open Space provision and maintenance

## **D INFORMATIVES**

- 1 The development hereby permitted shall be commenced no later than the expiration of two years from the date of this consent or from the date of subsequent approval of matters specified in conditions, or three years from the date of planning permission in principle, whichever is the later.
- 2 Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the

planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.

- 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 is advised that this permission relates to just Residential Phase Two of the 12/01692/IPM planning approval for residential and employment uses of LDP site MU1. Further applications will be required to discharge the conditions for the remaining employment phases.
- 6 The applicant is advised that to enable any remaining negative suspensive conditions associated with the 12/01692/IPM planning approval to be fulfilled development may have to be undertaken outwith the application site. These works themselves may require the submission of a planning application.
- 7 The applicant is advised that in terms of Sections 56 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environmental Protection Agency.
- 8 The applicant is advised that in terms of Sections 21 of the Roads (Scotland) Act 1984 they must obtain from the Council as Roads Authority consent to construct a new road prior to the commencement of roadworks. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environmental Protection Agency.
- 9 The applicants are advised that they must apply to the Roads Authority, for construction consent to form a new street. Please contact The Construction and Maintenance Manager, The Environment Service, Pullar House, 35 Kinnoull Street, Perth PH1 5GD.

- 10 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.
- 11 The applicant is advised that the works are likely to need a license under the Water (Controlled Activities) Regulations 2005 (CAR). The applicant should contact SEPA's Perth Environmental Protection and Improvement Team (Tel: 01738 627989) in regard to this. The applicant should ensure that all works on site comply with the best practice guidelines laid out in SEPA's published Pollution Prevention Guidance, found at [www.sepa.org.uk](http://www.sepa.org.uk)
- 12 The Council's Community Waste Adviser in the Environment Service should be contacted to clarify the bin storage and recycling requirements for the development.
- 13 No work shall be commenced until an application for building warrant has been submitted and approved.
- 14 Please consult the Street Naming and Numbering Officer, The Environment Service, Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth PH1 5GD.

Background Papers: None  
Contact Officer: Steve Callan - Ext 75337  
Date: 23 November 2017

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**INTERIM DEVELOPMENT QUALITY MANAGER**

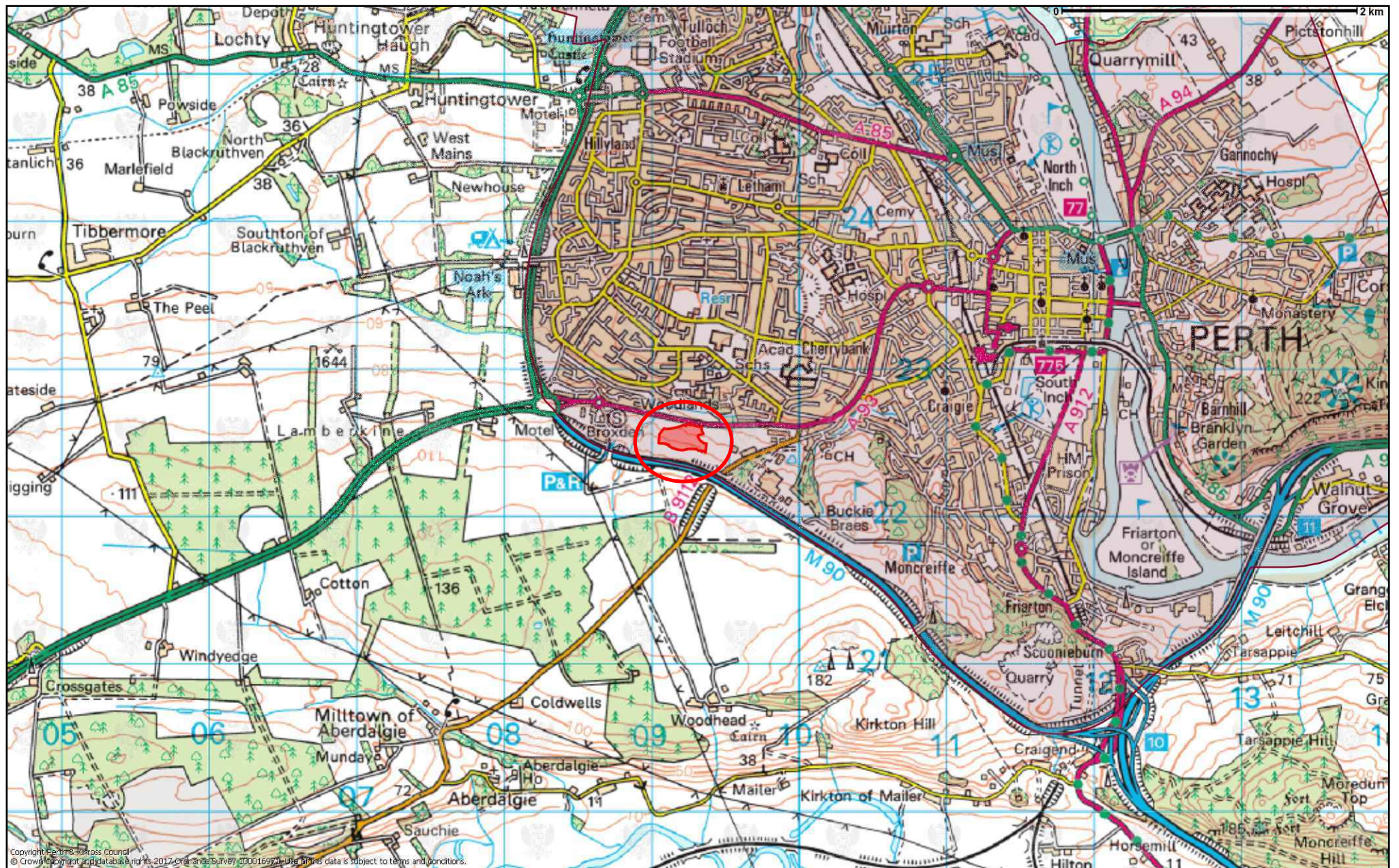
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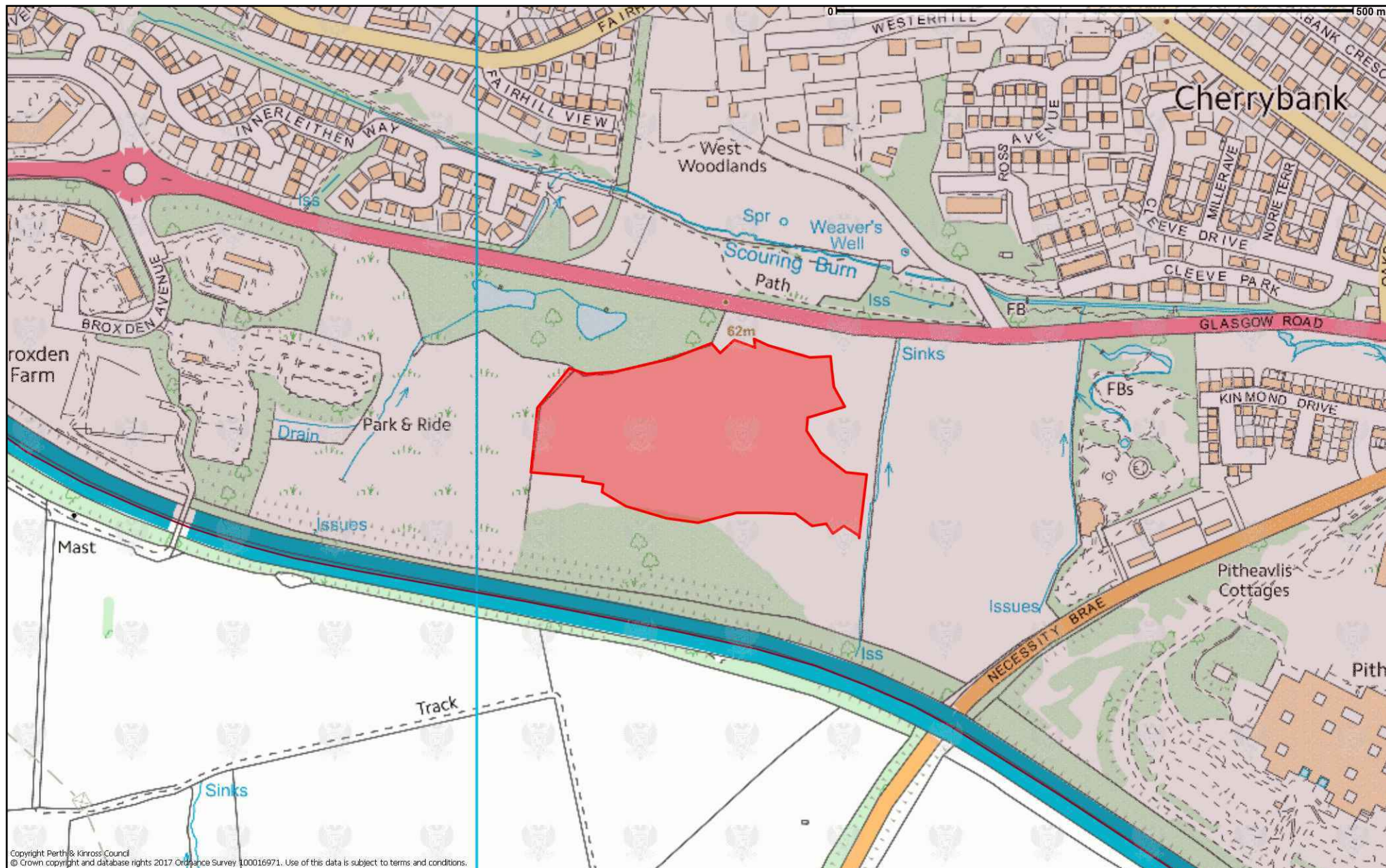
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Erection of 71no dwellinghouses (approval of matters specified in conditions 12/01692/IPM - Phase 3)









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17/00204/AMM

Erection of 71no dwellinghouses (approval of matters specified in conditions 12/01692/IPM - Phase 3)





Perth and Kinross Council  
Development Management Committee – 6 December 2017  
Report of Handling by Interim Development Quality Manager

**Proposal:** Extraction of sand and gravel

**Location:** Land SE of Milton of Panholes, Blackford

Ref. No; 17/00546/FLL  
Ward No; N7- Strathallan

**Summary**

This report recommends approval of the application as the development is considered to comply with the relevant provisions of the Development Plan and there are no material considerations apparent which outweigh the Development Plan.

**BACKGROUND AND DESCRIPTION OF PROPOSAL**

- 1 The proposal is for the excavation of 19,300m<sup>3</sup> of sand and gravel from an embankment at Mains of Panholes. As a result of the excavation it will reduce the extent of the embankment and increase the workable extent of the lower field area for farming work. The Stirling to Perth Railway Line is to the south of the application site. Across the railway track is the site associated with planning application 15/01637/FLL for the Blackford Rail Sidings, the village of Blackford is beyond.
- 2 The rail sidings benefit from planning consent and there is a requirement to raise the level of ground as part of that proposal. Instead of sourcing the material from a sand and gravel quarry that would likely utilise the national road network then the main road through Blackford, this application seeks to open a borrow pit and extract a mineral resource at Mains of Panholes for the rail siding. This would result in the use of the local road network to the north and east of Blackford. If approved and implemented the extraction of material from this source for the rail sidings would mean a reduction in vehicle traffic through the village associated with application 15/01637/FLL.

**ENVIRONMENTAL IMPACT ASSESSMENT (EIA)**

- 3 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.
- 4 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.

- 5 An Environmental Report was not required to be submitted with this proposal.

#### **MANAGEMENT OF EXTRACTIVE WASTE (SCOTLAND) REGULATIONS**

- 6 Whilst the application is for the extraction of minerals, it is to be treated as akin to a temporary borrow pit in relation to the definitions established by the 'Management of Extractive Waste (Scotland) Regulations 2010'. Thus, it is determined that the winning and working of the material is associated with a borrow pit and that the above Regulations are therefore not applicable to this proposal.

#### **PRE-APPLICATION CONSULTATION**

- 7 The proposed development is not classed as a Major development in terms of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. Therefore the applicant was not required to undertake not any formal pre-application consultation with the local community.

#### **NATIONAL POLICY AND GUIDANCE**

- 8 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**

- 9 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**

- 10 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.

- 11 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
- 12 A Successful, Sustainable Place;
- Paragraphs 92- 108 Supporting Business and Employment
- 13 A Natural, Resilient Place;
- Paragraphs 193 – 218 The Natural Environment
  - Paragraphs 219 – 233 Maximising the Benefits of Green Infrastructure
  - Paragraphs 254 – 268 Managing Flood Risk & Drainage

### **Planning Advice Notes**

- 14 The following Scottish Government Planning Advice Notes (PANs) and Guidance Documents are of relevance to the proposal;
- Air Quality and Land Use Planning (2004)
  - PAN 1/2011 Planning and Noise
  - PAN 40 Development Management
  - PAN 50 Controlling the Environmental Effects of Surface Mineral Workings
  - PAN 51 Planning, Environmental Protection and Regulation
  - PAN 60 Planning for Natural Heritage
  - PAN 61 Planning and Sustainable Urban Drainage Systems
  - PAN 64 Reclamation of Surface Mineral Workings
  - PAN 75 Planning for Transport
  - PAN 79 Water and Drainage

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

- 15 This document supports Designing Streets and expands on its principles and is considered to be the technical advice with regards to roads and road use.

### **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;



- 18 *“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.”*

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

- 19 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.
- 20 The principal relevant policies are, in summary;

#### **Policy PM1A - Placemaking**

- 21 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**

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

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

- 23 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 CF2 - Public Access**

- 24 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 NE3 - Biodiversity**

- 25 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 ER4A - Minerals and Other Extractive Activities**

- 26 Favourable consideration will be given to proposals for the extraction of



minerals where they are in accordance with the criteria set out and where they do not have an adverse effect on local communities and the environment.

#### **Policy ER4B - Minerals and Other Extractive Activities**

- 27 Restoration, after use and aftercare proposals will require to be agreed in advance of mineral and other extractive operations. Financial bonds for restoration will be required.

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

- 28 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 EP8 - Noise Pollution**

- 29 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.

#### **OTHER POLICIES**

- 30 The following supplementary guidance and documents are of particular importance in the assessment of this application;
- Tayside Landscape Character Assessment (TLCA)
  - BS 4142; 2014 Methods for rating and assessing industrial and commercial sound

#### **SITE HISTORY**

- 31 15/01637/FLL Alterations and extension to the rail yard including associated works at Yard, Moray Street, Blackford 17 March 2016, Approved by Development Management Committee.
- 32 17/00349/FLL Extraction of sand and gravel 17 March 2017 Application Withdrawn.

#### **CONSULTATIONS**

##### **EXTERNAL**

- 33 **Transport Scotland** – Does not advise against the granting of permission.
- 34 **Network Rail** – No objection. Conditional control and Informatives recommended due to its close proximity to the operational railway.

- 35 **Scottish Environment Protection Agency** – Have removed their objection in relation to a lack of information following the submission of further information relating to private water supplies. They reaffirm their position regarding conditional control and how this relates to flood risk.
- 36 **RSPB** – Recommend conditional control.
- 37 **Blackford Community Council** – Concern with the proximity of the site to the community and the potential impact this could have from noise and dust. Relationship with Scottish Water development (a new sewerage works) and a new pedestrian bridge over the railway by Network Rail. The road between Blackford Village and Orchil Road is in need of repair and it would need upgrading to accommodate the vehicle movements associated with extraction. There is a potential impact on Core Path Network. Sand Martins use the site for nesting. An undesirable precedent will be created by permitting extraction in this location. Concerns on how this scheme relates to conditions on the receiving site (15/01637/FLL).

## **INTERNAL**

- 38 **Environmental Health** – No objection in principle to the application but conditional control is recommended relating to noise, dust as well as operation methods and timescales
- 39 **Transport Planning** – No objection subject to conditional control relating to a traffic management scheme and the surveying of the road (pre and post construction) to take account of any potential damage to the road associated with construction vehicles and the making good of damage caused.
- 40 **Local Flood Prevention Authority** – No objection.

## **REPRESENTATIONS**

- 41 The following points were raised in the 14 representations received;
- Concerns that there will be an impact on footpaths that are utilised as a recreational resource.
  - Impact on amenity with regards to dust.
  - Impact on amenity with regards to noise.
  - Traffic impacts and vehicle movements.
  - Impact on road network.
  - Site restoration.
  - No archaeological survey.
  - Too close to the river.
  - Impact on nesting birds.

42 These issues are addressed in the Appraisal section of this report. However the following issues also raised are best addressed at this stage.

- The railway should bring in the aggregate. Response – This concern is noted. However, I do not consider this to be a feasible solution at this stage as the rail siding is not yet built.
- There are other potential extraction areas. Response – There are potentially other extraction areas and the required material for the rail siding could come from sand and gravel quarries. However, there is a requirement to assess the applicant's scheme as proposed.

## **ADDITIONAL STATEMENTS**

|    |                                                |              |
|----|------------------------------------------------|--------------|
| 43 | Environment Report                             | 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          | Submitted    |

## **APPRAISAL**

44 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.

### **Principle**

- 45 LDP Policy ER4 applies to proposals for the extraction of minerals. It gives support for the proposed development, provided the proposal complies with the criteria in the policy; and with other national, strategic and local planning policy.
- 46 While there are other regional sources of material I consider there are benefits with extracting the mineral resource from a borrow pit at the proposed site as it will reduce the extent of traffic movements through Blackford associated with application 15/01637/FLL and the wider road network.
- 47 Policy ER4A also sets out criterion that requires assessment to ensure that the extraction of a mineral resource does not impact local communities and the environment.
- (i) the effect on local communities and neighbouring land uses by reason of noise, dust, vibration or other pollution or disturbance;
  - (ii) the visual effect of the proposals;

- (iii) the transport implications, and in particular the scale and nature of traffic likely to be generated, and its implications for site access, road capacity, road safety, and the environment generally;
- (iv) the effect on the quality and quantity of water resources including the ecology of water courses and wetlands, and on water supply and flood protection interests;
- (v) ensuring there are no unacceptable adverse cumulative impacts arising from development proposals; and
- (vi) ensuring there are no adverse effects on the integrity of a European designated site(s).

48 These matters where applicable are assessed in greater detail under the headings below.

### **Landscape**

- 49 Development and land use change should be compatible with the distinctive characteristics and features of Perth & Kinross's landscape. Development proposals will be supported where they do not conflict with the aim of maintaining and enhancing the landscape qualities of Perth and Kinross.
- 50 In this case the extraction and re-contouring of the land will have a short term landscape impact when the material is being worked. However the impact can be mitigated by progressive restoration, see condition 4. On completion of extraction and with the implementation of a restoration scheme I do not consider that local distinctiveness, diversity and quality of the landscape will have been eroded. I do not consider there will be a significant adverse impact on the landscape that would conflict with the aims of Policy ER6.
- 51 It is worthwhile noting that Policy ER4B relates to restoration and this policy seeks a financial bond. However, given the relatively small scale extraction at this borrow pit I do not consider this is requirement for a bond in this instance. I am content that extraction can be undertaken in a phased manner with progressive restoration (condition 12).

### **Residential Amenity and Amenity**

#### Noise

- 52 The planning system has an important role to play in preventing and limiting noise pollution. Although the planning system cannot tackle existing noise problems directly, it has the task of guiding development to the most suitable locations and regulating the layout and design of new development. The noise implications of development can be a material consideration in determining applications for planning permission.
- 53 A Noise Assessment (NA) was undertaken by consultants KSG Acoustics Limited dated 22 August 2017. The scope of the assessment was the extraction operations at the application site and the HGV movements from site to the Blackford Rail Sidings site.

- 54 Environmental Health were consulted on the NA and they confirm that the assessment methodology is in line with Planning Advice Note (PAN 50); *Controlling the Environmental Effects of surface mineral workings, Annex A – Control of noise at surface mineral workings*. The assessment was based on day time operational hours 07;00 to 17;30 hours Monday to Thursday and 07;00 to 15;30 hours Friday, with no weekend workings. The mineral extraction operations will be approximately over a 7 week period with HGV movements over 6 weeks within this period.
- 55 The consultant has sourced data for mobile plant that will be used at the site from British Standard 5228. The proposed plant is a 25 t excavator and dozer. The assessment has also taken into account 6 HGV off site movements when leaving and accessing the extract site. Therefore the cumulative level, with a 5dB reduction for noise source being partially visible from the measurement point Abercairney Close, is 45.7 dBLA<sub>eq,1h</sub>. The report states that this is a conservative calculation as no correction has been made for soft ground attenuation.
- 56 The assessment concluded that the recommendations in PAN 50 paragraph 33 of 55 dBLA<sub>eq,1h</sub> (free field) at the closest residential property, would not be exceeded. With no adverse impacts anticipated from the extraction or from the haul route proposed.
- 57 The consultant also states within the conclusion that the contractor should ensure that noise emissions associated with the works are controlled so far as reasonably practical, through Best Practicable Means and Control of Pollution Act 1974.
- 58 Environmental Health have recommended conditional control to mitigate noise impacts. In this case noise mitigation measures are incorporated into conditions 3, 6, 7, 8, 9 and 10 of the recommendation in this report.

### Dust

- 59 The 'Blackford Quarry Kilmac Mineral Dust Risk Assessment', document reference 11179-001 dated 25 August 2017, submitted with this application was undertaken by consultants ITPENERGISED.
- 60 The scope of the assessment undertaken was to assess the effects of all site activities; site preparation, mineral extraction and handling, onsite and offsite transportation and stockpiles, on the levels of 'disamenity dust' on sensitive receptors and any changes in the 24 hour and annual mean PM<sub>10</sub>.
- 61 The assessment was carried out in line with the '*Institute of Air Quality Management (2016), technical guidance on the assessment of mineral dust impacts for planning.*'
- 62 Ten Sensitive Receptor locations have been assessed, and vary from residential properties within Blackford and along the operational route road B808, Blackford Primary School, Core Paths and Play area. These are all

representative of areas where people are likely to be exposed as is consistent with the periods for the objectives.

- 63 The consultant has obtained background PM<sub>10</sub> data from the Scottish Government Air Quality website from background maps for 2017, which is in accordance with relevant guidance. The annual mean average background obtained for PM<sub>10</sub> was 9.55 ug/m<sup>3</sup>, which is significantly below the Scottish PM<sub>10</sub> objective of 18 ug/m<sup>3</sup>.
- 64 Environmental Health would have preferred that the meteorological data obtained was from Strathallan as this would have been more representative at a local level than Leuchars, however they are of the view that this will not make a great difference to the outcome of the report.
- 65 The report concluded that for the disamenity dust assessment only one receptor would have a slight adverse effect due to dust from the offsite transportation operations; this is due to the close proximity of the property to the proposed route road on the B8081. The report also states that the health effects of PM<sub>10</sub> are assessed as low from earthworks and offsite transportation operations.
- 66 The report states that with good-practice mitigation measures as outlined in Section 6 of the report and site specific mitigation measures, the impact of dust is negligible and not significant. The report states that all mitigation measures will be included in an Environmental Management Plan (EMP) which will be submitted prior to the commencement of any works, see condition 9.

#### Private water supplies

- 67 SEPA has a responsibility to protect groundwater abstractions. Foundations, borrow pits and linear infrastructure such as roads, tracks and trenches can disrupt groundwater flow. With four licensed abstractions within 250m of proposed excavation SEPA requested further information from the applicant. (1) Either the owners of the groundwater abstractions had agreed contingency plans including temporary or permanent replacement or (2) an appropriate risk assessment be undertaken to demonstrate that the abstractions will not be impacted by the proposals.
- 68 The applicant submitted an email to SEPA on 4 October which provided confirmation that the owners of the groundwater abstractions were also the owners of the land and proposed boreholes. SEPA were content that this information is sufficient to satisfy requirements of their guidance.
- 69 Given the water supplies are within the control of the applicant I see no need to apply conditional control as they would need to implement contingency plans themselves including temporary or permanent replacement in order to provide security of supply.

#### **Roads and Access**

- 70 I acknowledge the impact construction traffic can have on the road network and sympathise with the concerns of local residents. However part of the function of the public road is to facilitate approved developments on sites which are served by it.
- 71 The applicant has provided both a route plan and proposed method statement for traffic movements. This has been reviewed in consultation with road maintenance colleagues, who whilst not objecting to the proposal, would be keen to carry out a pre-commencement road condition survey and to enter into a maintenance agreement with the applicant prior to the commencement of any operation.
- 72 Conditional control has been recommended, see condition 10 and 11, this will assist in minimising the adverse impact on road users. In light of this the development would not conflict with LDP policy TA1B.
- 73 I am aware that the rail siding application has already assessed how that proposal relates to core path (BLFD/3) and asserted Right of Way (29/3) and conditional control has already been imposed on that consent. Core path (BLFD/3) and asserted Right of Way (29/3) crosses the railway line and continues in a northerly direction. While the path is to the west and outwith the extraction area there is a core path spur after the rail crossing that runs through the red line boundary of the mineral extraction site, referenced as (BLFD/11). There is a requirement to ensure that there is a holistic approach to public access in this area and both the extraction proposal and the construction of the rail siding need to take account.
- 74 I consider a detailed plan and phasing proposal for the diversion works to the core path (BFLD/11) and signage needed to facilitate the development is required. This can be dealt with by conditional control to comply with Policy CF2, see condition 12.

### **Drainage and Flooding**

- 75 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.
- 76 SEPA have reviewed the information provided and they note that part of the application lies within the medium likelihood (0.5% annual probability or 1 in 200 year) flood extent of the SEPA Flood Map, and may therefore be at medium to high risk of flooding.
- 77 It is the proposed access track to the site that is within this flood envelope. The extraction pit is out with this envelope. As the access track is within the functional floodplain SEPA require that no land raising occurs when installing or upgrading the track to ensure that it will have a neutral impact on flooding and this is incorporated into condition 13. SEPA note that the position of the access track is a commercial risk to the applicant due to the likelihood of flooding.

- 78 Consultation with the Councils Flood Team has not raised any objections to the scheme.
- 79 Network Rail has specified that uncontrolled drainage towards the railway may have a direct impact on the reliability and frequency of the rail transport. Condition 14 requires all surface water arising from the development to be collected and diverted away from Network Rail land. Thus ensuring water from the site does not pond on or near railway land either during or after any mineral extraction. A requirement to ensure extraction does not occur within 20 metres of the railway boundary is also incorporated into condition 2.
- 80 I am satisfied that conditional control can ensure compliance with Policy EP2 of the LDP.

### **Natural Heritage and Biodiversity**

- 81 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.
- 82 The RSPB have noted that there is an active sand martin colony breeding within the material due to be removed. They note that there is no mention of this within the planning application or any proposal to survey the site prior to extraction to avoid nesting birds and the applicant is asking for a 12 month permission.
- 83 Sand martins and their active nests are fully protected by the Wildlife and Countryside Act 1981 (as amended) from the moment birds begin tunneling. Birds are usually present in Scotland from April to September and often produce two broods. RSPB note that conditional control should be utilised in order to prevent an offence being committed under the Wildlife and Countryside Act.
- 84 In this case condition 15 has been imposed to ensure that animals are not trapped in trenches and condition 16 takes account of the Sand Martins on the site. With the conditional control in place the proposal complies with the provisions of Policy NE3 of the LDP.

### **Archaeology**

- 85 Policy HE1B relates to non-designated archaeology. In this case there is no known archaeological resource at the site and a programme of archaeological works has not been sought from Perth and Kinross Heritage Trust's archaeologist.

### **Economic Impact**

- 86 The proposal is not considered to have a significant economic impact but it is associated with the delivery of the Rail Siding approved under application



15/01637/FLL a scheme that was considered to have economic and carbon reduction benefits.

## **LEGAL AGREEMENTS**

- 87 None required

## **DIRECTION BY SCOTTISH MINISTERS**

- 88 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**

- 89 To conclude, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, I have taken account of the Local Development Plan and material considerations and in this case I am content that the development proposed does not conflict with the Development Plan.
- 90 Accordingly the proposal is recommended for approval subject to the following conditions.

## **RECOMMENDATION**

### **Approve the application**

### **Conditions and Reasons for Recommendation**

- 1 The proposed development must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed by this permission.
- Reason -To ensure the development is carried out in accordance with the approved drawings and documents.
- 2 The borrow pit hereby approved shall only be exploited to serve planning application 15/01637/FLL for the Blackford Rail Sidings. The total volume of mineral extracted from the mine shall not exceed 19,300m<sup>3</sup> of sand and gravel. No extraction is to occur within 20 metres of Network Rail's Boundary and all excavation/restoration shall be completed not more than 1 year from the date of commencement of the development (as indicated on the 'Notice of Initiation of Development').

Reason - In order to ensure that the material extracted is used solely for this development and to reflect the nature of development contained in the planning application.

- 3 Mineral extraction and processing shall only be carried out at the site between the hours of 0700-17:30 Monday to Thursday and 0700-15:30 on Friday only. No mineral extraction or processing will occur on Saturday or Sunday. No blasting shall take place on the site.

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

- 4 The working, restoration and aftercare of the site shall be carried out only in accordance with the working programme and plans that have been submitted to and approved in writing by the Planning Authority and thereafter implemented in accordance with the approved details to the satisfaction of the Planning Authority.

Reason - To enable the Local Planning Authority to control the development and to minimise its impact on the amenities of the local area.

- 5 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 and ecologically sensitive habitats 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 the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.

- 6 All vehicles, plant and machinery shall operate only during the permitted hours of mineral extraction and processing in condition 3 and shall at all times be silenced in accordance with the manufacturer's recommendations and so operated as to minimise noisy emissions. The Planning Authority reserves the right to insist on any reasonable additional measures to further minimise noise emissions, should it prove expedient to do so.

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

- 7 Only the plant machinery and equipment specified in the Noise Assessment submitted with this application (or similar plant which generates no greater sound power levels) shall be used on the mineral extraction site.

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

- 8 Should any aspect of the proposed operations result in justified nuisance complaints the applicant shall, if required by the Planning Authority, have qualified consultants carry out monitoring for noise or dust and provide reports to the Planning Authority. The applicant is required to take any reasonable remedial measures recommended in such reports. Noise levels measured at 3.5m from the façade of noise sensitive properties shall not exceed the following limit  $L_{Aeq, 1 \text{ Hour}}$  46 dB (free field).

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

- 9 Prior to the commencement of operations, a satisfactory Environmental Management Plan must be submitted to and approved by the Planning Authority. The EMP should include:-
- (a) a Dust Management Plan covering all operational activities.
  - (b) a Noise Control Plan covering all operational activities.
  - (c) Measure to prevent contamination of the site or any watercourse from oils, fuels, hydraulic fluids and anti-freeze to be stored or used on the site.

Thereafter the measures contained with the EMP shall be implemented during the construction programme and records kept for perusal of the Planning Authority.

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

- 10 Prior to the commencement of the development hereby approved, the applicant shall submit for the further written agreement of the Planning Authority, in consultation with the Roads Authority (Structures), a Construction Traffic Management Scheme (TMS) which shall include the following;
- (a) restriction of construction traffic to approved routes and the measures to be put in place to avoid other routes being used;
  - (b) timing of construction traffic to minimise impact on local communities particularly at school start and finishing times, on days when refuse collection is undertaken, on Sundays and during local events;
  - (c) a code of conduct for HGV drivers to allow for queuing traffic to pass;
  - (d) arrangements for liaison with the Roads Authority regarding winter maintenance;
  - (e) emergency arrangements detailing communication and contingency arrangements in the event of vehicle breakdown;
  - (f) arrangements for the cleaning of wheels and chassis of vehicles to prevent material from construction sites associated with the development being deposited on the road;
  - (g) arrangements for cleaning of roads affected by material deposited from construction sites associated with the development;
  - (h) arrangements for signage at site accesses and crossovers and on roads to be used by construction traffic in order to provide safe access for pedestrians, cyclists and equestrians;
  - (i) details of information signs to inform other road users of construction traffic;
  - (j) arrangements to ensure that access for emergency service vehicles are not impeded;
  - (k) co-ordination with other significant developments known to use roads affected by construction traffic;
  - (l) all vehicles from the site transporting aggregate to the Blackford Rail Siding site shall be covered and measures shall be put in place to ensure

no undue idling or waiting on the public road at extraction site and Rail Sidings sites occur.

- (m) audible vehicle reversing alarms shall be operated on the method that they only emit the warning if necessary, e.g. on an infrared signal which detects persons to the rear of the vehicle.
- (n) monitoring, reporting and implementation arrangements;
- (o) arrangements for dealing with non-compliance; and
- (p) details of HGV movements to and from the site.

The TMS as approved shall be strictly adhered to during the entire site construction programme.

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

- 11 Prior to the commencement of the development an agreement dealing with liability for remedial work required as a result of damage to the local road network directly attributable to the construction of the development and allowing for pre- and post-construction surveys of the said local road network shall be submitted to and approved in writing by the planning authority, in consultation with the roads authority.

Reason - In the interests of road safety and the amenity of other users of the public highway.

- 12 Prior to the commencement of any development on site a detailed plan and phasing proposal for the diversion works to the core path (BFLD/11) and signage needed to facilitate the development at the west and southern end of the site shall be submitted to and approved in writing by the Planning Authority. This plan shall fully detail the temporary arrangements, timescales and proposals for the diversion work to ensure that continued access along the core path and shall take account of any diversion works to (BLFD/3) and asserted Right of Way (29/3) associated with condition 20 of application 15/01637/FLL. The details, as approved in writing, shall be implemented as part of the development of the 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.

- 13 No land raising shall occur within the medium likelihood (0.5% annual probability or 1 in 200 year) flood extent.

Reason - To ensure that the development will have a neutral impact on flooding.

- 14 All surface water arising from the development must be collected and diverted away from Network Rail land. Water must not be caused to pond on or near railway land either during or after any mineral extraction.

Reason - To ensure that the development will have a detrimental impact on the

Rail Network.

- 15 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.

- 16 Prior to the commencement of operations a satisfactory mitigation plan must be submitted to and approved by the Planning Authority in writing to deal with the sand martin resource at the site and shall include the following:-
- (a) Identification of non-operational areas where suitable vertical faces can be provided to encourage sand martin colonisation along with timescales for the formation of these vertical faces.
  - (b) Identification of long-term retention areas that will not be extracted that can be left for breeding birds in future years.
  - (c) Between mid - March and mid-May the appointment of a suitably qualified ecologist or clerk of works at the developers' expense with the details of appointment being subject to the prior written agreement of the Planning Authority, to ensure the checking of all operational faces for evidence of sand martin nests along with the demarcation of areas which should not be disturbed and routinely monitor activities, with the ability to stop operations, make changes to demarcated areas and working practices as necessary.

Thereafter the measures contained within the mitigation plan shall be implemented during the construction programme and records kept for perusal of the Planning Authority.

Reason – To take account of the bio-diversity resource on the site.

## **B JUSTIFICATION**

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

## **C PROCEDURAL NOTES**

None.

## **D INFORMATIVES**

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period (see section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).

- 2 Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
- 4 The applicant should ensure that any existing wayleaves for maintenance or repair to existing private water supply or septic drainage infrastructure in the development area are honoured throughout and after completion of the development.
- 5 Details of all changes in ground levels, laying of foundations, and operation of mechanical plant in proximity to the rail line must be submitted to Network Rail's Asset Protection Engineer for approval prior to works commencing on site. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. by a "possession" which must be booked via Network Rail's Asset Protection Engineer and are subject to a minimum prior notice period for booking of 20 weeks.
- 6 It is suggested that signing up to a maintenance agreement under Section 96 of the Roads (Scotland) Act 1984 could fulfil the aims of condition 11 in respect of the public roads used to transport the borrow pit material.

Background Papers: 14 letters of representation  
 Contact Officer: John Russell 01738 475346  
 Date: 23 November 2017

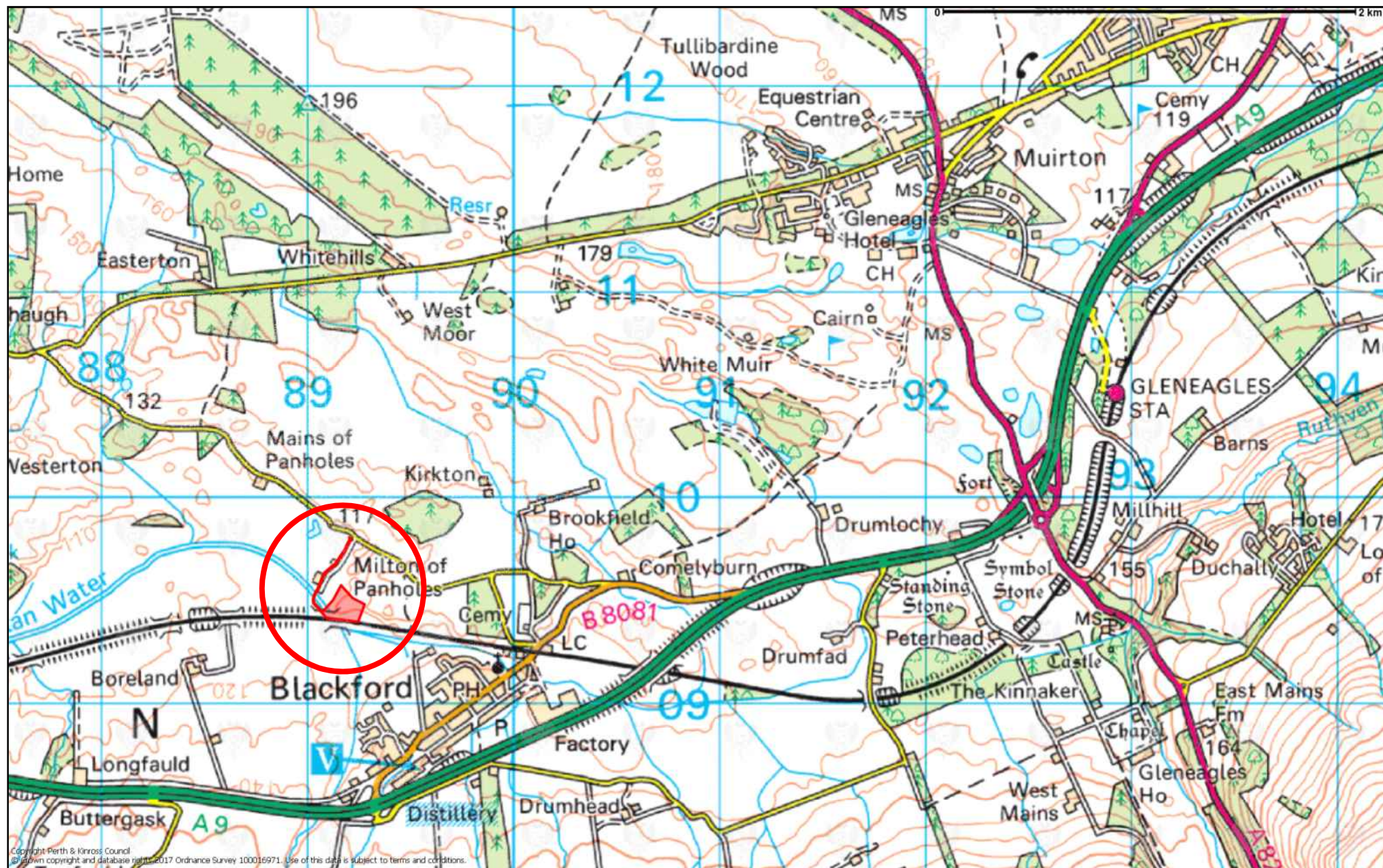
**ANNE CONDLIFFE**  
**INTERIM DEVELOPMENT QUALITY MANAGER**

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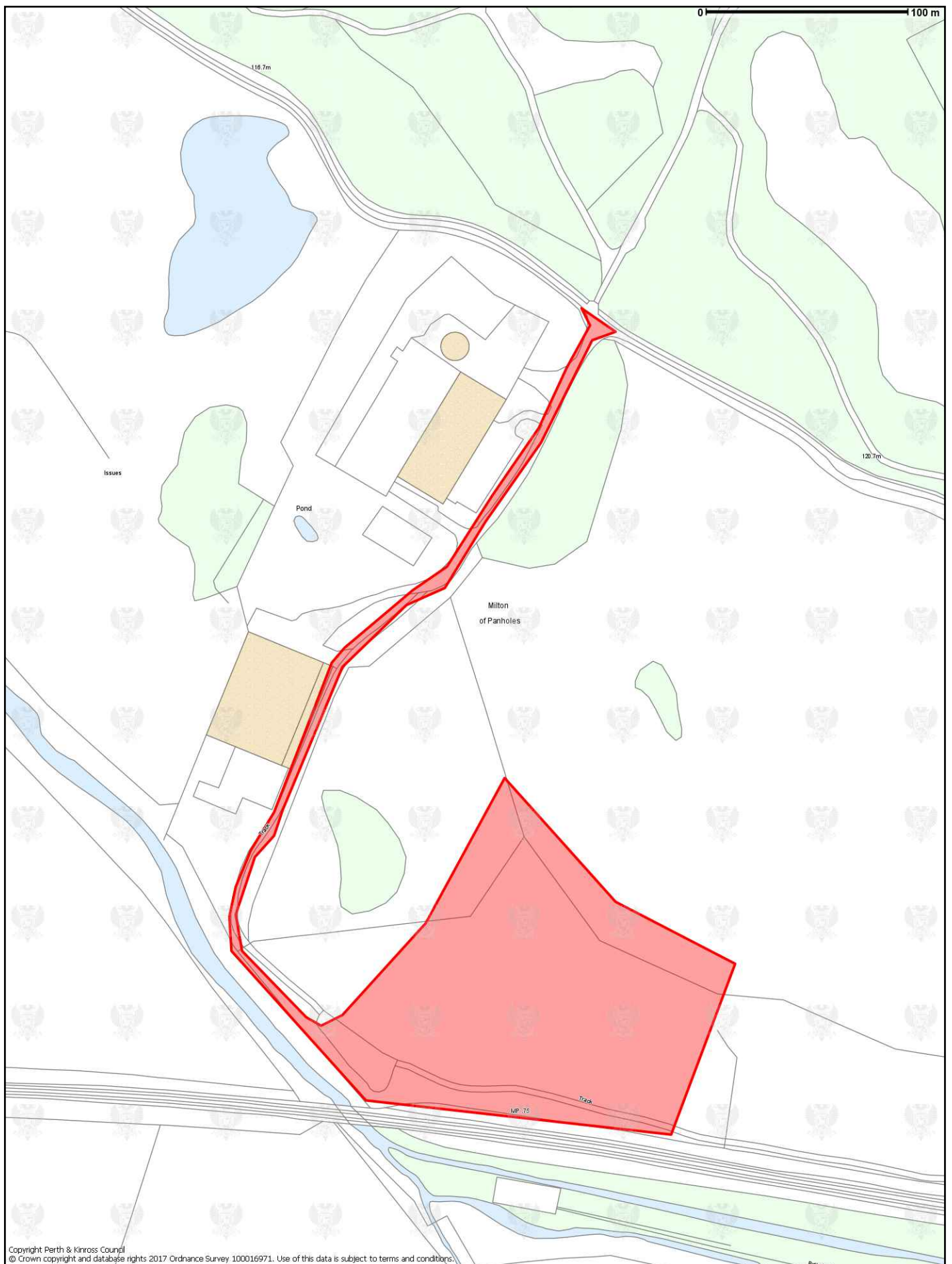
17/00546/FLL

Extraction of sand and gravel, land SE of Milton of Panholes,  
Blackford









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Scale 1:2500

17/00546/FLL

Extraction of sand and gravel, land SE of  
Milton of Panholes, Blackford





Perth and Kinross Council  
Planning & Development Management Committee – 6 December 2017  
Report of Handling by Interim Development Quality Manager

**Proposal:** Siting of a mobile crusher and screener

**Location:** Land south of 1 Deans Park, Deans Park, Dunkeld, PH8 0JH

Ref. No: 17/00992/FLL

Ward No: 5– Strathtay

**Summary**

This report recommends approval of a detailed planning application for the temporary siting of a mobile crusher and mobile screener unit on an active waste slate extraction area at the former Newtyle Farm quarry, Dunkeld as the development is considered to comply with the relevant provisions of the Development Plan.

**BACKGROUND AND DESCRIPTION OF PROPOSAL**

- 1 Planning permission is sought for the temporary siting of a mobile crusher and a mobile screener on an area which is subject to ongoing slate waste extraction. The waste slate was generated by historical slate quarries in the area.
- 2 In support of the planning application, the applicant has provided photographs of both the mobile crusher and mobile screener, and provided details of the model number of both units. The crusher unit will measure approx. 15m in length, 3m in width and 5m in its height, whilst the smaller screener measures approx. 4m in length, 2m in width and 2.5m in height – the two units will be located side by side. The siting of these units would allow for the existing waste slate to be crushed on site, and then sorted into variable sizes prior to it being removed from site via HGVs for use in the construction industry. It is envisaged that the majority of the processed material would be used at local infrastructure projects, such as the A9 dualling but not exclusively. Permission is sought for a temporary period of five years, upon which time the extraction area to the east of the A984 will be exhausted, and the already approved restoration programme will commence thereafter.
- 3 The equipment is to located on an area of raised ground at Newtyle Farm, which is located east of the A984 public road (which runs to the east of the River Tay), and to the south-east the residential cul-de-sac of Deans Park - which is located some 2km to the south east of Dunkeld. The closest residential property at Deans Park would be approx. 140m away from the proposed equipment. The applicant has indicated that as the extraction advances throughout the area, the altitude of the units would decrease as the ground on which it sits on lowers, but their location will remain the same.

- 4 A retrospective planning application for the siting of similar equipment on the opposite (west) side of the A984 was approved in 2011 (11/02014/FLL). The extraction of slate waste from that area has now ceased, the equipment removed and the final restoration of the area now underway.
- 5 Notwithstanding the comments made within the representations, it must be noted that this planning application relates solely to the siting, and operation of the mobile crusher and mobile screener units only. The physical removal of the waste slate material from the former mineral working deposits is permitted development under the terms of Part 19, Class 66 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (GPDO), and is subject to the specific conditions stated within that class – which includes control over the eventual restoration and details of the vehicular access.

### **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 certain 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 As a result of the scale of the development proposed, an Environmental Statement was not required to be submitted as the scale of development falls below the EIA thresholds.

### **PRE-APPLICATION CONSULTATION**

- 9 The proposed development is not classed as a Major development in terms of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. Therefore the applicant was not required to undertake not any formal pre-application consultation with the local community.

### **NATIONAL POLICY AND GUIDANCE**

- 10 The Scottish Government expresses its planning policies through The National Planning Framework, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Creating Places, Designing Streets, National Roads Development Guide and a series of Circulars.
- 11 Of specific relevance to this planning application are;

#### **Scottish Planning Policy 2014**

- 12 The 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.
- 13 Of relevance to this proposal are;
- Paragraphs 74 - 83, which relates to Promoting Rural Development
  - Paragraphs 92 - 108, which relates to Supporting Business & Employment

#### **PAN 50 ANNEX B - Controlling the Environmental Effects of Surface Mineral Workings Annex B: The Control of Dust at Surface Mineral Workings**

- 14 Whilst this PAN is aimed primarily at offering advice in relation to surface mineral workings the document is nevertheless a good source of information and guidance for other proposals which may generate dust emissions and requires measures to keep them within environmentally acceptable limits

#### **PAN 1/2011 - Planning and Noise**

- 15 This PAN provides advice on the role of the planning system in helping to prevent and limit the adverse effects of noise. It supersedes Circular 10/1999 *Planning and Noise* and PAN 56 *Planning and Noise*.

#### **DEVELOPMENT PLAN**

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

#### **TAYplan Strategic Development Plan 2016 – 2036 - Approved October 2017**

- 17 Whilst there are no specific policies or strategies directly relevant to this proposal the overall vision of the Tay Plan should be noted. The vision states *"By 2036 the TAYplan region will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice, where more people choose to live, work and visit and where businesses choose to invest and create jobs."*

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

- 18 The Local Development Plan (LDP) was adopted by Perth and Kinross Council

on 3 February 2014. It is the most recent statement of Council policy and is augmented by Supplementary Guidance.

- 19 Within the LDP, the site lies within the landward area where the following policies are applicable,

**Policy PM1A – Placemaking**

- 20 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 PM3 - Infrastructure Contributions**

- 21 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 NE3 – Biodiversity**

- 22 The Council will seek to protect and enhance all wildlife and wildlife habitats, whether formally designated/protected or not, taking into account the ecosystems and natural processes in the area.

**Policy EP8 - Noise Pollution**

- 23 There will be a presumption against the siting of development proposals which will generate high levels of noise in the locality of existing or proposed noise sensitive land uses and similarly against the locating of noise sensitive uses near to sources of noise generation.

**Policy ER4C - Efficiency and Waste**

- 24 Encourages greater efficiency in the use of primary mineral resources. Minerals and other extractive development will minimise the production of waste. Construction activities will be encouraged to use recycled aggregate/other materials wherever possible.

**Policy ED3 – Rural Business and Diversification**

- 25 The Council will give favourable consideration to the expansion of existing businesses and the creation of new ones in rural areas. There is a preference that this will generally be within or adjacent to existing settlements. Sites outwith settlements may be acceptable where they offer opportunities to diversify an existing business or are related to a site specific resource or opportunity. This is provided that they will contribute to the local economy through the provision of permanent employment, or visitor accommodation, or

additional tourism or recreational facilities, or involves the re-use of existing buildings. New and existing tourism-related development will be supported where it can be demonstrated that it improves the quality of new or existing visitor facilities, allows a new market to be exploited or extends the tourism season

## **OTHER COUNCIL POLICIES**

### **Developer Contributions and Affordable Housing 2016**

- 26 This document sets out the Council's policy for securing contributions from developers in relation to new developments which may have an impact on existing infrastructure and require improvements as a direct consequence of the development proposed.

## **CONSULTATIONS**

### **External**

- 27 **Dunkeld & Birnam Community Council** have objected to the proposal. The main concerns which they raised relate to,
- Non-compliance with Policy ER4A of the Local Development Plan 2014, insofar as a) it has not been demonstrated that there is an existing demand for the material which cannot be met by other sources and b) that it has not been demonstrated that the material is required to maintain a suitable land bank of material within the market area.
  - Adverse impact on existing residential amenity via Dust and Noise nuisance

These issues are addressed in the main Appraisal section.

### **Internal**

- 27 **Environment Health** have commented on the proposal in terms of dust and noise nuisance, and have raised no objections to the proposal subject to conditions being attached to any consent which controls these potential nuisances.

## **REPRESENTATIONS**

- 29 Seven letters of representations from individuals have been received objecting to the proposal. In addition to these, an objection from the Dunkeld and Birnam Community Council has also been received. The main issues relevant to this planning application raised within the letters of representations are;
- Road safety concerns at the access to the site, and on the public road
  - Noise pollution
  - Dust pollution

30 These issues are considered in the Appraisal section of this report. It must however be noted that other concerns regarding;

- The capacity/standard of the public road to accommodate HGV's
- Damage to public roads/bridges
- Issue concerning the physical extraction process (such as possible landslides/surface water run-off),

are not relevant to this planning application as they relate to the extraction process which is permitted development, and not under consideration as part of this planning application. These issues cannot therefore be considered to be material considerations as part of the current planning application proposal.

### **ADDITIONAL STATEMENTS**

|    |                                                |                                                                                                                                          |
|----|------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|
| 31 | Environment Statement                          | Not required                                                                                                                             |
|    | Screening Opinion                              | Not required                                                                                                                             |
|    | Environmental Impact Assessment                | Not required                                                                                                                             |
|    | Appropriate Assessment                         | Not required                                                                                                                             |
|    | Design Statement / Design and Access Statement | None                                                                                                                                     |
|    | Report on Impact or Potential Impact           | A noise and dust assessment was submitted in support of the previous planning application and these are still considered to be relevant. |

### **APPRAISAL**

31 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) requires the determination of the application to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise.

32 The Development Plan for the area comprises the approved TAYPlan 2017 and the adopted Perth and Kinross Local Development Plan 2014. The relevant policies 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, namely those which relate to Developer Contributions.

### **Policy**

33 In terms of land use policies, the key policies are found within the Local Development Plan 2014 (LDP). Within the LDP, the site lies within the landward area where land use Policies PM1A (placemaking), ED3 (rural business and diversification) and ER4C (efficiency and waste) are directly applicable.



- 34 Policy PM1A of the LDP seeks to ensure that all new developments do not have an adverse impact on the local environment, which includes visual and residential amenity impacts. In terms of Policy ED3 of the LDP, this policy supports the expansion of existing businesses and the creation of new ones in rural areas. This policy states that there is a preference for such developments to be within or adjacent to existing settlements, however sites outwith settlements (such as this) may be acceptable where they offer opportunities to diversify an existing business or are related to a site specific resource or opportunity – providing that the proposal contributes positively to the local economy through (*amongst other things*) the provision of permanent employment.
- 35 Policy ER4C of the LDP promotes greater efficiency in the use of primary mineral resource and seeks to minimise waste as part of mineral extraction activity and encourages the use recycled aggregate / other material where ever possible.
- 36 Policy EP8 of the LDP states that there will be a presumption against the siting of development proposals which will generate high levels of noise in the locality of existing or proposed noise sensitive land uses, and similarly against the locating of noise sensitive uses near to sources of noise generation.
- 37 For reasons stated below, I consider the proposal (subject to conditions) to be in accordance with the aforementioned policies.

### **Land Use Acceptability**

- 38 As stated previously, this planning application is not seeking to regulate or control the physical extraction of any material from the site. The extraction of the waste slate is considered to be permitted development under the explicit terms *Part 19, Class 66* GPDO. The proposed land use which is under consideration is the further processing of the onsite waste material, to effectively make it more usable (and suitable) for use in the construction industry.
- 39 *Policy ER4C* of the LDP seeks to provide greater efficiency in the use of primary resources, and to ensure that as part of extractive developments the production of waste is minimised. The primary resource associated with this site is slate, which has been quarried and exhausted. From that process the slate waste was subsequently produced and remains on the site. The applicant is currently in the process of removing that waste via permitted development rights associated with *Part 19, Class 66* of the GDPO, and could transport the waste material off the site without the need for any formal planning consent.
- 40 However, as per the site on the opposite side of the road, the applicant is proposing via the use of mobile crusher and screener units, to create a more usable product before transporting it off site and it is this element (the siting of the crusher / screener) which requires planning consent. I consider the proposal to be entirely in line with *Policy ER4C* as the proposed processing and re-use of the slate waste to make it into a more usable product is considered to

be the ultimate end process of the slate quarrying as it would ensure that no waste has occurred from the original quarrying process. It would also be the case that the waste onsite which was a consequence of the initial extraction would be removed entirely from the site.

- 41 The proposal also falls to be considered against *Policy ED3* of the LDP, which relates to rural businesses and diversification. This policy supports the expansion of existing businesses within the landward area where the proposal offers opportunities to diversify an existing business or are related to a site specific resource or opportunity – providing that the proposal contributes positively to the local economy through (*amongst other things*) the provision of permanent employment.
- 42 The proposed siting of the units to process onsite waste material (with no need to import), and to make it more suitable for local businesses to use for their construction projects aligns itself positively with the aims and objectives of *Policy ED3*. It is accepted that the principle of processing the waste slate onsite before transporting it off site is not new, and does not constitute a diversification of the existing business - as the applicant has already carried out a similar operation on the site opposite. However, it would be the case that the proposal would be a continuation and expansion of an existing business, and be a business opportunity to use a one off specific site resource. I therefore consider the proposal to be in line with *Policy ED3* of the LDP.

### **Noise and Dust Pollution**

- 43 It is accepted that there is some noise and dust generation from the removal of the slate waste from the site, and there is likely to be more of each generated by the operation of the crusher and screener. However, it is important to note that the scope of the planning application under consideration relates solely to the proposed siting of the crusher and screener units and not to any impacts from the associated removal of material from the site. The potential for noise and dust generation by the proposed equipment has been assessed fully by my colleagues in Environmental Health and subject to a number of conditions (3 - 6), they have no concerns regarding what is effectively the continued operation of the crusher/screener – albeit on a different site than previously approved.

### **Residential Amenity**

- 44 In terms of overlooking or loss of privacy to neighbouring residential properties, the proposal raises no concerns. The proposed location of the equipment is approx. 140m away from the closest residential dwelling, and approx. 120m from the closest residential garden.
- 45 In terms of nuisance from dust and noise, as stated in paragraph 43, I also have no concerns.
- 46 It is accepted that there is likely to be noise and dust generation from the removal of the slate waste from the site regardless of the use of proposed equipment. However, in the event that this proposal was to be approved and

then brought into use, it is likely that there would be more noise and dust generated by the operation of the proposed unit.

- 47 The potential for noise and dust generation by the proposed unit has been assessed fully by Environmental Health and in terms of the dust, they are of the view that as per the previous planning application, due to the relatively large particulate size of particles, most of the dust arising from the direct use of the equipment would be deposited within the immediate vicinity of the equipment - which sits within the larger area of slate waste working, and would not affect the residential properties directly. In terms of noise, subject to noise and operational time conditions being imposed on any planning permission noise nuisance should not occur to any existing residential property as a direct result of the use of either the crusher or screener.
- 48 Subject to these proposed conditions, the use of the equipment can be adequately controlled so that there is no adverse impact on the residential amenity when the equipment is in use.

### **Dust on the Local Road Network**

- 49 Although the removal of material from the site does not require express planning permission and cannot be limited through the terms and conditions of this planning application, it is the case that the proposed crushing and screening process may create additional dust, over and above that which would be created just by collecting, loading and transporting the waste material unprocessed. Accordingly, vehicles leaving the site therefore have the potential to transfer this dust onto the public roads.
- 50 The general state of the public road and its ability to accommodate HGV movements associated with the removal of the slate waste from this site is not a matter open for consideration under the limits of this planning application. However, controlling the transfer of dust (which is directly caused from the crushing process) onto the public road is a consideration due to the potential for the dust to cause nuisance to residential properties near the site and also properties which are located road side to the haulage routes.
- 51 On this basis it is considered reasonable to try to minimise the level of additional dust nuisance arising from this proposal by seeking the further submission and approval of a Dust Management Plan (Condition 6) which will contain dust management procedures. The approved plan shall thereafter be implemented while the equipment is on site and during the reinstatement period. It is expected that the dust management procedures will include measures such as the wetting of exposed material and internal roadways during dry weather, regular use of a road sweeper and the need for wheel wash facilities when leaving the site.

### **Appropriateness of Vehicular Access to and from the site**

- 52 Within the letters of representations, road safety concerns have been raised regarding the existing vehicular access. These concerns related to both the

visibility of the vehicles leaving the site, and also the ability for road users to see vehicles idling /waiting at the access point.

- 53 The site has an existing vehicular access which has recently been lawfully widened by the applicant to accommodate the intended movements of HGVs to and from the site. As part of the ongoing permitted development activities on the site associated with the removal of the waste slate, an acceptable means of vehicular access to the site is an explicit requirement, and whilst the principle of what is required has been agreed it has yet to be fully delivered on site. It is however the case that matters relating to the vehicular access are not within the scope of this planning application, but are being addressed through other means.

### **Trees**

- 54 There are no trees which are affected directly by the siting of either the crusher or screener unit.

### **Relevance of Policy ER4A of the Local Development Plan 2014**

- 55 Within the letter of representation from Dunkeld & Birnam Community Council, they have made an assessment of the proposal against Policy ER4A of the LDP - which is applicable for proposals that relate to the extraction of materials. The extraction of the waste material is permitted development, and is not under consideration as part of this planning application. Policy ER4A of the LDP is not considered to be a material consideration in the assessment of this planning application so there is no requirement to seek further information on marketing requirements or current supplies in the market area – both of which is explicitly referred to in the Community Councils submission.

### **Impact on Bio-diversity**

- 56 The siting and use of the proposed equipment would have little impact on any local habitats or wildlife species. The areas where the proposed units are to be located are man-made ground, which has little in the way of habitat value. Noise arising from the use of the crusher and screener would be in combination with existing noise associated the extraction of the material, and would not result in any disturbance to wildlife in isolation.

### **Ongoing Public Complaints**

- 57 In relation to the siting of similar equipment on the site on the opposite side of the road, during its use, my colleagues in Environmental Health did not receive any formal complaints regarding noise or dust. A formal complaint has however been received recently from a local resident concerning dust accumulation on the local roads, which in turn affects the complainer's property. The timing of this complaint relates to the reinstatement of the site and not the actual use of crusher / screener or indeed the removal of the material from the site.

- 58 Under the terms of the Part 19, Class 66 of the GDPO the Council has no formal planning controls in relation to traffic movements connected to the reinstatement. We only have controls over the physical reinstatement itself. However, as part of the requirements of Condition 6 (dust management) of this planning consent, the applicant has offered to provide details of mitigation measures to control dust during the reinstatement process, which will take into account issues which have arisen during the restoration of the adjacent site.

### **Developer Contributions**

- 57 Due to the nature of the proposal and its location, there are no requirements for any Developer Contributions in relation to Affordable Housing, Primary Education, Transport Infrastructure and A9 Junction Improvements.

### **LEGAL AGREEMENTS**

- 58 None required.

### **DIRECTION BY SCOTTISH MINISTERS**

- 59 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**

- 60 In conclusion, the application must be determined in accordance with the Development Plan unless material considerations indicate otherwise. In this respect, whilst I acknowledge the comments received from neighbouring residents and the local Community Council, subject to conditions, the proposal is considered to comply with the adopted Local Development Plan 2014 and on that basis the application is recommend for a conditional approval.

### **RECOMMENDATION**

#### **A Approve the planning application subject to the following conditions:-**

- 1 Permission is hereby granted for a limited period until 1 December 2022. Prior to this date, the use of all plant and machinery associated with this development shall cease, and all associated equipment removed from the site.
- 2 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.
- 3 Noise from any plant and machinery associated with this development shall be controlled so that noise levels do not exceed 55dB LAeq, 1 hour (free field) at any adjacent dwellinghouse.

- 4 Prior to the commencement of any development, confirmation of the model of both crusher and screener shall be submitted to the Council as Planning Authority for approval. Any change from the approved model(s) shall be agreed with the Council before being brought into site. All plant and equipment shall thereafter be operated and maintained according to the manufacturer's recommendations. This includes all necessary servicing and the provision of satisfactory exhaust systems to ensure that noise emissions are minimised. Records regarding all services and modifications made to all plant and equipment shall be kept on site and shall be available for inspection by the Council as Planning Authority.
- 5 The hours of operation of the plant and equipment hereby approved shall be limited to 0700 hours to 1900 hours Monday to Friday and 0800 to 1300 on Saturdays, with no operation on Sunday.
- 6 Prior to the development commencing, a Dust Management Plan must be submitted for the approval in writing by the Council as Planning Authority. The plan must include adequate precautions to ensure that all times and at all stages of the process (including reinstatement), dust generation on the site and outwith, is minimised by implementing agreed dust prevention measures e.g. wheel washing facilities. The plan shall also provide details of future monitoring and reporting on the successfulness of the plan. The approved plan shall thereafter be implemented in full to the satisfaction of the Council as Planning Authority.

**Reasons:-**

- 1 In view of the nature of the proposed development and to enable the Planning Authority to review the circumstances pertaining to the proposal within a reasonable period of time.
- 2 To ensure the development is carried out in accordance with the approved drawings and documents
- 3-6 To ensure a satisfactory standard of local environmental quality.

**B JUSTIFICATION**

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

**C PROCEDURAL NOTES**

- 62 None

**D INFORMATIVES**

- 1 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.

- 2 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.
- 3 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. In accordance with 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.

Background Papers: 7 Letters of representation  
Contact Officer: Andy Baxter, 475339  
Date: 23 November 2017

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

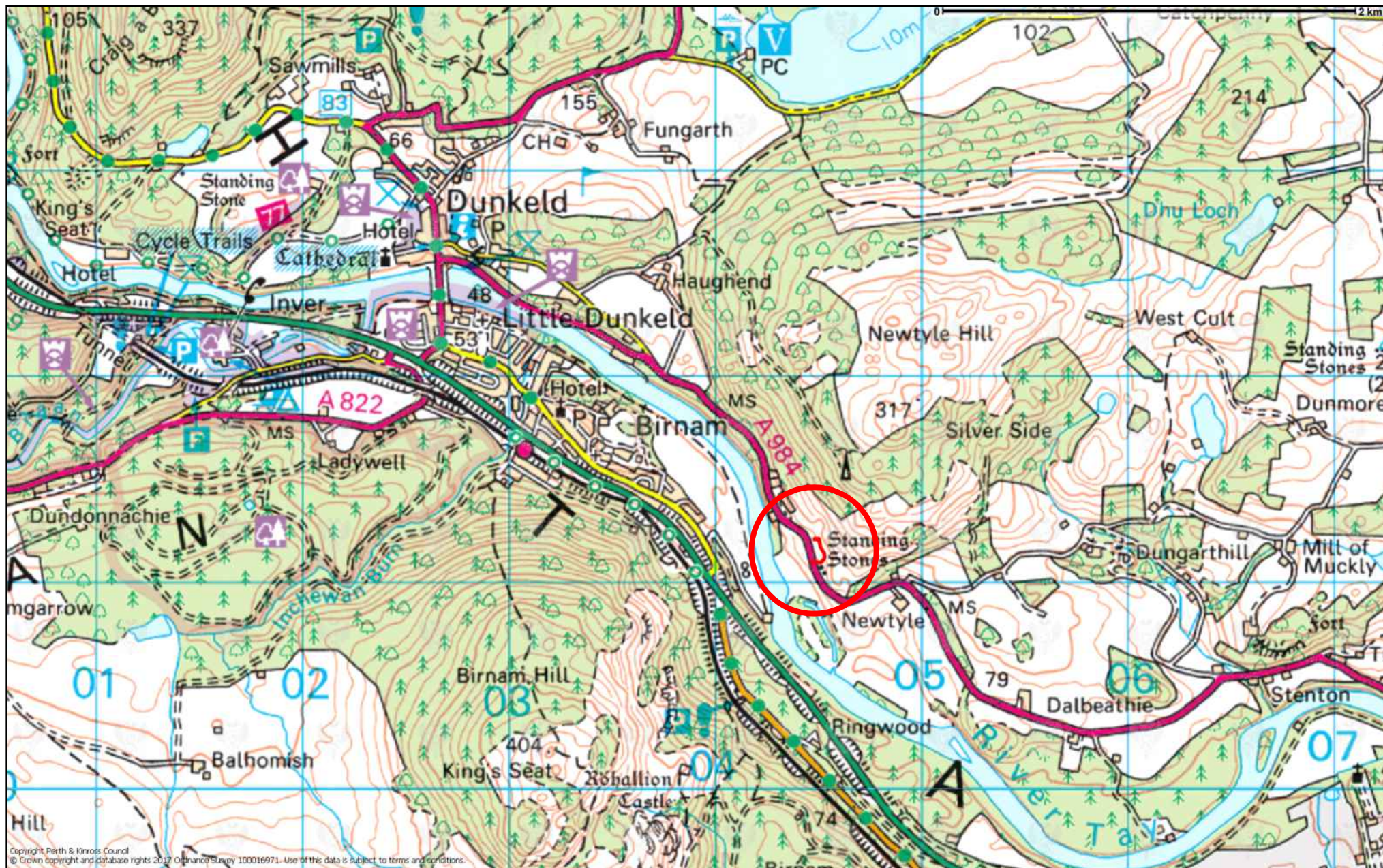
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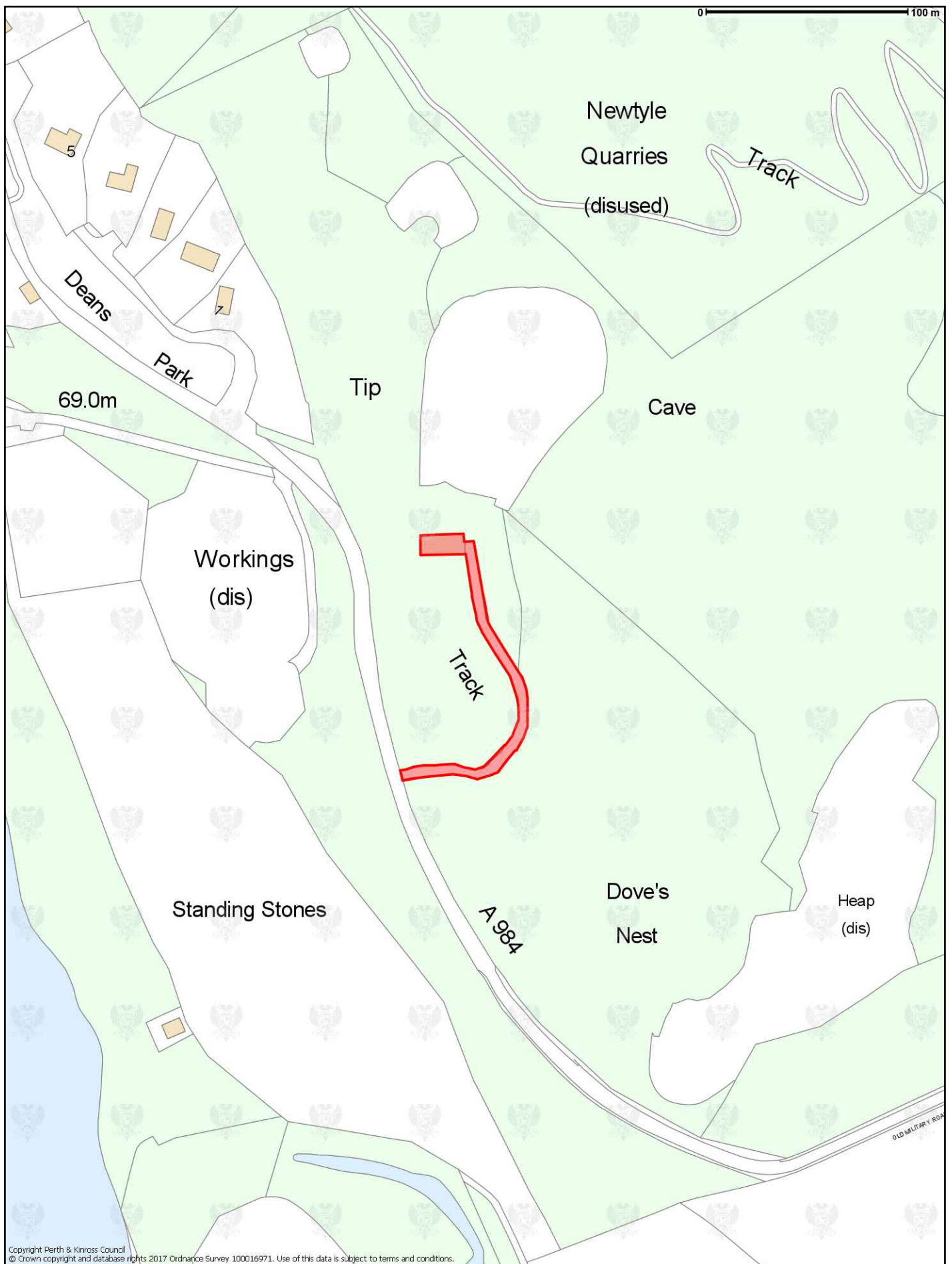
17/00992/FLL

Siting of a mobile crusher and screener, land South of 1 Deans Park, Deans Park, Dunkeld









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17/00992/FLL

Siting of a mobile crusher and screener, land South of 1 Deans Park, Deans Park, Dunkeld





Perth and Kinross Council  
Planning & Development Management Committee – 6 December 2017  
Report of Handling by Interim Development Quality Manager

**Proposal:** Erection of a replacement dwellinghouse

**Location:** Site of former Bruaich Cottage, Fearnan

Ref. No: 17/01563/FLL

Ward No: P4 Highland

**Summary**

This report recommends approval of the detailed application for the erection of a replacement dwellinghouse on the site of former Bruaich Cottage, Fearnan. The development is considered to comply with the current Development Plan. The application is recommended for approval, subject to conditions.

**BACKGROUND AND PROPOSAL**

- 1 Planning permission is sought for the erection of a dwellinghouse on the site of a former cottage at Fearnan. The existing building is a modest single storey timber clad building of no particular architectural value. The proposal is for the construction of a replacement dwellinghouse with accommodation over two levels. The application site extends to around 2190 square metres and is bounded on one side by the public road, a neighbouring property to the east and open ground to the south. There are views of Loch Tay from the site which is accessed from the north using an access shared by the neighbouring property. The new dwelling will utilise the existing access.
- 2 The proposed new dwellinghouse is of one and a half storey form with two bedrooms and a small study at first floor level. At ground floor level there are two further bedrooms and a dining/kitchen area. A gable extension with glazing on the southern elevation contains a sitting area and wood burning stove. There is a lean to style roof to the north that joins the main roof and provides cover for the main entrance. The building will be finished in horizontal timber boarding, slate roof and timber windows. The

**NATIONAL POLICY AND GUIDANCE**

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

**The Scottish Planning Policy 2014**

- 4 The 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.

5 Of relevance to this application are;

- Paragraphs 36 – 57: Placemaking

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

6 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**

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

### **TAYplan Strategic Development Plan 2016 – 2036 - Approved October 2017**

8 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 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.”*

9 The following section of the TAYplan 2017 is of particular importance in the assessment of this application.

### **Policy 1: Locational Priorities**

10 Seeks to focus the majority of development in the region's principal settlements. Perth Core Area is identified as a Tier 1 Settlement with the potential to accommodate the majority of the region's additional development over the plan period and make a major contribution to the region's economy.

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

- 11 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 9: Managing TAYplans Assets**

- 12 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.

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

- 13 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
- 14 The 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.”*
- 15 Under the LDP, the following policies are of particular importance in the assessment of this application.

### **Policy PM1A - Placemaking**

- 16 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 adaptation.

### **Policy PM1B - Placemaking**

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

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

- 18 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**

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

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

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

### **Policy NE3 - Biodiversity**

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

### **OTHER POLICIES**

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

### **Planning Site History**

- 23 17/00496/FLL Erection of replacement dwellinghouse 8 June 2017 Application Withdrawn

### **CONSULTATIONS**

#### **EXTERNAL**

##### **Scottish Water**

- 24 No objection, advice given.

##### **Glen Lyon & Loch Tay Community Council**

- 25 Object due to size, scale, materials and impact on the character of Fearnan.

#### **INTERNAL**

##### **Transport Planning**

- 26 No objections.



## **Environmental Health**

- 27 No objection subject to condition with regard to wood burning stove.

## **Contributions Officer**

## **Primary Education**

- 28 This proposal is within the catchment of Kenmore Primary School.
- 29 Education & Children's Services have no capacity concerns in this catchment area at this time. No developer contributions are required.

## **REPRESENTATIONS**

- 30 The application has attracted 11 letters of objection. The following issues were raised by the objectors;
- Contrary to local plan policy
  - Design is out of keeping with area
  - Impact on character of rigg system
  - Approval would set a precedent
  - Light nuisance
  - Overlooking
  - Impact on trees

## **Response to issues**

- 31 The issues raised are addressed in the Appraisal section of this report.

## **ADDITIONAL STATEMENTS**

|    |                                                |              |
|----|------------------------------------------------|--------------|
| 32 | Environment Statement                          | Not required |
|    | Screening Opinion                              | Not required |
|    | Environmental Impact Assessment                | Not required |
|    | Appropriate Assessment                         | Not required |
|    | Design Statement / Design and Access Statement | Not required |
|    | Reports on Impact or Potential Impact          | Not required |

## **APPRAISAL**

### **Policy**

- 33 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 as amended by the 2006 Act require that planning decisions be made in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the area comprises the approved

TAYplan 2012 and the adopted Perth and Kinross Local Development Plan 2014.

- 34 The determining issues in this case are whether; the proposal complies with Development Plan policy; or if there are any other material considerations which justify a departure from policy.

### **Principle**

- 35 The site is located within the settlement boundary of Fearnan where Policies RD1 'Residential Areas', PM1A 'Placemaking' and PM1B 'Placemaking' of the Perth and Kinross Local Development Plan are applicable.
- 36 Policy RD1 outlines that the Council will be generally supportive of developments within residential areas that are compatible with the amenity and character of the area and will improve the character and environment of the area or village. In this case the character of Fearnan is defined by a rigg system which can be seen in the central and northern sections of the settlement. This rigg system is protected within the settlement boundary of the development plan by its designation as open space.
- 37 Policy PM1A of the Local Development Plan seeks to ensure that all developments contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place.
- 38 Policy PM1B of the Local Development Plan sets out a placemaking criteria against which all proposals should comply.
- 39 It is considered that the principle of the proposal to replace the existing dwellinghouse is acceptable and that the details accord with the policies set out above. This will be discussed in more detail below.

### **Design and Layout**

- 40 The proposal is to replace an existing single storey timber clad dwellinghouse that measures around 9 metres by 8 metres. The height to the roof ridge is 4.6 metres. The building is of no particular value and it is accepted that a replacement building is appropriate. The footprint of the existing house measures approximately 70 square metres. The new house has a footprint of approximately 110 square metres.
- 41 The proposed new dwellinghouse will measure around 11 metres by 9 metres with a 5 metre square gable extension to the south. The height to the roof ridge is 6.6 metres from the finished floor level making it around 2 metres higher than the existing. Provision is made for four bedrooms over two levels. The building is sited partly on the existing footprint although it extends further to the south west with the addition of the gable extension that contains the sitting area and access to the upper floor.

- 42 The new house will be finished in horizontal timber cladding with slate roof and timber doors and windows. A condition will be attached to confirm details (Condition 2).
- 43 The design of the proposal has attracted a number of objections particularly due to the inclusion of the glazed central element to the rear. The objectors comment that such a design is not appropriate in Fearnan which is characterised by single storey properties and that this proposal would set an undesirable precedent for other similar proposals.
- 44 A previous application that included a large decked area and more extensive glazing to the east side of the central section was withdrawn. This revised submission has removed the decking to the south and west as well as the glazing on the east side of this section. The whole central section was also lowered by around half a metre to bring it below the main ridge level.
- 45 There has also been concern expressed by objectors that the proposal would not be in keeping with the historic rigg system for which Fearnan is noted. In this case the development site is to the west of the main rigg system and already contains built development. The development area does not extend significantly beyond the existing building footprint. I would note that there are a variety of house styles in Fearnan although close to the site there is a predominance of single storey properties. This proposal represents a more contemporary design that seeks to make the best use of a constrained site.

### **Landscape and biodiversity**

- 46 The site is in an area where there are existing trees, the majority of which will be retained. There is an existing beech hedge to the rear (north east) of the property which is proposed for retention. There has been an objection to the proposals with regard to potential tree loss however the plans show that the majority of trees will be retained and that these are a sufficient distance from the replacement dwellinghouse to be unaffected by the proposal. A condition will be attached to ensure that the trees to be retained are protected (Condition 4).
- 47 An informative note will be attached to ensure that account is taken of any protected species (Informative 5 and 7) that may be present during the works and that any demolition or site clearance is undertaken at an appropriate time of year with regards nesting birds (Informative 6).

### **Residential Amenity**

- 48 The site is close to an existing residential dwellinghouse. The new house will be around the same distance from its neighbour as the existing. There are two windows proposed on the east elevation serving a bedroom and kitchen. Whilst the window to boundary distance at 4.6 metres is less than 9 metres which is normally preferred the new proposal will be at the same distance as the existing dwellinghouse where there historically have been windows. The glazed central element has velux windows in the roof however there is no

internal access to these so there will be no overlooking from them. The neighbour is concerned with overlooking of the garden area however the angle of view from the new property will generally be away from the neighbour's garden. There is also a blank wall to the side of Drummond View in the form of a bedroom extension as well as an existing shed and trees that will restrict any views from the new property.

- 49 Environmental Health has commented that the application contains provision for a wood burning stove and associated flue. Perth and Kinross Council have a duty to assess biomass boilers of capacity of greater than 50kW based on their effect on air quality in the area, however this will not be necessary with a domestic sized stove.
- 50 However there is the potential for smoke or odour nuisance from the stove. This can be minimised by the applicant using fuel recommended by the manufacturer. It is therefore proposed to attach a condition as recommended by Environmental Health (Condition 5).
- 51 I am therefore content that residential amenity will not be adversely affected by the proposed development.

### **Visual Amenity**

- 52 There have been objections to the proposal due to its potential adverse visual impact. This is primarily due to the height of the proposed house and the glazed rear element that objectors feel is out of keeping with the area. When viewed from the north the new building will be around 2 metres higher than the existing. This increase is made visually less severe by a lean-to element to the rear that covers a log store and entrance area. The rear is also relatively plain and will not stand out to any significant degree. The existing site is well wooded and it is not anticipated that this will change. A condition will be attached to protect existing trees during construction (Condition 4) and full landscaping details will be requested by condition (Condition 3)
- 53 The glazed area to the front has been included to take advantage of its setting looking out towards Loch Tay. This style of building is relatively common in the area including example close to Fearnan. Objectors are concerned that it will be visible from the minor road that runs along the western boundary. The new house will be around 10 metres from this boundary. There is extensive vegetation and tree cover along the roadside boundary which reduces any adverse impact.

### **Roads and Access**

- 54 The site is accessed from the public road by the existing access which also serves the neighbouring property, Drummond View. There has been no objection from my colleagues in Transport Planning

### **Drainage and Flooding**

- 55 There are no known issues in relation to the flooding or drainage. The site is also not located within any areas at risk to a 1 in 200 year flood event, as per SEPA's indicative flood maps.

### **Light Pollution**

- 56 There has been concern from objectors that light from the property could cause a nuisance on the road to the west. However the new house will be over ten metres from the road and it is unlikely that any domestic scale lighting used on the property would impact on users of the public road.

### **Waste and recycling**

- 57 The existing arrangements on site for waste and recycling provision will not be affected by this proposal. A site for a bin store is shown on the plans.

### **Developer Contributions**

#### **58 Primary Education**

The Council Developer Contributions Supplementary Guidance requires a financial contribution towards increased primary school capacity in areas where a primary school capacity constraint has been identified. A capacity constraint is defined as where a primary school is operating, or likely to be operating following completion of the proposed development and extant planning permissions, at or above 80% of total capacity.

- 59 This proposal is within the catchment of Kenmore Primary School.
- 60 Education & Children's Services have no capacity concerns in this catchment area at this time. No developer contributions are required.

### **Economic Impact**

- 61 The economic impact of the proposal is likely to be minimal and limited to the construction phase of the development.

### **LEGAL AGREEMENTS**

- 62 No legal agreements are required as part of this proposal.

### **DIRECTION BY SCOTTISH MINISTERS**

- 63 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**

- 64 In conclusion, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this case the application seeks consent for the erection of a replacement dwellinghouse. This proposal complies with LDP policies which support development within settlement boundaries. It is therefore considered that the proposal does comply with the relevant provisions of the adopted plan. There are no material considerations that would justify departing from the Development Plan. On that basis the application is recommend for approval subject to conditions.

## **RECOMMENDATION**

### **A 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 Prior to the commencement of the development hereby approved, details of the specification and colour of the proposed external finishing materials to be used shall be submitted to and agreed in writing by the Council as Planning Authority. The scheme as agreed shall be implemented prior to the completion or bringing into use of the development, whichever is the earlier.

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

- 3 Prior to the commencement of the development hereby approved, a detailed landscaping and planting scheme for the site shall be submitted for the further written agreement of the Council as Planning Authority. The scheme shall include details of the height and slopes of any mounding or recontouring of the site, full details of all hard landscaping proposals including materials and installation methods and, species, height, size and density of trees and shrubs to be planted. The scheme as subsequently approved shall be carried out and completed within the first available planting season (October to March) after the completion or bringing into use of the development, whichever is the earlier, and the date of Practical Completion of the landscaping scheme shall be supplied in writing to the Council as Planning Authority within 7 days of that date. The scheme as agreed and implemented shall thereafter be maintained.

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

- 4 Prior to the commencement of any works on site, all trees on site (other than those marked for felling on the approved plans) and those which have Root Protection Areas which fall within the site shall be retained and protected. Protection methods shall be strictly in accordance with BS 5837 2012: Trees in

Relation to Design, Demolition and Construction. Protection measures, once in place, shall remain in place for the duration of construction.

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

- 5 The stove shall only operate on fuel prescribed and stored in accordance with the manufacturer's instructions. The stove and flue and any constituent parts shall be maintained and serviced in accordance with the manufacturer's instructions. No changes to the biomass specifications shall take place.

Reason - To ensure the correct operation of the stove.

## **B JUSTIFICATION**

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

## **C PROCEDURAL NOTE**

None required.

## **D INFORMATIVES**

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
- 2 Under Section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the Planning Authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.
- 4 An application for Building Warrant may be required.
- 5 Due to the nature of the proposed work it is important to keep in mind the possibility of finding bats when doing work on the existing roof. If bats are found during works, the work should stop immediately and you should contact SNH at Battleby immediately for advice. Building works should avoid the times of year when bats are most vulnerable to disturbance. The summer months, when bats are in maternity roosts, and the winter months when bats are hibernating, should be avoided. Typically early spring and autumn months are

the best times to do work that may affect bats. If you suspect that bats are present you should consult SNH for advice. For further information visit the Bat Conservation Trust website <http://www.bats.org.uk/>.

- 6 Existing buildings or structures may contain nesting birds between 1st March and 31st August inclusive. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning permission for a development does not provide a defence against prosecution under this Act.
- 7 The presence of protected species, and the extent to which they could be affected by the proposed development, should be established before works commence. Should protected species be identified within the site the developer should ensure that all appropriate measures required to comply with the relevant legislation are carried out.

Background Papers: 11 letters of representation  
Contact Officer: Persephone Beer Ext 75354  
Date: 23 November 2017

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

|                                                                                                                                                                                                                                                             |
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