

Perth and Kinross Council  
Development Management Committee – 13 July 2016  
Report of Handling by Development Quality Manager

**Erection of 8 commercial units for Class 4 (Business) 5 (General Industrial) and 6 (Storage and Distribution) uses and associated works, Arran Road and Kilda Road, Perth**

Ref. No: 15/01826/FLM  
Ward No: N12 – Perth City Centre

**Summary**

This report recommends approval of the application for Commercial units, consisting of Business and General Industrial uses as the proposals are considered to comply with the Development Plan for the area if made subject to a legal agreement and through conditional control.

**BACKGROUND AND PROPOSAL**

- 1 The planning application site extends to 2.6 hectares, located on the eastern side of Arran Road and to the north side of Kilda Road, within the established North Muirton Industrial Estate, on the north western edge of Perth City. The site is predominantly bounded to the west, south and east by existing business units of varying sizes. The curved northern parameters of the site are bounded by “Perth Food and Drink Park”, which has extant planning consent 12/01356/FLM. The wider business park is in close proximity to Inveralmond Roundabout, linking up with the wider strategic road network.
- 2 The site forms part of a wider 18.3 Ha site E3, identified for general employment uses, with associated developer requirement criteria, under the Local Development Plan 2014.
- 3 As described in the submission background, the site can be characterised as being segmental shaped, with predominant land area consisting of young self-seeded trees, shrub and grassland planting. The site is considered to have commenced development historically through the formation of a vehicular access, associated infrastructure and peripheral earthworks on Kilda Road. This followed earlier phases of the development of the wider North Muirton Industrial Estate, including the ‘Dingbro’ warehouse development on Arran Road, which originally formed part of the wider site now under consideration. The predominant established uses in close proximity of the site include Class 4 – Business/Office, Class 5 – General Industrial and Class 6 – Storage and Distribution.
- 4 The proposal includes the following elements:  
  
8 large buildings with associated service courtyards, each proposed to be subdivided to accommodate a range of tenancies, within 16 units over a total gross floor area of 7,771 m<sup>2</sup>, comprising:

- Unit 1 – 697 m<sup>2</sup>
  - Unit 2 - 464 m<sup>2</sup>
  - Unit 3 - 464 m<sup>2</sup>
  - Unit 4 - 464 m<sup>2</sup>
  - Unit 5 - 464 m<sup>2</sup>
  - Unit 6 - 464 m<sup>2</sup>
  - Unit 7 - 464 m<sup>2</sup>
  - Unit 8 - 464 m<sup>2</sup>
  - Unit 9 - 464 m<sup>2</sup>
  - Unit 10 – 464 m<sup>2</sup>
  - Unit 11 – 345 m<sup>2</sup>
  - Unit 12 – 464 m<sup>2</sup>
  - Unit 13 – 464 m<sup>2</sup>
  - Unit 14 – 697 m<sup>2</sup>
  - Unit 15 – 464 m<sup>2</sup>
  - Unit 16 – 464 m<sup>2</sup>
- 5 As part of the proposals, the application proposes that up to 20% of individual unit floor space be allowed to be utilised for trade and retail sales space.
  - 6 Each individual building proposal is approximately 20 metres deep, with a shallow pitch, trapezoidal roof rising to 8.2 metres high and ranging in horizontal length from approximately 45 to 60 metres. On the principal elevations, a modest canopy is proposed above glazing and pedestrian door panelled arrangements with two large vehicular up and over loading doors (5x4m) with signage panel above and identified flood light adjacent. The rear of the building detail is limited to two fire exits at either end.
  - 7 The design and finish of the buildings is consistent throughout, with proposed material finishes including composite panels in merlin grey and metallic silver with a buff brick base-course. No signage has been detailed at this stage, with the units being built speculatively for letting.
  - 8 Vehicular access – Includes a new adoptable road, utilising the existing hammerhead junction to serve the development off Kilda Road and units 15/16 accessed off Arran Road.
  - 9 Pedestrian/Cycle Access – Functional footpaths have been identified to tie in with existing pavement infrastructure and dedicated cycle storage has also been incorporated.
  - 10 Car Parking – Car parking identified at a ratio of 1:42, including 16 disabled parking space allocations.
  - 11 Open space and landscaping – Landscaping and open space proposals were received as part of the original submission, which have been further detailed and revised to include formal hedge planting, interspersed tree planting and meadow planting leading to an established SUDs pond on a neighbouring site.

- 12 Other associated infrastructure – Drainage infrastructure proposed through a drainage strategy, including foul drainage, surface water drainage and sustainable urban drainage (SUDs). The requirements have been worked up following ongoing dialogue with a Perth and Kinross Council Flood Engineer.

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

- 13 Directive 2011/92/EU requires the ‘competent authority’ (Perth and Kinross Council) when giving planning consent for particular large scale projects to do so in the knowledge of any likely significant effects on the environment. This Directive therefore sets out a procedure that must be followed for certain types of project before ‘development consent’ can be given.
- 14 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.  
A screening exercise in accordance with the EIA (Scotland) Regulations 2011 (as amended) was undertaken by the Planning Authority and in this case due to the projects size, nature and location an Environmental Statement was not deemed to be required.

### **PRE-APPLICATION CONSULTATION**

- 15 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 requires pre-application consultation with the local community to be undertaken. A Proposal of Application Notice (PAN) was submitted to the Council as required by regulation 6 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 and Section 35B of the Planning Act. The content of the PAN were subsequently agreed by the Council under 15/00003/PAN.
- 16 The pre-application consultation (PAC) report submitted confirms the extent of consultation activity undertaken, which is agreed to have met minimum standards and complies with the content of the measures agreed through the Proposal of Application Notice.

### **NATIONAL POLICY AND GUIDANCE**

- 17 The Scottish Government expresses its planning policies through the National Planning Framework 3, Scottish Planning Policy (SPP) and Planning Advice Notes (PAN).

### **National Planning Framework 3**

- 18 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**

- 19 The 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.

- 20 Of relevance to this application are;

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

- 21 A Successful, Sustainable Place:

- Paragraphs 92- 108 Supporting Business and Employment

- 22 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

- 23 A Connected Place:

- Paragraphs 286 – 291 Promoting Sustainable Transport and Active Travel

24 The following Scottish Government Planning Advice Notes (PAN) are also of interest:

- PAN 1/2011 Planning and Noise
- PAN 3/2010 Community Engagement
- PAN 40 Development Management
- PAN 51 Planning, Environmental Protection and Regulation
- PAN 60 Planning for Natural Heritage
- PAN 61 Planning and Sustainable Urban Drainage Systems
- PAN 75 Planning for Transport
- PAN 79 Water and Drainage

#### **National Roads Development Guide (2014)**

25 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**

26 The Development Plan for the area consists of TAYplan Strategic Development Plan 2012-2032 (Approved June 2012) and the Perth and Kinross Local Development Plan 2014 (Approved February 2014)

#### **TAY plan Strategic Development Plan 2012**

27 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”*

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

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

- 29 Seeks to focus the majority of development in the region's principal settlements. Kinross is identified as a Tier 2 Settlement with the potential to make a major contribution to the region's economy.

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

- 30 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**

- 31 This recognises the importance of historic buildings and townscapes and identifies the importance of only allowing development where it does not adversely impact upon or preferably enhances these assets.

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

- 32 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 & KINROSS LOCAL DEVELOPMENT PLAN FEBRUARY 2014**

- 33 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.
- 34 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."*
- 35 Under the LDP, the following policies are of particular importance in the assessment of this application:

### **PM1: Placemaking**

- 36 PM1A: Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place.
- 37 PM1B: All proposals should meet the placemaking criteria set out.

### **PM2: Design Statements**

- 38 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.

### **PM3: Infrastructure Contributions**

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

### **Policy ED1A – Employment and Mixed Use Areas**

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

### **TA1: Transport Standards and Accessibility Requirements**

- 41 TA1A: Encouragement will be given to the retention and improvement of transport infrastructure identified in the plan.
- 42 TA1B: 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.

### **NE1: Environment and Conservation Policies**

- 43 National, local and European protected species should be considered in development proposals.

### **NE3: Biodiversity**

- 44 All wildlife and wildlife habitats, whether formally designated or not should be protected and enhanced in accordance with the criteria set out.

### **EP1: Climate Change, Carbon Reduction and Sustainable Construction**

- 45 Sustainable design and construction will be integral to new development within Perth & Kinross.

### **EP2: New Development and Flooding**

- 46 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.

### **EP3: Water Environment and Drainage**

- 47 EP3A: 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.
- 48 EP3B: 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.
- 49 EP3C: All new development will be required to employ Sustainable Urban Drainage Systems (SUDS) measures.

### **EP8 – Noise Pollution:**

- 50 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.

### **OTHER POLICIES**

- 51 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 & Kinross Corporate Plan 2013-2018**

- 52 Corporate Plan Vision includes – Promoting a prosperous, inclusive and sustainable economy. Creating safe and sustainable places for future generations.

### **The Perth City Plan 2015 – 2035**

- 53 This plan produced by the City Development Board sets out the long-term vision for Perth as one of Europe’s great small cities. It sets out a framework for investment in strategic infrastructure, along with a 5 year delivery plan for economic development and placemaking.

### **SITE HISTORY**

- 54 15/00003/PAN Erection of 8 commercial units. Content of PAN agreed 18 March 2015.

### **CONSULTATIONS**

#### **EXTERNAL**

#### **Scottish Environment Protection Agency –**

- 55 SEPA has objected in principle to any form of development on this site on the grounds that it may place buildings and persons at risk of flooding contrary to Scottish Planning Policy.

#### **Scottish Water –**

- 56 No response received.

#### **Scottish Natural Heritage –**

- 57 There are no likely significant effects anticipated upon the River Tay - Special Area of Conservation (SAC). An informal response was received from SNH case officer, advising that they did not feel it appropriate to respond to this individual case as an appraisal had previously been undertaken of the SAC as part of the wider development and it was considered there would be no additional adverse impact upon the SAC in this respect.

## **INTERNAL**

### **Environmental Health**

- 58 No objection, subject to conditional controls relating to plant noise, vehicle movements, loading/unloading of vehicles and goods and artificial lighting.

### **Waste Services**

- 59 No objection; request for an informative being included on any decision to recommend that the applicant seek advice from waste services in relation to known end users and associated individual waste requirements.

### **Flood Risk and Structures**

- 60 Following clarification through the provision of supplementary information in relation to best practice methods of surface water management, conditional control is recommended; with no formal flood risk assessment requested or deemed necessary.

### **Developer Contributions Officer**

- 61 Original consultation response stated no objection provided that associated Transport Infrastructure Developer Contributions amounting to £85,481 are secured for the site (7,771m<sup>2</sup> x £11) via upfront payment or through a legal agreement.
- 62 This consultation position was re-visited latterly, following the approval of revised Transport Infrastructure Supplementary Guidance, which applied formally from April 2016. The outcome of the consultation review, which is set out in the appraisal section, continuing to apply the requirement for developer contributions was considered unreasonable in this case and it was agreed to recommend that the associated transport infrastructure contribution is no longer pursued.

### **Biodiversity Officer**

- 63 No objection provided due diligence is taken in relation to construction elements. Suggested amendments to landscaping are recommended and the opportunity for green roofs to maximise biodiversity opportunities is highlighted.

### **Community Greenspace**

- 64 No formal comments received. There is an adopted core path (NMUR/104) directly to the north west of the site boundaries, but this is not considered to be directly affected through the associated proposals.

## REPRESENTATIONS

65 No representations received.

## ADDITIONAL STATEMENTS

Environment Statement	Not required
Screening Opinion	Undertaken
Environmental Impact Assessment	Not required
Appropriate Assessment	Not required – SNH confirmed wider site previously considered.
Design Statement / Design and Access Statement	Submitted
Report on Impact or Potential Impact	Surface water drainage information and calculations on request.

## APPRAISAL

### Policy Appraisal

- 66 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise. The Development Plan consists of the TAYplan 2012 and the Perth and Kinross Council Local Development Plan 2014 is a material consideration in the determination of the application and has progressed to examination by the Scottish Ministers.
- 67 The determining issues in this case are whether; the proposal complies with Development Plan policy; whether the proposal complies with supplementary planning guidance; or if there are any other material considerations which justify a departure from policy.
- 68 The site forms part of identified site E3 in the Local Development Plan, zoned for employment uses, where policy ED1A applies. This states that areas identified for employment uses should be retained for those uses. It also requires new development to relate to be compatible with surrounding uses. The policy includes a series of criteria, which also require to be considered. Following research of the site history, it was identified that the wider site area, which this site is located within, has been designated as an employment area for more than 20 years. In general terms, the proposals are considered to comply with relevant Local Development Plan policy criteria, as further discussed below.

## **Design and Layout**

- 69 A design statement was received with the original submission, in line with Policy PM2, setting out the basic design approach and the resultant response to the wider site context. The proposed buildings are to be positioned in regular blocks, reflecting the existing scale, form and relationship of neighbouring units, with landscaping proposed around the edges and parking/servicing courtyards fronting the blocks. The proposed building line on Kilda road, broadly respects that already existing.
- 70 The application of a consistent, simple design approach across all the building units is supported, using a simple muted palette of finishing materials. Overall, the proposed design, scale, finishes and layout of the buildings within the relative infill relationship between ranges of existing industrial buildings is considered appropriate in this context.

## **Landscaping**

- 71 Additional landscaping detailing was requested in writing, resulting in a more detailed plan produced, including heavy standard tree planting, and hedge planting proposals. The updated plan also now includes a proposed section of meadow grass planting, reflecting recommendations from the Council biodiversity officer.

## **Visual Amenity**

- 72 The proposed building group and associated infrastructure at this site will conclude development on Kilda road and a section of Arran Road, tidying up an area of infill scrubland. There is not considered to be any adverse impact in relation to visual amenity through the development proposals.

## **Traffic and Transport**

- 73 Policy TA1B of the LDP requires a full assessment of the impact of the development to pedestrian and traffic safety to be undertaken. The submission included a Transport Statement (TS) which outlines the implications on the road network of the proposed development. The TS was considered to adequately assess the impact that it will have on transport networks. It also identified that the site has previously been assessed as part of the wider development of the North Muirton Industrial Site/Food & Drink Park and appropriate mitigation in the form of a new signalised junction has already been provided. There is also considered to be identified adequate provision for vehicle parking along with cycle parking for the various units.
- 74 Overall, I am satisfied that the proposal meets the requirements of Policy TA1B of the Local Development Plan, provided appropriate conditions are applied, in the interests of pedestrian and traffic safety.

## 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.
- 77 As a result of the 1993 Perth floods, a Flood Protection Scheme was built extending from the Mill Lade intake at Almondbank to Friarton Bridge downstream of Perth. The application site is within the area protected by that flood prevention scheme, which provides protection to the area from a 1 in 250 year flood event.
- 78 SEPA has objected to the proposed development in principle, on the grounds that it may place buildings and persons at flood risk contrary to Scottish Planning Policy.
- 79 They indicate that there is a shared duty with Scottish Ministers and other responsible authorities under the Flood Risk Management (Scotland) Act 2009 to reduce overall flood risk and promote sustainable flood risk management. The cornerstone of sustainable flood risk management is the avoidance of flood risk in the first instance. They recommend that alternative locations be considered.
- 80 They go on to state that development on ‘undeveloped sites’ behind a flood prevention scheme would add to the overall numbers of properties and people at risk and would therefore be contrary to the policy principles of SPP (para 255) and the aspirations of the Flood Risk Management Act to reduce overall risk.
- 81 Conversely, SPP para 263 states (subject to mitigation – such as water resistant materials)
- “• Medium to High Risk – annual probability of coastal or watercourse flooding is greater than 0.5% (1:200 years)  
– May be suitable for:  
residential, institutional, commercial and industrial development within ‘built-up areas’ provided flood protection measures to the appropriate standard already exist and are maintained, are under construction, or are a planned measure in a current flood risk management plan;”*
- 82 In this case, the Planning Authority in consultation with the Council’s Flooding Team, consider the land subject to this application to be within a built up area as set out in SPP para 263 and on previously developed land.
- 83 Within the glossary of SPP (2014) it defines Brownfield land as:- *Land which has previously been developed. The term may cover vacant or derelict land, land occupied by redundant or unused building and developed land within the*

*settlement boundary where further intensification of use is considered acceptable.*

- 84 In this instance, the application site has been subject to infrastructure and associated engineering operations, which are evident from site visit. It was also noted that the land extending to the north has been subject to the infrastructure works associated with planning consent 12/01356/FLM. On this basis, we consider the site to be both developed and located within a built up area. As indicated within the policy section above, this site is formally adopted as part of zoned site E3 within the LDP 2014. Therefore; the Planning Authority does not share SEPA's view, that the land subject to this application is undeveloped.
- 85 It also worth noting that historically, SEPA offered no objection to the wider developable area, including planning application 12/01356/FLM; stating and accepting that whilst the site is indicated to fall within river and coastal flood mapping (Scotland), the mapping did not take into account the flood prevention scheme, which offers protection up to 1:250 year flood event and would therefore be at a low risk of fluvial flooding from the river Tay and Almond. On that basis, the infrastructure works subject to the 2012 application have been undertaken in full with associated investment committed.
- 86 Given the above, we consider the proposed development of this site to accord with Policy EP2 of the LDP and the wider national policy position of the SPP. On the basis of this recommendation, contrary to SEPA's objection and in accordance with The Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 there is a requirement to refer this recommendation to Scottish Ministers for their consideration.
- 87 Policy EP3B relates to foul drainage and states that developments within or close to settlements should connect to the public sewer unless there are specific costing reasons as to why a public sewer connection is not possible.
- 88 The Council's Flood team originally sought additional information on eight different points in relation to surface water and drainage treatment. The flooding team were content with additional information received in April and May 2016 in relation to the wider drainage strategy. SEPA also clarified in their response that they had no objections to the surface water and drainage treatment proposals.
- 89 The Flood team were satisfied with the finalised drainage options proposed, clarifying that the final design will however be governed by what Scottish Water agree as the allowable outflow from the site into the existing sewer (currently 5 litres per second). The Flood team requested that an informative be included to point out that any future site owners should be made aware of their maintenance obligation in relation to the proposed porous paving elements.

### **Developer Contributions**

- 90 The Council Transport Infrastructure Developer Contributions Supplementary Guidance, which relates directly to Policy PM3: Infrastructure Contributions requires a financial contribution towards the cost of delivering the transport

infrastructure improvements, which are required for the release of certain categories of development sites in and around Perth.

- 91 The application was originally validated on 06 November 2015. In line with the adopted Transport Infrastructure Supplementary Guidance August 2014, the proposals triggered a requirement to make a contribution towards Transport Infrastructure. A consultation response was submitted by the Development Negotiation Officer on 03 December 2015, seeking a total contribution of £85,481.
- 92 In late 2015 a review of the Transport Infrastructure Supplementary Guidance was undertaken. A report was approved by E&I Committee on 23 March 2016, which agreed changes to the Guidance, applying to all new applications submitted from 01 April 2016.
- 93 One of the principal changes to the Guidance included application's to new employment use proposals. Paragraph 6.7 of the Guidance states *'In order to support the economic growth of Perth and Kinross new employment uses which fall under the Employment Land Use category of the Transport Infrastructure section of this Guidance and which are to be developed on brownfield land will not be required to make a contribution.'*
- 94 The application site, which sits within a built up area and has been previously developed through the historic provision of a dedicated vehicular access, is interpreted by the Guide to broadly constitute brownfield land. Under the revised Guidance, if this proposal had been submitted after 01 April 2016, it would not attract the requirement for a contribution towards Transport Infrastructure. Looking at the assessment of this submission pragmatically, this would also apply if the current application was withdrawn and resubmitted.
- 95 The Council is seeking to support the delivery of economic development land and the shift in the Guidance in relation to the application of the Transport Infrastructure Guidance reflects this. It is therefore recommended that due to the change in position, the requirement for a contribution towards transport infrastructure from this proposal is not pursued.

### **Neighbouring Amenity**

- 96 To the south east of the application site is an established area of housing at Muirton. Some of the housing would be within 100m of the application site boundaries. As previously outlined, the site is within a designated area of employment land. Policy ED1A requires all uses to be compatible with its surroundings. Policy ER8 refers to noise pollution.

- 97 Following site visits, it was evident that the majority of uses in the immediate vicinity comprise similar industrial based uses. Environmental Health highlighted the potential for the amenity of householders to be adversely affected by future activities of occupiers of the serviced units within this development, due to the proximity. As a consequence, appropriate conditions have been recommended to control lighting; noise levels; hours of business operation; deliveries and the operation of plant and ventilation equipment associated with any future occupiers. Given the overall relationship of the site with immediate neighbouring land uses and the associated recommended conditions proposed, I am satisfied there will be no adverse impact on residential amenity as a result of the proposals.

### **Air Quality**

- 98 Although the site is within the Perth Air Quality Management Area (Policy EP11), the site is not in close proximity to any of Perth's hotspot areas and due to the scale and location of the development, Environmental Health did not consider that there will be any adverse effect on ambient air quality, taking a similar consultation position to planning application 12/01356/FLM.

### **Lighting**

- 99 Policy EP5 of the LDP relates to light pollution and seeks to prevent statutory nuisance from occurring due to lighting. Environmental Health has recommended conditions controlling any external lighting elements.

### **Ecology/Biodiversity**

- 100 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.
- 101 When determining applications the Planning Authority is required to have regard to the Habitats Directive and the Habitats Regulations. Consideration of how 'European Protected Species' (EPS) are affected must be included as part of the consent process, not as an issue to be dealt with at a later stage. Three tests must be satisfied before the Scottish Government can issue a license under regulation 44(2) of the Habitats Regulations so as to permit otherwise prohibited acts.
- 102 Given the existing predominant grassland nature of the site and immediate neighbouring land uses, it is considered unlikely that the site currently has any high biodiversity value, albeit the Council's biodiversity officer has stated that existing self-seeding trees and hedging does provide some potential habitats suitable for small mammals, invertebrates and birds.

103 Through ensuring diligence during the pre-construction phases including conditional control, I am satisfied that the proposals can comply with Policy NE3. The River Tay Special Area of Conservation (SAC) sits to the east of the site. Due to its remoteness from the Tay SAC boundaries and through a wider assessment of the wider neighbouring site areas, the proposals are considered to comply with Policy NE1A.

### **Ground Conditions**

104 Policy EP12 of the LDP indicates that any potential contaminated land on an application site requires to be considered. No comments were received in relation to ground conditions from Environmental Health. The site is considered to have been previously developed through the associated engineering operations and construction of a road junction, with no known issues of ground contamination identified.

### **Economic Impact**

105 The economic impact of the proposed economic development units are considered to be moderate. Employment opportunities will exist during the construction phase and then thereafter, through take-up of the units. The delivery of this infill site will neatly finish off this part of North Muirton Industrial Estate, and will assist with the delivery of strategic employment objectives for Perth as identified in TAYplan and also the wider aspirations of the Perth City Plan.

106 This development would ultimately facilitate the establishment of new business and permanent employment opportunities, with potential for further spin-off service jobs. Based on the UK Government Homes and Communities Agency 'Employment Density Guide' (2015), the proposed uses are forecast to generate up to:

- 90 Full Time Equivalent (FTE) employee opportunities if the proposed floor space was all taken up by storage and distribution uses,
- 200 (FTE) for general industrial uses or
- 650 (FTE) for office uses.

It is considered that the realistic likelihood is for the overall employment opportunities to remain towards the lower end of this scale.

### **LEGAL AGREEMENTS**

107 None required.

## **DIRECTION BY SCOTTISH MINISTERS**

- 108 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. Given the objection position from SEPA (a government agency), there is a requirement to notify Scottish Ministers of this recommendation.

## **CONCLUSION AND REASONS FOR RECOMMENDATION**

- 109 Section 25 of the Act requires that determination of the proposal should be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise.
- 110 It is considered that the application is in accordance with the adopted Development Plan, the site is allocated as part of Employment site E3 in the LDP with the proposed density, layout, siting and associated landscaping proposals considered to be acceptable within the immediate site context.
- 111 I have taken account of material considerations, including the review of an objection from statutory consultee SEPA, but do not consider this position to justify the refusal of this application. The application is therefore recommended for approval, subject to associated conditions and referral to Scottish Ministers.

## **RECOMMENDATION**

### **A Approve subject to the following conditions and referred to Scottish Ministers**

- 1 The proposed development must be carried out in accordance with the approved plans herewith, 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 The developer shall ensure that during the construction of the development that all surface water is controlled, treated and discharged under the principles of SUDS all to the satisfaction of the Council as Flood Authority.

*Reason - In the interests of best practice surface water management; to avoid undue risks to public safety and flood risk.*

- 3 For the avoidance of doubt, any retail and trade sale elements associated with any individual operational unit shall not exceed 20% of the overall floor area of the unit.

*Reason – In order that the Planning Authority may retain control over the future use of the land, which is located within an area designated primarily for employment uses.*

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

*Reason – In order to protect the visual amenity of the area.*

- 5 The detailed landscaping and planting scheme which is hereby approved shall be implemented as part of the site development programme and thereafter maintained.

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

- 6 Any planting failing to become established within five years shall be replaced in the following planting season with others of similar size, species and number unless otherwise agreed in writing with the Council as Planning Authority.

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

- 7 All plant or equipment including any ventilation system associated with any of the commercial units shall be so enclosed, attenuated and/or maintained such that any noise there from 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 premises, with all windows slightly open, when measured and/ or calculated and plotted on a noise rating curve chart.

*Reason - In order to safeguard the residential amenity of the neighbouring area.*

- 8 The hours of business for units shall be limited to 0700 hours to 1900 hours Monday to Sunday unless otherwise agreed in writing with the Planning Authority.

*Reason - In order to safeguard the residential amenity of the neighbouring area.*

- 9 Commercial and Industrial deliveries shall be limited to Monday to Saturday 07.00 to 19.00 and at no other time unless otherwise agreed in writing with the Planning Authority.

*Reason - In order to safeguard the residential amenity of the neighbouring area.*

- 10 For commercial and industrial areas 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 that light spillage beyond the boundaries of the site is minimised.

*Reason - In order to avoid unnecessary light pollution and safeguard the residential amenity of the neighbouring area.*

- 11 Effective ventilation systems should be installed, operated and maintained in any units that are to be used for the production of food such that cooking odours are not exhausted into or escape into any neighbouring dwellings.

*Reason - In order to safeguard the amenity of the neighbouring area.*

- 12 Removal of existing vegetation, including hedgerows, trees, shrubs and scrub, shall be avoided between 1<sup>st</sup> March and 31 August inclusive, unless a competent ecologist has undertaken a check of the vegetation for active birds' nests immediately prior to commencement of site clearance works and provided written confirmation that no birds will be harmed and/or that that appropriate measures are in place to protect nesting bird interest on site. Any such written confirmation shall be submitted to the Planning Authority.

*Reason - In the interests of employing best practice ecology.*

- 13 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 excavations and/or pipe and culverts are submitted to and approved in writing by the Council as Planning Authority. 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.

*Reason – In order to prevent animals being trapped within any open excavations.*

- 14 Prior to the occupation and use of the approved development all matters regarding access, car parking, cycle parking, street lighting, 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 within the National Roads Development Guide and to the satisfaction of the Planning Authority.

*Reason – In the interests of pedestrian and traffic safety.*

- 15 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, the system of management, monitoring, review, reporting and the duration of the plan.

*Reason – To encourage the use of sustainable modes of transport.*

## **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**

- 1 If supported in line with recommendation, the application will require to be referred to Scottish Ministers.
- 2 In the event that Scottish Ministers refer the application back to the Council for final determination; this should be undertaken utilising delegated powers, incorporating all associated recommendations of this Development Management Committee.

## **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 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 38 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 38 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.

- 4 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.
- 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 should be 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.
- 7 No work shall be commenced until an application for building warrant has been submitted and approved.
- 8 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.
- 9 The applicant is advised to contact the Council's waste advisers to clarify any bin storage requirements in relation to individual unit uptake.
- 10 The applicant is advised that any future site owners should be made explicitly aware of their obligation in relation to the proposed maintenance responsibilities of the porous paving elements.

Background Papers: None  
Contact Officer: Callum Petrie Ext 75353  
Date: 29 June 2016

Nick Brian  
Development Quality Manager

<p>If you or someone you know would like a copy of this document in another language or format, (on occasion, only a summary of the document will be provided in translation), this can be arranged by contacting the Customer Service Centre on 01 738 475000.</p>
<p>You can also send us a text message on 07824 498145.</p>
<p>All Council Services can offer a telephone translation facility.</p>