

Perth and Kinross Council  
Development Control Committee – 14 September 2016  
Report of Handling by Development Quality Manager

Residential development to provide up to 300 dwellings, open space, landscaping and associated infrastructure at land north west of Lathro Farm, Kinross

Ref. No: 15/01512/FLM  
Ward No: N8 Kinross-shire

**Summary**

This report recommends approval of the detailed application for residential development of 300 dwellings, open space, landscaping and associated infrastructure, land 300 metres north west of Lathro Farm, Kinross. The development is considered to comply with the current Development Plan. The application is recommended for approval, subject to conditions and an associated legal agreement.

**BACKGROUND AND PROPOSAL**

- 1 The application site is situated on land in between the northern end of Kinross and the southern end of Milnathort and covers an area of over 33 hectares. The land is predominantly agricultural of undulating topography with a watercourse known as the North Queich bisecting the site from west to east.
- 2 The south of the site is bounded by established residential development and access off Gallowhill Road is available at the south west corner. The western boundary of the site is defined by the M90 motorway, whilst to the north are a mix of uses including, commercial, light industry and residential within the settlement of Milnathort. The eastern boundary of the site is defined by the A922 which is the main road linking Kinross and Milnathort. Also located at the eastern side of the site is Lathro Farm and its associated agricultural buildings.
- 3 The proposed site is allocated (H47) in the Perth and Kinross Local Development Plan (LDP) 2014 for residential development with an indicative density of 260 dwellings and phased to provide 140 by 2024.
- 4 This proposal seeks detailed planning permission for the erection of 300 dwellings ranging from 2 to 5 bedroom on the southern half of the site with associated open space, landscaping and infrastructure. The residential area will encompass 13 hectares and the remaining 20 hectares will be developed into an area of community parkland and paddock ground.
- 5 Current vehicular access into the site is via Lathro Farm off the A922 and new vehicular access to the site is proposed just south of Lathro Farm and off Gallowhill Road at the south western corner of the site.

- 6 The application has been accompanied by an Environmental Statement, a Design and Access Statement, a Pre-Application Consultation (PAC) report, a masterplan, detailed site layout plan, phasing plan and landscape plans.

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

- 7 The proposed development, as an urban development project with a site area exceeding 0.5ha, falls under Schedule 2 (10(b)) of the Environmental Impact Assessment (Scotland) Regulations. An Environmental Statement was therefore prepared to fully assess any environmental issues likely to arise as a result of the proposals and any mitigation measures which need to be considered in this regard.

### **Content and Adequacy of the Environmental Impact Assessment**

- 8 The purpose of the EIA is to examine the likely significant environmental effects from a proposed development having regard to the project and its nature, size or locality. Through the EIA process, a proper understanding of the interaction between the project and its location should be assessed to determine if the effects on the environment are likely to be significant and if there are associated mitigation measures which make this acceptable.
- 9 Part II, Schedule 4 of the Environmental Impact Assessment (Scotland) Regulations 2011 outlines the information required to be included in any EIA.
- 10 The basic content and the associated background information of the Environmental Statement are considered to meet the basic requirements of those regulations. Both internal and external consultees are satisfied with the baseline findings at this stage.

### **PRE-APPLICATION PROCESS**

- 11 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. The results of the community consultation have been submitted with the application as part of the Report on Community Consultation (PAC Report).
- 12 Two public consultation events were held at Loch Leven Community Campus in June and August 2014 to allow members of the public the opportunity to make comments on the proposal and contribute to the masterplan process. The second event was held to communicate the final Masterplan and seek further feedback of the public. In addition the applicant presented their proposal to both Kinross Community Council and Milnathort Community Council in August 2014.

## **NATIONAL POLICY AND GUIDANCE**

- 13 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**

- 14 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.

- 15 Of relevance to this application are;

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

- 16 A successful Sustainable Place

- Paragraphs 126 – 131 Affordable Housing
- Paragraphs 135 – 151 Valuing the Historic Environment

- 17 A Natural, Resilient Place.

- Paragraphs 219 – 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

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

- PAN 2/2010 Affordable Housing and Housing Land Audits
- PAN 1/2011 Planning and Noise
- PAN 40 Development Management
- PAN 51 Planning, Environmental Protection and Regulation
- PAN 58 Environmental Impact Assessment

- 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**

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

### **Designing Streets 2010**

- 21 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**

- 22 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**

- 23 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 (June 2012)**

- 24 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”*

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

**Policy 1 – Location Priorities**

- 26 Seeks to focus the majority of development in the region’s principal settlements. Kinross and Milnathort are identified as a Tier 2 Settlements with the potential to make a major contribution to the regional economy and accommodate a smaller share of additional development over the plan period.

**Policy 2 – Shaping better quality places**

- 27 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**

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

**Policy 6: Energy and Waste/Resource Management Infrastructure**

- 29 Relates to delivering a low/zero carbon future for the city region to contribute to meeting Scottish Government energy targets and indicates that, in determining proposals for energy development, consideration should be given to the effect on off-site properties, the sensitivity of landscapes and cumulative impacts.

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

- 30 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**

- 31 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.

32 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.”*

33 Under the LDP, the following policies are of particular importance in the assessment of this application.

**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 adaptation.

**Policy PM1B - Placemaking**

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

**Policy PM1C - Placemaking**

36 Proposals of more than 200 houses or 10 ha should create a sustainable neighbourhood and seek to meet the key needs of residents or businesses either within or adjacent to the development. A Masterplan will be required in most cases.

**Policy PM2 - Design Statements**

37 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**

38 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**

39 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**

- 40 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**

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

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

- 42 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 CF1B - Open Space Retention and Provision**

- 43 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**

- 44 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 CF3 - Social and Community Facilities**

- 45 The loss or change of use of land or buildings used for community purpose will only be permitted where the availability of community facilities in the locality is not seriously affected, no suitable alternative community use can be found or alternative facilities of equivalent benefit and provided

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

- 46 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**

- 47 Areas or sites of known archaeological interest and their settings will be protected and there will be a strong presumption in favour of preservation in situ. If not possible provision will be required for survey, excavation, recording and analysis.

### **Policy HE2 - Listed Buildings**

- 48 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 HE4 - Gardens and Designed Landscapes**

- 49 The integrity of sites included on the Inventory of Gardens and Designated Landscapes will be protected and enhanced.

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

- 50 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**

- 51 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**

- 52 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**

- 53 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**

- 54 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**

- 55 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**

- 56 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**

- 57 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**

- 58 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**

- 59 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**

- 60 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**

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

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

- 62 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 EP8 - Noise Pollution**

- 63 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 EP11 - Air Quality Management Areas**

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

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

- 65 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.

### **EP7: Drainage within the Loch Leven Catchment Area**

- 66 EP7A: 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.
- 67 EP7B: 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.

## **OTHER POLICIES**

68 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.
- Perth and Kinross Retail Study 2014.

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

69 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**

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

#### **Planning Site History**

71 **14/00493/SCRN** – EIA Screening request submitted March 2014. Confirmation that EIA is required April 2014.

72 **14/00004/PAN** – Proposal of Application Notice (PAN) submitted April 2014. Content of PAN approved May 2014.

73 **14/01345/SCOP** - EIA Scoping requested July 2014. Content of EIA agreed September 2014.

## **CONSULTATIONS**

### **External**

#### **Transport Scotland**

74 No objection to the proposal but have recommended a couple of conditions be imposed with any planning permission to ensure there are no issues for users of the M90 Motorway.

#### **Historic Environment Scotland (HES)**

75 No objection to the proposal.

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

76 Initially objected to the proposal due to a proposed culvert at the south west corner of the site. Following discussion and further work by the applicant SEPA have now withdrawn their objection to the proposed development. They are satisfied that the proposed culverting at the Gallowhill Road entrance is to facilitate the road crossing and does not involve culverting for land gain.

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

77 No objection to the proposal and confirmed any impact on Loch Leven SPA and protected species is unlikely. They do support the applicant's confirmation that the development will be accompanied by a Construction and Environmental Management Plan (CEMP).

### **Scottish Water**

78 No objection to the proposal as currently have capacity to service the proposed development.

### **RSPB Scotland**

79 Have raised concerns about the increased number of dwellings from the LDP allocation and the impact of additional drainage requirements of Loch Leven SPA.

### **Perth & Kinross Heritage Trust (PKHT)**

80 No objection to the proposal provided a condition, requiring an archaeological Written Scheme of Investigation is included with any planning permission.

### **Kinross Community Council**

81 Object on the grounds that the number of houses proposed, 300, is too dense for the site. The LDP records a figure of 260 and reference was made to 140 houses up to year 2024.

82 A number of other concerns in relation to the application were raised:-

- Concerned about the impact on both education and health services.
- Assurance required that no ground level changes will be made to the Landscape Area.
- Despite the documentation provided by SEPA they are aware of existing flood issues on the greenspace area and neighbouring properties have also been affected by flooding and are concerned that the added housing with water/drainage may add to the problem.

- Concerned about the access routes to the proposed development as improvements will require to be made to Gallowhill Road/Muir

### **Milnathort Community Council**

83 No response received.

### **Balado Airfield**

84 No response received.

### **Internal**

### **Strategy and Policy**

- 85 No policy objection to increasing the numbers to 300 homes from the indicative LDP capacity of 260 homes. National policy refers to the desirability of using land efficiently and promoting higher density development in places well served by public transport. It is considered that medium density should be encouraged here (which 300 homes represents - being less than 25 homes per ha) rather than high density because of its location at the edge of the settlement. The size of this site has allowed for the proposal to have a range in density which gets slightly lower towards the edge. It also appears that the layout proposed provides for adequate private and public amenity space.
- 86 In terms of the general design and layout it is considered that parking (to side and rear) of the housing would improve street appearance and make the parking less dominant. However the frontage of this development to the A922 is really important and it is vital that development gives a positive contribution to the street; therefore the blocks of frontage parking fronting the main road are considered to be inappropriate.

### **Environmental Health**

87 No objection to the proposal in terms of air quality and noise.

### **Land Quality (Contaminated Land) Officer**

88 The proposed development is on land through which there was formerly a railway line. Railway land is a potentially contaminative land use. A phase 2 site investigation has been carried out and has not identified any ground contamination issues which would be of concern for the proposed use of residential with housing. However gas monitoring is still to be completed.

Also the site is identified as being in an area of Intermediate risk for Radon and as such radon protection measures should be considered and an appropriate condition is recommended.

### **Biodiversity Officer**

- 89 Notes that the only existing mature trees on the site, to the west and south of Lathro Farm will be lost as a result of the proposed layout. These trees were identified as having bat roost potential, but no further bat surveys have been undertaken to confirm the presence or absence of bat roost. They should be retained and protected within the development, and if they are to be felled then full bat roost and activity surveys will be required prior to approval.

The proposed parkland will provide habitats for a wider range of species currently not available on the site. If permission is granted, a number of conditions are recommended.

### **Flood Risk and Structures**

- 90 No objection to the proposal as the development of 300 houses is adjacent to the 1 in 200 year flood envelope for the North Queich. No houses are due to be built within the flood plain. Surface water will be treated via SUDS and greenfield run-off rates will be maintained. A number of standard conditions are recommended with any planning permission.

### **Community Greenspace**

- 91 No objection to the proposal. They are supportive of the proposed community parkland and the smaller areas of open space and are committed to adopting and maintaining them. The initial location for a play area was not supported and has been relocated into a more central location that will benefit from natural supervision.

### **Waste Services**

- 92 No objection to the proposed development. They have provided recommendations regarding bin types and collection.

### **Developer Negotiations including Affordable Housing and Transport Infrastructure**

#### Affordable Housing

- 93 Requirement for 25% of total number of houses to be affordable units. The affordable housing requirement for this proposal is 75 units (300 x 25%). The affordable housing should be provided onsite. The mix and phasing of delivery on site will need to be agreed as part of the Section 75 Legal Agreement.

#### Primary Education

- 94 This proposal is within the catchments of Kinross and Milnathort Primary Schools. Contributions to primary education are not required from affordable units. The contribution requirement will be calculated on 225 units (300 – 75).

#### Transport Infrastructure

95 No contribution required.

### **Transport Planning**

96 No objection to the proposal and confirmed that the general layout of the proposal is considered acceptable.

### **REPRESENTATIONS**

97 The application has attracted 5 representations with 4 letters of objection including Kinross Civic Trust. The following issues were raised by the objectors:

- Excessive scale.
- Loss of greenfield land
- Adverse noise impact.
- Flood Risk – development adjacent to flood plain
- Adverse transport impact.
- Road safety
- Lack of parking in area
- Loss of privacy for existing residential properties
- Lack of community consultation.
- Lack of employment opportunities in area.
- Loss of view

### **Response to issues**

98 The material planning concerns are addressed in the Appraisal section of this report.

### **ADDITIONAL STATEMENTS**

|  |  |
|--|--|
| Environment Statement                        | Submitted  |
| Screening Opinion                            | Scoping Undertaken   |
| Environmental Impact Assessment              | Submitted  |
| Appropriate Assessment                       | Not required   |
| Design Statement/Design and Access Statement | Submitted  |
| Report on Impact or Potential Impact         | Submitted as part of the Environmental Statement; including Flood Risk Assessment, Transport Assessment and Landscape and Visual Impact Assessment |

## APPRAISAL

### Policy

- 99 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) requires that planning decisions be made in accordance with the Development Plan unless material considerations indicate otherwise. The determining issues here are whether the proposals in principle comply with current Development Plan policy, or if there are other material considerations, which justify departure from policy.
- 100 The most relevant policies of the Development Plan are TAYplan Strategic Development plan 2012 and Perth and Kinross Local Development Plan 2014 including Supplementary Guidance.

### Principle

- 101 TAYplan Policy 1 (Location Priorities) focuses the majority of development to Tier 2 settlements as they have the potential to accommodate a smaller share of the region's additional development in the next 20 years. The proposed site is located within the Tier 2 settlement of Kinross and therefore the principle of development complies with the objective of this policy.
- 102 The LDP further establishes the principle of development by allocating the site for residential development (H47) for 260 houses. The principle of the use proposed in the application submitted is consistent with LDP allocation and as a result the principle of development is considered to be acceptable.
- 103 Notwithstanding this, there are a number of site specific developer requirements set out in the LDP, as detailed in the following table, that require detailed assessment.

| Ref | Location    | Size  | Number               |
|-----|-------------|-------|----------------------|
| H47 | Lathro Farm | 13 ha | 260 (140 up to 2024) |

#### Site Specific Developer Requirements

- ⇒ Development of a Masterplan through consultation with the community and Council submitted at time of planning application setting out the phasing of the site.
- ⇒ Mix of house types and sizes including low cost housing
- ⇒ Flood Risk Assessment
- ⇒ A Construction Method Statement shall be provided where a development site will affect a watercourse. The methodology should provide measures to protect the watercourse from the impact of pollution and sediment so as to ensure no adverse effects on the Loch Leven Special Protection Area.

- ⇒ Sustainable Urban Drainage System should include sufficient attenuation to protect watercourses which flow into Loch Leven from erosion during periods of heavy rainfall.
- ⇒ Transport Assessment
- ⇒ Road connection onto Gallowhill Road and A922
- ⇒ Road and access improvements
- ⇒ Comprehensive landscape framework incorporating public access and specific proposals for its implementation.
- ⇒ Noise attenuation measures.
- ⇒ Financial contribution towards education provision

## **SITE SPECIFIC REQUIREMENTS**

104 These requirements will be assessed in turn and many will address concerns raised by objectors.

**Development of a masterplan through consultation with the community and Council submitted at time of planning application setting out the phasing of the site.**

105 Following two public consultation and presentations to both Kinross and Milnathort Community Council a masterplan and phasing plan has been submitted as part of the planning application. The masterplan identifies the principal components, constraints, land uses and estimated timescales of the proposed development.

106 The Masterplan identifies 2 phases of residential development within the site which are further defined by 2 concurrent phases of landscaping to ensure there will be not be a significant impact on users of the M90, existing residential and commercial properties near the site; and protect new residents from any noise issues associated with the M90. The landscaping of the community parkland and M90 buffer planting is proposed to be established from the commencement of development of each phase.

### Phase 1

107 Phase 1 of the residential area will be located to the east of the site adjacent to the A922. Initially it will be accessed from the proposed entrance off the A922 before the second access onto Gallowhill Road is formed. The housing numbers for this phase is expected to be 187 dwellings and will be mixture of housing types ranging from two to five bedroom units and 25% will be affordable units.

Concurrent with the residential phase 1 will be the landscape and buffer planting phase associated with the delivery of the community parkland. Buffer planting will be established along the south western boundary of the site to help provide visual and noise screening of the adjacent M90. It is expected as the development moves westwards into the site the buffer planting will be established and remove any potential visual or noise issue. Within the community parkland a network of paths will connect the residential properties

with the park and the surrounding area. Areas of thicket planting and improved grassland are also proposed as part of the first landscape phase.

#### Phase 2:

- 108 The remaining phase expands the residential development westwards towards the M90 and will facilitate the creation of the second access point at the south west corner of the site onto Gallowhill Road.
- 109 Phases 2 proposes the delivery of 113 dwellings and again will be a mixture of housing types including 25% affordable housing. Also included within this area of the site are two areas of open space including a play area.
- 110 Concurrent with residential phase 2 will be landscape phase 2 on the northern half of the site. Further buffer planting along the boundary of the M90 will be provided and there will be series of planting and paths provided to connect to the southern end of Milnathort. Two small bridge crossings over the North Queich are proposed as part of the path provision. Part of the northern landscape area will be grassland that can be utilised by Lathro Farm as paddock ground.

#### Indicative Build out Rate:

- 111 Based upon the submitted Phasing Plan, the proposals provide an estimated 30-40 homes being completed per annum and the development of both phases is anticipated to be built out over a 7-10 year time period.
- 112 The development of the Proposed Masterplan in consultation with the local community and the Council analysed the site's assets and constraints and looks at delivering a medium density residential development at the northern end of Kinross. The creation of a community parkland with extensive landscaping and path network will ensure coalescence of Kinross and Milnathort does not occur but allows for improved connectivity between the two settlements by foot and bicycle.
- 113 It is considered that the Proposed Masterplan and Phasing Plan sets out an acceptable vision, timescale and platform to create a new residential area of Kinross that is deliverable without a significant impact on existing residents and land uses.

#### **Mix of house types and sizes including low cost housing**

- 114 The proposed development of 300 dwellings will comprise solely of 2 storey cottage flats, terraced, semi-detached and detached houses. Phase 1 of the proposal shows that it will consist of the following bedroom numbers.
- 1 bedroom - 12
  - 2 bedroom – 44
  - 3 bedroom – 54

- 4 bedroom – 54
- 5 bedroom - 07

115 The above house types will be mixed throughout the site and 75 (25%) of the units will also be affordable housing units. The range and mix of house types and sizes is considered to be acceptable at this location.

### **Flood Risk Assessment**

116 LDP Policy EP2 confirms 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. In addition, built development should avoid areas at significant risk from landslip, erosion and storm surges.

117 The residential element of the proposal is located adjacent to an area with a history of flooding and contains a flood plain around the North Queich watercourse

118 A Flood Risk Assessment (FRA) has been undertaken and is included in the applicant's ES. The Council's Flood Risk Officer raised no objections to the proposal as none of the residential properties are within the flood plain or recorded areas of flood risk. They have recommended several standard conditions are imposed with any consent to ensure there is no future flood risk to existing or proposed properties.

119 SEPA initially raised an objection to the proposal as they considered that the proposed culvert diversion at the south west corner of the site resulted in land gain for residential development. However following submission of further information and a reduction in the proposed culvert SEPA have accepted that the culvert diversion and land gain is just required for road access onto Gallowhill Road and is a key requirement of the LDP. They are now in a position to remove their objection to the proposed development.

120 The proposed development is considered to comply with LDP Policy EP2 – New Development and Flooding and allows the proposal to come forward. The Flood Officer recommends several conditions be included with any permission to ensure there is minimal flood risk in the area.

**A Construction Method Statement shall be provided where a development site will affect a watercourse. The methodology should provide measures to protect the watercourse from the impact of pollution and sediment so as to ensure no adverse effects on the Loch Leven Special Protection Area.**

121 Chapter 5 (Water Environment) of the EIA assesses the impact of the development (construction and post construction) on the North Queich watercourse and the conservation status of Loch Leven SPA.

- 122 The development has the potential to affect the watercourse during the construction phase but enhanced SUDs measures are proposed to prevent increased erosion, sedimentation and pollution of the watercourse. Both SEPA and Flood Risk have no objection to the proposed measures.
- 123 The EIA identified a number of potential site specific environmental impacts which if not checked could lead to a negative environmental impact. It is considered that the provision of a Construction Environmental Management Plan (CEMP) would be more appropriate than a Construction Method Statement to deal with any potential environmental impact.
- 124 SNH are content that a CEMP will adequately mitigate any impact on the watercourse and the conservation status of Loch Leven Special Protection Area. It is standard practice to request a CEMP as a pre-commencement planning condition and it is proposed to do so and SNH are content with this approach.

**Sustainable Urban Drainage System should include sufficient attenuation to protect watercourses which flow into Loch Leven from erosion during periods of heavy rainfall.**

- 125 As mentioned above enhanced SUDs measures are proposed to prevent increased erosion, sedimentation and pollution of the watercourse and both SEPA and Flood Risk have no objection to the proposed enhanced measures.

#### **Transport Assessment**

- 126 A Transport Assessment has been submitted with the EIA and has been reviewed by both Transport Scotland and Transport Planning. Transport Scotland have not raised any issue other than to recommend conditions to ensure there is no impact on users of the M90.
- 127 Transport Planning consider that the site layout takes advantage to connect to the local roads network which addresses policy. The proposal connects some minor footway/cycle connections to the existing adjoining housing development and there are additional footway/cycleway connections as part of the community parkland to enhance the site's permeability and reduce walking distances.
- 128 Whilst the intent to integrate car parking appears to be generally overlooked, this can be controlled by condition requiring hard and soft landscaping to screen the most visible areas of car parking to ensure it does not have a dominant presence.

#### **Road connection onto Gallowhill Road and A922**

- 129 The proposed plans show new access roads off Gallowhill Road and the A922 and no objection has been raised by Transport Planning to the proposed locations. The provision of two access points will help ensure the site will be permeable to all modes of transport including walking and cycling.

### **Road and access improvements**

- 130 As a result of the proposed community parkland the proposal will provide additional footpath and cycle ways that will create an off road link between Kinross and Milnathort.

### **Comprehensive landscape framework incorporating public access and specific proposals for its implementation**

- 131 A key requirement of the site's allocation in the LDP is for the creation of a parkland in between Kinross and Milnathort to ensure there is no coalescence between the two settlements. The applicants have proposed nearly 20 hecatres of parkland and some paddock ground along the western and northern sides of the site. Significant woodland and thicket planting of woodland are proposed and there are a series of whin dust paths shown on the landscape plans that will provide walking and cycling routes through the site and provide an off-road connection between Kinross and Milnathort.
- 132 Community Greenspace have confirmed they are supportive of the proposed parkland as it is within easy reach of both the existing and proposed housing and they link to the existing path network.
- 133 Overall the approach complies with the site specific requirement as well as LDP Policy ER6 – Managing Future Landscape Change to Enhance the Diversity and Quality of the Area's Landscapes.

### **Noise attenuation measures**

- 134 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 are a material consideration in determining applications for planning permission.
- 135 Extensive planting is proposed along the western boundary of the site alongside the M90. This is to ensure there is no adverse noise impact experienced by the residents of the development. Phase 1 of the planting along the western boundary will commence at the same time as phase 1 of the housing at the eastern side of the site. This should result in the planting maturing as the development moves westwards.
- 136 Environmental Health have not raised any concern regarding noise impact and therefore the proposal is considered to comply with LDP Policy EP8 – Noise Pollution

## **Financial contribution towards education provision**

- 137 In line with current Developer Contributions supplementary guidance the proposed development will require a contribution towards primary school provision in both Kinross and Milnathort. A contribution is required to be paid for 225 dwellings (300 -75 affordable units). This contribution will be delivered as part of the required Section 75 legal agreement and the Heads of Terms has been agreed with the applicant.

## **Biodiversity**

- 138 The masterplan and the landscape plans look to establish a parkland area in between the proposed housing and the southern end of Milnathort.
- 139 The Council's Biodiversity Officer has confirmed that the proposal covers an area of predominantly agricultural land with limited biodiversity value and the proposed community parkland will enhance the biodiversity of the area and provide habitats for a wider range of species than currently available.
- 140 SNH have reviewed the proposal and ES and in their view, the Habitat Regulations Appraisal within the ES is acceptable and the proposal is unlikely to adversely impact the conservation status of Loch Leven SPA. Whilst RSPB have raised concern about the impact of 300 dwellings on Loch Leven, it is SNH who are the statutory consultee on natural heritage issues and they have not raised any concern regarding impact on Loch Leven.
- 141 Based on the advice received from both SNH and the Council's Biodiversity Officer it is considered that provided the appropriate mitigation is achieved, the proposal will enhance the biodiversity of the area and therefore result in a positive impact for both existing and future residents.
- 142 The creation of a community parkland will provide wildlife habitats where they do not presently exist due to current farming of the land. Therefore the proposal is considered to comply with LDP Policy NE3-Biodiversity.

## **Protected Species**

- 143 The Council Biodiversity Officer noted that some existing mature trees within the residential area are proposed to be felled even though they are identified in the ES as having bat roost potential. However the ES also identifies a number of trees immediately adjacent to the site within Lathro Farm itself that also have bat roost potential and are not proposed to be felled. In addition to this, the creation of the community parkland will provide further roosting and foraging potential for any bats in the area and this is considered to be an acceptable position

## **Proposed Housing Numbers**

- 144 Some of representations submitted against the proposal questioned that the number of dwellings (300) proposed is higher than the LDP allocation of 260

with 140 to be built by 2024. As with all other sites allocated in the LDP, this figure is considered to be indicative and is not a barrier to developments looking at higher or indeed lower densities.

- 145 When the LDP was examined by the DPEA the Reporter acknowledged that the recommended densities were not prescriptive and that planning applications for higher densities may be considered acceptable and that each application should be determined on its own merits and there may be circumstances where a higher or lower figure could be acceptable.
- 146 Paragraph 46 of SPP recommends higher density development in central and accessible locations that will reduce the reliance on private cars and prioritising sustainable and active travel choices, such as walking, cycling and public transport. Through good design it is considered possible to achieve higher density living environments without necessarily overcrowding or resulting in a loss of amenity.
- 147 It is important to note that there is no policy objection from Policy and Strategy to increase the numbers to 300 homes from 260 homes as national policy refers to the desirability of using land efficiently and promoting higher density development in places well served by public transport.
- 148 The proposed site is in an easily accessible location close to the public transport network and the nearby community campus and medical centre. It is considered that medium density (25 per ha) rather than high density at the edge of the settlement is appropriate. The size of this site has allowed for the proposal to have a range in density which gets slightly lower towards the edge. The layout also provides for adequate private and public amenity space within the residential area in addition to the community parkland area.
- 149 The proposed development accords with SPP 2014, TAYplan Policy 8 and LDP Policies PM1 and RD1 as it is considered that the proposed density of development represents an efficient use of a site whilst still respecting the surrounding environment and neighbouring properties.

### **Landscape and Visual Impact**

- 150 The proposed area of parkland and structural planting will enhance the existing landscape character of the area. A landscape and visual impact assessment was submitted as part of the ES and found there to be just a localised impact that you would expect from a residential development of this scale.
- 151 In relation to visual impact, the site offers acceptable development capacity and the creation of parkland and structural planting will help mitigate much of the changes to the visual amenity of the area that a development of this scale will undoubtedly create.

## **Cultural Heritage and Archaeology**

- 152 The ES has identified some archaeological interest within the application site line boundary and Lethangie estate is situated immediately to the east of the site, with the category B listed West Lodge and gate piers located on the A922, immediately opposite the access to the Lathro Farm, which forms part of the northern boundary to the site.
- 153 HES confirm that the proposed development does not have any direct impact on the listed buildings and the impact on its setting is minor.
- 154 In terms of archaeology PKHT confirm that the methodology, results and mitigation measures set out in the ES are robust. The assessment has demonstrated the moderate potential for sub-surface archaeological deposits within the development site. PKHT is in agreement that this potential should be investigated through a programme of archaeological works, to consist of trial trenching of a sample percentage of the area to be impacted upon by the development.
- 155 The archaeological evaluation will establish the presence / absence, character and significance of any archaeological deposits on the site. If necessary, these results will feed into a mitigation strategy to either preserve significant deposits in situ or to compensate their loss through further investigation, recording, post-excavation analysis and reporting.
- 156 Overall, taking account of proposed archaeological mitigation, development on this site is not considered to have a significant adverse impact upon the integrity of cultural heritage within the site or surrounding area. Therefore the proposed masterplan is considered to comply with LDP Policy HE1 – Scheduled Monuments and Non-Designated Archaeology and Policy HE2 – Listed Buildings.

## **Air Quality**

- 157 Perth and Kinross Council have a statutory duty under the Environment Act 1995 to review and assess air quality within its area. The application site is not within the boundary of an Air Quality Management Area (AQMA).
- 158 Environmental Health have not raised any air quality issues associated with the proposal and therefore it is considered to comply with LDP Policy EP11 Air Quality Management Area.

## **Design and layout**

- 159 Through Designing Places (2001) the Scottish Government signalled the importance they attach to achieving improvements in the design and quality of new development, and bringing long-term benefits to the urban and rural environment. It should be noted that good design should be the aim of everyone in the planning and development process with it being important at all scales of development.

- 160 Designing Streets (2010) published by the Scottish Government suggests that streets should be designed as social spaces, being well-connected at all levels. It aims to move away from vehicle dominated road layouts in favour of streets designed for people that achieve a sense of place, producing interesting and useable street layouts.
- 161 Permeability of places is a crucial component in good street design. Internal permeability is important, but any area should also be properly connected with adjacent street networks. A development with poor links to the surrounding area creates an enclave which encourages movement to and from it by car rather than by other modes. In this case the proposal includes two vehicular and three pedestrian/cyclist access points and is thereby considered to be a permeable and well connected site that accords with the National Roads Development Guide 2014 and LDP Policy TA1 Transport Standards and Accessibility Requirements.
- 162 When considering the layout of any new development, one of the most important issues to consider is creating the opportunity for natural surveillance. Buildings, spaces and pedestrian routes should be located to maximise natural observation from pedestrians and passing motorists. Active frontages should be encouraged wherever possible i.e. doors leading onto the street and windows overlooking all public areas. The proposed layout takes cognisance of Designing Streets and incorporates appropriate natural surveillance of all areas of space and the main pedestrian routes. The proposal is in line with PAN 77 - Designing Safer Places and LDP Policy PM1 Placemaking
- 163 The proposal consists of two storey detached, semi-detached and terraced properties with a mixture of house types. Much of the site contains shared surfaces that help achieve a sense of place. The street layout shows a clear road hierarchy through the site and is considered to be easily usable by all users and helps ensure the proposal complies with Designing Streets (2010). The proposed lay out and linkages ensure the site is extremely permeable for all modes of transport especially pedestrians and cyclists as it connects up with footpaths that serve both Kinross and Milnathort town centres. Public transport connections are available on the A922 and the Community Campus is a short walk away.
- 164 As mentioned above, the massing and scale of the dwellings can be accommodated within the plots without having an adverse impact on the amenity of neighbouring properties. Because of the site's location at the edge of a settlement, it is considered that the proposed density is acceptable.
- 165 In terms of house design, whilst it is of a standard palette with either a buff or cream render with either dark tiles or red pantiles, it is considered that the overall detailing of the proposed new build dwellings is acceptable.

## **Residential Amenity**

### Overlooking

- 166 A representation submitted raised concern about overlooking of their property from within the proposed paths within the parkland. This is not considered to be a significant issue.
- 167 In addition none of the proposed residential units will result in overlooking of neighbouring properties due to acceptable separation distances between proposed and existing dwellings and proposed buffer planting along the southern perimeter of the site. Every proposed dwelling directly facing onto an existing dwelling will be over 18 metres from the exterior wall of a neighbouring property.

### Overshadowing, loss of sunlight and daylight

- 168 The Building Research Establishment (BRE) document 'Site Layout Planning for Daylight and Sunlight-a guide to good practice 1991' sets out guidelines on how to assess the potential impact, it should be noted that the standards are not mandatory and should be interpreted flexibly.
- 169 Taking cognisance of the BRE document, the distances between new and existing properties and site levels at the southern end of the site, I consider an acceptable level of daylight and sunlight will be provided to each neighbouring property.
- 170 Overall, in terms of residential amenity the proposal complies with LDP Policy PM1 as the design and siting respects the character and amenity of the surrounding properties.

## **Waste**

- 171 The Council's Waste Services team provided guidance as part of their consultation response to ensure all properties have the required number and type of bins and that there should adequate space within each property to accommodate the required bins and that the road network will be able to accommodate the required refuse vehicles to service the site. Both conditional control and Informatives will ensure the collection of waste will not be compromised.

## **Contaminated Land**

- 172 The Council's Land Quality Officer has identified that owing to historical use of a railway line through the site, this may have resulted in contamination of some areas. A Phase 1 Contaminated Land Assessment has been completed by the applicant and has identified local areas of contamination associated with the former land uses.

- 173 The Land Quality Officer has recommended a condition be applied to any planning consent to further identify any contamination and propose mitigation measures if required. This conditional control will ensure the development complies with LDP Policy EP12 – Contaminated Land.

### **Open Space and Recreation Provision**

- 174 The Masterplan looks to provide a wide range of open space, play area and community parkland to meet the needs of the existing and future residents.
- 175 As already mentioned the community parkland will be a large area of greenspace that can be used by all members of the community and its formalisation will ensure there is no coalescence between Kinross and Milnathort.
- 176 Community Greenspace have agreed that the proposed provision is acceptable. It is considered that the proposed open space, play area and community parkland will be a significant improvement to the existing situation and will be a benefit to both existing and future residents in the area. As a result the proposal complies with LDP Policies CF1 – Open Space Retention and Provision and CF3 – Social and Community Facilities.

### **Developer Contributions**

- 177 A Section 75 legal agreement is required to secure necessary infrastructure and ensure it complies with Policy PM3 - Infrastructure Contributions and associated Supplementary Guidance on Developer Contributions. A Draft Heads of Terms has been prepared and has been agreed with the applicant. It will cover the following topics:
- Affordable housing provision
  - Primary school provision
  - Open space provision and maintenance
  - Community parkland provision and maintenance
  - Play Area Provision and Maintenance

### **Economic Impact**

- 178 The applicant has submitted an economic impact statement of the proposal. During the construction period it is predicted that up to 248 full time jobs will be created and this will impact on the level of in-direct jobs that the construction activity will generate from employees spending on local goods and services.
- 179 Once operational it is predicted that new residents should help fill job vacancies and support numerous existing employers in the local area.
- 180 The development of 300 dwellings will provide a significant increase in available expenditure for the economy of Kinross and Milnathort in particular and further afield. 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 300 dwellings the estimated annual expenditure on convenience and compassion goods will be in the region of £1.7 million. This expenditure should have a significant positive impact on Kinross and Milnathort town centres.

## **LEGAL AGREEMENTS**

181 A legal agreement is required to secure necessary infrastructure. A Draft Heads of Terms have been agreed between the parties:

- Primary school financial contribution.
- Delivery of Affordable Housing.
- Delivery of community parkland, play area, open space, paths and associated maintenance.

## **DIRECTION BY SCOTTISH MINISTERS**

182 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**

183 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. The proposal seeks to formally establish the principal of development on the associated site and it is consistent with the objectives of the Development Plan.

184 Residential development at Lathro Farm is a committed development site and allocated in the LDP. The site is well placed to deliver a new sustainable community, serving as a well-connected satellite settlement to Perth. The proposal will provide a significant contribution toward meeting the projected population growth of Perth and Kinross.

185 The proposed development is therefore considered to accord with the Development Plan. It will lead to the creation of new homes to meet the predicted population growth, which will significantly assist in meeting local and national targets in a sustainable and measured fashion. Accordingly the proposal is recommended for approval subject to the following conditions and associated 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 unless otherwise agreed in writing.

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 and cycleways shall be submitted to the Planning Authority for further approval. The agreed detail shall thereafter be implemented prior to the completion of the development.

Reason: In the interest of pedestrian and cycle 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, namely plot nos. 29-32, 37-40, 55-58, 93-96, 104-107, 119-122, 138-141, 152-159, 181-184, 297-300 of the approved Site Layout Plan.

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 The detailed landscaping and planting scheme as approved shall be commenced at the same time as commencement of the residential 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 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.

- 7 The areas of public open space and parkland 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 the commencement of development a detailed layout of the proposed children's play area indicated in the site layout plan shall be submitted for the further approval of the Planning Authority. The play area(s) shall be designed, laid out and equipped in accordance with the Planning Authority's current criteria for play area provision within six months of the occupation on the site. The play area and its facilities/equipment shall thereafter be maintained to the satisfaction of the Council as Planning Authority.

Reason: In the interests of residential amenity and to ensure the satisfactory provision and implementation of a children's play area.

- 9 Prior to the commencement of development full details of proposed site boundary openings forming new accesses onto both the A922 and Gallowhill Road shall be submitted to the Planning Authority for further written approval. The opening details as approved shall thereafter be implemented prior to the occupation of any residential plot.

Reason: In order to ensure that the associated roads infrastructure is suitably upgraded in order to adequately accommodate the impact of the development proposed.

- 10 Prior to commencement of development, details of the frontage landscaping treatment along the M90 trunk road boundary shall be submitted to, and approved by, the Planning Authority, after consultation with Transport Scotland.

Reason: To ensure that there will be no distraction to drivers on the trunk road, and that the safety of the traffic on the trunk road will not be diminished.

- 11 Prior to the occupation of the development, a barrier/boundary feature of a type approved by the Planning Authority in consultation with Transport Scotland shall be provided and maintained along the proposed boundary of the site with the M90 trunk road.

Reason: To minimise the risk of pedestrians and animals gaining uncontrolled access to the trunk road with the consequential risk of accidents.

- 12 No development shall commence until a detailed delivery plan confirming the phased delivery of the site and construction works has been submitted and approved in writing by the Planning Authority. Once approved, the development shall be implemented in accordance with the delivery plan otherwise agreed in writing by the Planning Authority

Reason: In order to ensure the implementation and completion of the development components of the proposal to coincide with infrastructure delivery and to release the elements of the proposed development which the planning authority considers will bring economic and social benefits to the area.

- 13 Prior to approval of further detailed applications, details of the lighting within the site likely to impact on the M90 trunk road shall be submitted for the written approval of this Council as Planning Authority and thereafter installed all to the satisfaction of the Planning Authority in consultation with Transport Scotland.

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

- 14 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.

- 15 The discharge of any surface water drainage shall be limited to the Greenfield runoff rate as calculated in Section 4.3 of the Flood Risk Assessment within the Environmental Impact Assessment Environmental Statement Vol.3 Technical Appendix A. All discharge rates shall be agreed in writing by the Planning Authority in consultation with the Flooding Team prior to the commencement of any works on site.

Reason: To reduce flood risk

- 16 Full drainage calculations and the final layout and depth of the proposed SUDS pond 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.

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

- 17 Unless otherwise agreed in writing by the Planning Authority the Finished Floor Level of all properties shall be a minimum of 600mm above the 200 year flood level.

Reason: To reduce the risk of flooding.

- 18 Unless otherwise agreed in writing by the Planning Authority, the garden level of all properties shall be a minimum of 300mm above the 200 year flood level.

Reason: To reduce the risk of flooding.

- 19 Prior to the commencement of development the soffit level of all bridges/culverts shall be agreed in writing by Perth and Kinross Councils Flooding Team.

Reason: To reduce the risk of flooding.

- 20 All existing trees and hedgerows shall be retained and protected by suitable fencing in accordance with BS5837 2012 (Trees in Relation to Construction), unless otherwise agreed in writing by the Planning Authority. 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.

Reason: to ensure adequate protection for the trees on the site during the construction, in the interests of the visual amenity of the area.

- 21 Prior to the commencement of development a Construction Environment Management Plan (CEMP), incorporating a Construction Method Statement (CMS), a Construction Traffic Management Plan (CTMP), a Site Waste Management Plan (SWMP), a Site Access Management Plan, a Drainage Management Plan (DMP) and Environmental Management Plan (EMP) detailing pollution prevention and control measures for all phases of the construction and operation programmes will be submitted to and be approved in writing by the Planning Authority, in consultation with Scottish Environment Protection Agency and Scottish Natural Heritage. The CEMP shall be updated and submitted not less than two months prior to the commencement of the second phase and shall incorporate detailed pollution avoidance and mitigation measures for all construction elements. Thereafter the development shall be fully undertaken in accordance with the CEMP unless otherwise agreed in writing by the Planning Authority.

Reason: In the interest of protecting environmental quality and of bio-diversity.

- 22 No development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of archaeological works in accordance with a Written Scheme of Investigation which has been submitted by the applicant, agreed by Perth and Kinross Heritage Trust, and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with Perth and Kinross Heritage Trust.

Reason: In the interest of protecting archaeological interest within the site

- 23 Prior to the commencement of works on site, an evaluation for the potential of the site to be affected by contamination by a previous use should be undertaken.
- I. the nature, extent and type(s) of contamination on the site
  - II. measures to treat/remove contamination to ensure the site is fit for the use proposed
  - III. measures to deal with contamination during construction works
  - IV. condition of the site on completion of decontamination measures.

Prior to the completion or bringing into use of any part of the development the agreed measures to decontaminate the site shall be fully implemented as approved by the Council as Planning Authority. Validation that the scheme has been fully implemented must also be submitted to the Council as Planning Authority.

Reason: To prevent harm to human health and pollution of the environment in accordance with the aims and objectives of the Development Plan.

- 24 The hours of operation at the construction stage shall be Monday to Friday 07:00 to 19:00 hours, Saturday 08:00 to 13:00 hours and no workings on a Sunday, unless otherwise agreed in writing with the Planning Authority.

Reason: In the interests of public health and to prevent noise pollution.

- 25 Prior to the commencement of development detailed design of the earth bunding and acoustic barriers along the M90 boundary shall be submitted in writing to the Planning Authority for approval before the development commences so that together with existing landscape features noise levels within habitable rooms of proposed dwellings on the western part of the development are reduced.

Reason: In the interests of public health and to prevent noise pollution.

- 26 As recommended in Section 7 of the Environmental Statement, trickle ventilators shall be installed with passive extract ventilation systems to all habitable rooms within line of sight to the M90 trunk road and South Street, Milnathort to provide acoustic attenuation of up to 42 dBDn, in its open position.

Reason: In the interests of public health and to prevent noise pollution.

- 27 Prior to the commencement of 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.

Reason: in the interests of the sustainable disposal of waste.

- 28 Prior to the commencement of development details of all front driveway screening shall be submitted to the Planning Authority for further approval. The

agreed detail shall be thereafter implemented prior to the occupation of each dwelling.

Reason: In the interest of visual amenity and in compliance with the National Roads Development Guide.

- 29 No removal of hedgerows, trees or shrubs that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

Reason: To protect any nesting birds.

- 30 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 local planning authority. The measures may include creation of sloping escape ramps 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: To protect species being trapped.

- 31 Lighting will be designed, and positioned in such a way as to prevent light spillage into adjacent watercourses and woodland.

Reason: To protect the habitat for species.

- 32 No development, including earth moving, shall take place or material or machinery brought on site until protective fencing and warning signs have been erected on site in accordance with an approved Construction Method Statement. All protective fencing and warning signs will be maintained during the construction period in accordance with the approved details.

Reason: In the interest of natural heritage.

- 33 Pre-construction surveys shall be undertaken to ascertain the presence or absence of protected species and breeding birds and written confirmation that no protected species or birds will be harmed and/or that there are appropriate measures in place to protect said protected species and nesting bird interest on site. Any such written confirmation should be submitted to and agreed by the Planning Authority.

Where ecological surveys have identified the potential presence of roosting bats, no activities that could result in disturbance (such as tree felling, or associated operations) shall be carried out between the dates of 1st April and

1st October in any year. Any works undertaken during the specified periods should only be carried out under the direction of a licensed bat ecologist to ensure that an offence is not committed.

Reason: In the interest of natural heritage and protected species.

- 34 Where it is intended to create semi-natural habitats, all species used in the planting proposals as detailed in the landscape plans shall be locally native species of local provenance unless otherwise agreed in writing with the local Planning Authority.

Reason: In the interest of natural heritage.

- 35 All landscape maintenance measures shall be carried out in accordance with the details contained in the landscape plans as already submitted with the planning application and agreed with the Planning Authority.

Reason: In the interest of natural heritage.

- 36 All trees to be retained shall be protected in accordance with BS 5837 2012 Trees in Relation to Design, Demolition and Construction prior to any works commencing on site, and shall remain in place until all construction is completed.

Reason: To prevent harm to trees within or adjacent to the site.

## **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**

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 15/01512/FLM. 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 provision and contribution;
- Education contribution;
- Community parkland provision/maintenance.
- Open space provision /maintenance;
- Play area infrastructure provision and maintenance;

## **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 38 of the Development Management Procedure (Scotland) Regulations 2008. 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.
- 5 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.
- 6 The developer is advised to contact Mr David Strachan, Archaeologist – Perth and Kinross Heritage Trust to discuss terms of reference for work required Tel 01738 477080.
- 7 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, The Atrium, Glover Street, Perth.
- 8 Please consult the Street Naming and Numbering Officer, The Environment Service, Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth PH1 5GD

- 9 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.
- 10 No work shall be commenced until an application for building warrant has been submitted and approved.
- 11 The development shall be in accordance with the Council's Developer Contributions and Affordable Housing Policy approved in April 2016 which requires a 25% allocation of affordable units within the development all to the satisfaction of the Council as Planning Authority.
- 12 All domestic properties require an appropriate storage area for a minimum of 3 x 240 litre bins (1 for general waste, 1 for garden & food waste and 1 for dry mixed recyclates/paper) and suitable access/surface to wheel the bins from the storage area to the kerbside where they must be presented for collection.

Bin Dimensions

| Capacity (litres) | Width (mm) | Height (mm) | Depth (mm) |
|-------------------|------------|-------------|------------|
| 240               | 580        | 1100        | 740        |

Background Papers: 5 letters of representation  
 Contact Officer: Steve Callan Ext 75337  
 Date: 26 August 2016

**Nick Brian**  
**Development Quality Manager**

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| <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 01738 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>  |