

Perth and Kinross Council  
Planning and Placemaking Committee – 3 July 2024  
Report of Handling by Strategic Lead - Economy, Development & Planning  
(Report No. 24/204)

**PROPOSAL:** Mixed use development comprising golf driving range (class 11) with café (class 3), retail unit (class 1A), formation of vehicular access and parking, landscaping and associated works

**LOCATION:** Land 240 metres North East of Lethangie Waste Water Treatment Works, Kinross

Ref. No: [23/01341/FLM](#)

Ward No: P8- Kinross-shire

### Summary

This report recommends **refusal** of the application as the development is considered to be contrary to the relevant provisions of the Development Plan and there are no material considerations apparent which justify setting aside the Development Plan.

## BACKGROUND AND DESCRIPTION OF PROPOSAL

- 1 The application site is approximately 9.9 hectares in area and is located on prime agricultural land to the east of Kinross and Milnathort in the Burleigh Sands area adjacent to Loch Leven. The site is located out-with any settlement boundary and not designated for any specific land use within the Local Development Plan 2 2019 (LDP2). It is located within the Loch Leven and Lomond Hills Local Landscape Area (LLA) and Loch Leven Special Protection Area (SPA). Loch Leven is approximately 250m south from the site.
- 2 The C945 public road is located to the south of the site with agricultural land beyond. The north and east of the site is bound by agricultural land and to the west is a vehicular access serving Milnathort Wastewater Treatment Plant. Core paths (MTHHT/102, MTHHT/104 and MTHHT/112) surround the site to the north, east and west, with MTHHT/112 connecting to the Loch Leven Heritage Trail to the south.
- 3 Burleigh Castle, a scheduled monument, is located further north of the site. The proposed development lies within the direct line of sight between Loch Leven and Burleigh Castle. Kinross House, a category A listed building, and its Garden and Designed Landscape (GDL) are located further south of the site. The driving range proposed is located approximately 0.5km to the north of the GDL and Kinross House is approximately 2km away.

- 4 Mature trees lie along the site's eastern boundary, albeit out-with the red line site boundaries of the site. Otherwise, the site has open views.
- 5 The proposal relates to a mixed-use development comprising a 19 bay golf driving range (class 11) with a café (class 3), retail unit (class 1A), formation of vehicular access and parking, landscaping and associated works. Putting and pitching green practice areas are also proposed as is secure cycle storage and a covered zone for e-bikes. The café and retail unit would be open to the general public and are not private amenities for the driving range customers.
- 6 There are no existing access points into the site. A vehicle access is proposed from the C945. It is also proposed to connect the site to the existing core paths MTHT/102 and MTHT/112 on the sites east and west boundaries to create pedestrian and cycle links to the wider area. It should however be noted that the connecting path proposed to the east, particularly for those looking to use the Heritage Trail Paths, will involve works out-with the red line boundaries of the site which will require the submission and approval of a further planning application, should the Applicant be successful in gaining planning approval for the current proposal.
- 7 The proposed SUDs Geocellular Storage is proposed within the southwest corner of the site. It is noted that the outfall to the river will also require works out-with the red line boundary of the site which will require the submission and approval of a further planning application.

### **PRE-APPLICATION CONSULTATION**

- 8 Pre application Reference: 22/00004/PREAPM
- 9 The proposed development is classed as a Major development in terms of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, therefore the applicant was required to undertake a formal pre-application consultation with the local community and a Pre-Application Consultation (PAC) Report has been submitted in support of the application which confirmed the extent of consultation activity undertaken and in this case it complies with the content of the measures agreed through the Proposal of Application Notice.

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

- 10 An EIA screening has been undertaken by the Agent, concluding that an EIA is not required, as the proposal is not considered likely to have significant environmental effects. Nevertheless, a combined suite of supporting environmental information has been included in the supporting information, including assessment of the following areas:
  - Transport
  - Ecology Survey Report
  - Archaeological Survey

- Arboricultural Report
- Flood Risk Assessment and Drainage Strategy
- Habitats Regulations Assessment
- Town Use Sequential Assessment
- Supporting Statement including Design and Access Statement; Landscape and Visual Impact Assessment; Noise & Lighting Assessment

## **DEVELOPMENT PLAN**

- 11 The Development Plan for the area comprises National Planning Framework 4 and the Perth and Kinross Local Development Plan 2 (2019, along with its associated statutory supplementary guidance).

### **National Planning Framework 4**

- 12 The National Planning Framework 4 (NPF4) is the Scottish Government's long-term spatial strategy with a comprehensive set of national planning policies. This strategy sets out how to improve people's lives by making sustainable, liveable and productive spaces.
- 13 NPF4 was adopted on 13 February 2023. NPF4 has an increased status over previous NPFs and comprises part of the statutory development plan.
- 14 The Council's assessment of this application has considered the following policies of NPF4:
- Policy 1: Tackling the Climate and Nature Crises
  - Policy 2: Climate Mitigation and Adaptation
  - Policy 3: Biodiversity
  - Policy 4: Natural Places
  - Policy 5: Soils
  - Policy 6: Forestry, Woodland and Trees
  - Policy 7: Historic Assets and Places
  - Policy 13: Sustainable Transport
  - Policy 18: Infrastructure First
  - Policy 20: Blue and Green Infrastructure
  - Policy 22: Flood Risk and Water Management

### **Perth and Kinross Local Development Plan 2019**

- 15 The Local Development Plan 2 (2019) (LDP2) sets out a vision statement for the area and states that, "Our vision is of a Perth and Kinross which is dynamic, attractive and effective which protects its assets whilst welcoming population and economic growth." It is the most recent statement of Council policy and is augmented by Supplementary Guidance.

16 The principal relevant policies are, in summary;

- Policy 1A: Placemaking
- Policy 1B: Placemaking
- Policy 2: Design Statements
- Policy 6: Settlement Boundaries
- Policy 8: Rural Business and Diversification
- Policy 13: Retail and Commercial Leisure Proposals
- Policy 15: Public Access
- Policy 32: Embedding Low & Zero Carbon Generating Technologies in New Development
- Policy 38A: Environment and Conservation: International Nature Conservation Sites
- Policy 38B: Environment and Conservation: National Designations
- Policy 39: Landscape
- Policy 40A: Forestry, Woodland and Trees: Forest and Woodland Strategy
- Policy 40B: Forestry, Woodland and Trees: Trees, Woodland and Development
- Policy 41: Biodiversity
- Policy 42: Green Infrastructure
- Policy 46A: Loch Leven Catchment Area
- Policy 50: Prime Agricultural Land
- Policy 52: New Development and Flooding
- Policy 53A: Water Environment and Drainage: Water Environment
- Policy 53C: Water Environment and Drainage: Surface Water Drainage
- Policy 55: Nuisance from Artificial Light and Light Pollution
- Policy 60A: Transport Standards and Accessibility Requirements: Existing Infrastructure
- Policy 60B: Transport Standards and Accessibility Requirements: New Development Proposals
- Policy 61: Airfield Safeguarding

### **Statutory Supplementary Guidance**

17

- [Supplementary Guidance - Air Quality](#) (adopted in 2020)
- [Supplementary Guidance - Delivering Zero Waste](#) (adopted in 2020)
- [Supplementary Guidance - Developer Contributions & Affordable Housing](#) (adopted in 2023)
- [Supplementary Guidance - Flood Risk and Flood Risk Assessments](#) (adopted in 2021)
- [Supplementary Guidance - Forest & Woodland Strategy](#) (adopted in 2020)
- [Supplementary Guidance - Green & Blue Infrastructure](#) (adopted in 2020)
- [Supplementary Guidance - Landscape](#) (adopted in 2020)
- [Supplementary Guidance - Placemaking](#) (adopted in 2020)

## **PKC Non Statutory Guidance**

18

- [Planning Guidance - Delivery of Development Sites](#)
- [Planning Guidance - Loch Leven SPA, the Dunkeld-Blairgowrie Lochs SAC and the River Tay SAC](#)
- [Planning Guidance - Planning & Biodiversity](#)
- [Supplementary Guidance - Renewable & Low Carbon Energy](#) (draft)

## **NATIONAL GUIDANCE**

19 The Scottish Government expresses its planning policies through Planning Advice Notes, Creating Places, Designing Streets, National Roads Development Guide and a series of Circulars, in addition to NPF4.

### **Planning Advice Notes**

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

- PAN 1/2011 Planning and Noise
- PAN 51 Planning, Environmental Protection and Regulation
- PAN 61 Planning and Sustainable Urban Drainage Systems
- PAN 68 Design Statements
- PAN 75 Planning for Transport
- PAN 77 Designing Safer Places
- PAN 79 Water and Drainage

### **Creating Places 2013**

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

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

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

## **SITE HISTORY**

23 [23/00001/PAN](#) Mixed use development comprising of 19 bay golf driving range with cafe (class 3), retail unit (class 1), formation of parking and associated works. Approved March 2023.

## CONSULTATIONS

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

### External

- 25 **Historic Environment Scotland (HES)** – Originally objected as the proposal had the potential to have a significant adverse impact on the integrity of Loch Leven and Burleigh Castles. The objection was withdrawn following the submission of additional information.
- 26 **Scottish Water**- No objections. Advise there is currently sufficient capacity to service the proposed development at Glenfarg Water Treatment, however, a Pre-Development Enquiry (PDE) is required to be submitted to Scottish Water to establish if there is capacity at Milnathort Waste Water Treatment Works. Early contact directly with Scottish Water is encouraged.
- 27 **NatureScot** – No objections.
- 28 **Kinross Community Council** – A neutral comment has been provided. The points raised are as follows:
- Transport concerns.
  - Biodiversity including impact on SSSI, RAMSAR and SPA.
  - Lighting having an impact on wildlife.
  - Fencing having an impact on wildlife.
- 29 **Milnathort and Orwell Community Council** - Object on the following grounds
- Transport concerns.
  - Loss of view to Loch Leven, Burleigh Castle, Lomond Hills and Ochil Hills.
  - Flood Risk.
  - Lighting having an impact on wildlife.
  - Permanent loss of agricultural land if the proposed driving range is not successful.
  - Loss of countryside.
- 30 **Scottish Environment Protection Agency (SEPA)**– Outstanding objection in relation to potential flood risk.
- 31 **Balado Airfield** – No comments.
- 32 **Perth And Kinross Heritage Trust (PKHT)**- No objection subject to condition.
- ### Internal
- 33 **Environmental Health (Contaminated Land)** -No objection.

- 34 **Environmental Health (Noise Odour)** - No objection. Advise that standard conditions are required in respect of noise/odour/lighting.
- 35 **Development Plan** – Objects to the proposal due to level of café numbers not being an ancillary element which would also have a significant impact on the town centres of Milnathort and Kinross.
- 36 **Structures and Flooding** - No objection, following clarifications and further information. Advise that a condition is required in respect to SUDS and storm water drainage.
- 37 **Conservation Team** – No objections.
- 38 **Transportation and Development** – No objections subject to conditions.
- 39 **Development Contributions Officer** – No comments.
- 40 **Biodiversity/Tree Officer** – No objection subject to conditions.
- 41 **Community Greenspace** – No objection subject to condition and informative.

## **REPRESENTATIONS**

- 42 Twelve representations were received (from eleven different households) including Milnathort and Orwell Community Council. The main issues raised within the representations are:

- Visual impact
- Noise
- Flood Risk
- Inappropriate Land Use
- Light Pollution
- Loss of Open Space
- Loss of Trees
- Out of Character with Area
- Traffic/Road Safety Concerns
- Excessive Height
- Contrary to Development Plan Policy
- Would not increase employment significantly
- Loss of prime agricultural land
- Impact on Biodiversity/Wildlife
- Not financially viable
- Potential impact on SSSI, RAMSAR and SPA
- Over Intensive Development
- Overlooking
- Loss of Sunlight or Daylight
- Over provision of car parking
- Impact on Core Path users

- 43 These issues are addressed in the Appraisal section of the report.
- 44 Neutral comments have also been received from The Kinross-shire Civic Trust and Kinross Community Council. These comments relate to road/traffic concerns, biodiversity, potential impact on SSSI, RAMSAR and SPA, proposed lighting, fencing and loss of agricultural land.
- 45 One late comment has been received in support of the proposed development.

### ADDITIONAL STATEMENTS

46	Screening Opinion	EIA Required
	Environmental Impact Assessment (EIA): Environmental Report	Not Required
	Appropriate Assessment under Habitats Regulations	Habitats Regulations Appraisal AA Completed
	Design Statement or Design and Access Statement	Submitted
	Report on Impact or Potential Impact eg Flood Risk Assessment	<ul style="list-style-type: none"> <li>• Habitats Regulations Assessment</li> <li>• Planning Statement</li> <li>• Town Centre Sequential Assessment</li> <li>• Noise Impact Assessment</li> <li>• Flood Risk Assessment and Drainage Strategy</li> <li>• Ecology Survey Report</li> <li>• Archaeology Survey</li> <li>• Arboricultural Report</li> </ul>

### APPRAISAL

- 47 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) require the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The Development Plan comprises NPF4, the Perth and Kinross Local Development Plan 2019 and statutory supplementary guidance. The relevant policy considerations are outlined in the policy section above and are considered in more detail below. In terms of other material considerations, this involves considerations of the Council's other approved policies and supplementary guidance.
- 48 In this instance, section 14(2) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a duty on planning authorities in determining such an application as this to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.



## Principle

- 49 In relation to rural development, the policy context is set out in NPF4 Policy 29: Rural Development, LPD2 Policy 8: Rural Business and Diversification, NPF4 Policy 5: Soils and LDP2: Policy 50 Prime Agricultural Land which are relevant to the overall principle of the development.
- 50 NPF4 Policy 29 supports proposals which contribute to the viability, sustainability and diversity of rural communities and local rural economy. Examples are given in the policy - none of which would apply to this proposal; however, the list of examples is not exhaustive.
- 51 LDP2 Policy 8 supports the expansion of existing businesses and the creation of new ones in rural areas. There is a preference that this will generally be within or adjacent to existing settlements but sites out-with settlements may be acceptable where they are either the diversification of an existing business or are related to an existing site-specific resource or opportunity. Whilst there is a general assumption that diversification schemes would be on or adjacent to the site of the principal business, the policy does not require that. Furthermore, the overall support for rural development in NPF4 Policy 29 furthers that interpretation.
- 52 The Planning Statement indicates that 'the land is the only practical site within their (Burleigh Golf Ltd) holding for this facility'. Additional information was submitted in relation to the existing site-specific resource or opportunity including a sequential assessment. The applicant makes the case that the site is a 'unique topographical opportunity'. A sloping, roughly square site is not particularly unique, but they have provided site search information with their reasons for discounting other sites, and it could be argued that the location in-between the two golf courses is not unreasonable for a driving range. The additional information submitted clarifies that the proposal meets this part of LPD2 Policy 8.
- 53 The second requirement of LDP2 Policy 8 refers to tourism-related developments. Although a proportion of the potential visitors will most likely be local, the Planning Statement does suggest a 20km catchment area, therefore, this policy requirement is considered relevant. New tourism-related developments are supported where it can be demonstrated that it will improve the quality of new or existing visitor facilities, allow a new market to be exploited, or extend the tourism season. Proposals for new tourism-related developments must also be justified through a business plan.
- 54 LDP2 Policy 8 also lists criteria which all proposals must meet. Criterion (h) requires that outwith settlement centres, retailing will only be acceptable if it can be demonstrated that it is ancillary to the main use of the site and would not be deemed to prejudice the vitality of existing retail centres in adjoining settlements. Further comments on this aspect were provided in relation to the NPF4 retail/town centre policies, however, it is considered that an additional 40 cover café is a significant scale and is likely to cause harm to the viability and vitality of Kinross and Milnathort centres.

- 55 In relation to commercial development, the policy context is set out in NPF4 Policy 27: City, Town, Local and Commercial Centres and LPD2 Policy 13: Retail and Commercial Leisure Proposals.
- 56 Both policies require development proposals to be consistent with the town centre first / sequential approach. Proposals for uses which will generate significant footfall (including leisure facilities) will not be supported out-with centres unless a town centre first/sequential assessment has been carried out.
- 57 A town centre use sequential assessment was subsequently submitted for the 40-cover café provided. The retail proposed is relatively small scale restricted to 33 sqm and this could be considered ancillary and meet with NPF4 policy 27 b ii. However, together with the scale of the café development (40 covers), floor space of 91 sqm, these uses are beyond ancillary to the driving range and are likely to attract significant numbers of visitors in their own right, reducing the likelihood of visits to the town centres and associated linked trips to other town centre businesses.
- 58 The original Business Case identified that the café would provide approximately 40% of the overall business revenue. It is stated that, 'a key element of the proposed café offering is to provide food & drink refreshments and toilet facilities not simply for those making use of the golf driving range facilities but also for those walking and cycling on the Loch Leven Heritage Trail and extensive core path network on the north side of Loch Leven.' In terms of facilities to serve walkers, Kinross town centre is within 400m walking distance of the trail, whilst the Kirkgate Park (Boathouse) and Findatie (RSPB Loch Leven & Loch Leven Lodges cafés) provide facilities next to the trail. The Council commissioned a [town centre and retail study](#) in February 2023, and this identifies that for Kinross, 'The daytime food/catering offer is good, with several food styles and price points available. The evening offer is also reasonable with 2 pubs, and Pizza, Chinese and Indian restaurants.' Whilst one of the top 5 likes for householders was 'good cafes and restaurants.'
- 59 There are examples of comparative driving ranges with and without cafes and given the short duration of the golfer visits, and the proximity to Kinross and Milnathort, a cafe is not considered an essential ancillary function. There are 19 golf driving bays proposed and only a proportion of golfers will stay for food and drink. A 40-cover café (2 customers per bay) is considered inappropriate.
- 60 The assessment estimates the existing town centre covers to be approximated at 120. As noted above, an additional 40 cover café is a significant scale and would likely cause harm to the viability and vitality of Kinross and Milnathort centres by virtue of the provision of a substantial new café/restaurant in an out-of-town location. As per the pre application advice, any café should be scaled appropriately to be genuinely ancillary to the driving range and restricted to 20 covers as a maximum.
- 61 The 20-cover scenario is based on the following:

- 62 The business statement assumes 107 golfers per day (potentially increasing to roughly 142 per day after 5 years), and the venue will be open daily 11 hours per day, 10am till 9pm, covering breakfast, lunch and dinner, and snacks. Only a proportion of golfers (maybe 50%) would use the café, as their visiting time is estimated at either 1 hour (75%) or 30 mins (25%).
- 63 In a café, the turnover of a table is usually in the 30-45 mins region, with lots of snacks and coffees, but assuming it was 1 ½ hour there would be 7 turnovers in a day. That suggests 20 covers could cope with 100% of the maximum 142 golfers using the café. However, it is anticipated that it will be 50% or less of the golfers, and so within that 20 covers there will already be capacity for quite a bit of non-golfer trade even once they are operating at their 5-year potential.
- 64 Attempts were made with the Applicant to reduce the café numbers to 20 based on the scenario noted above. Both the Applicant and Agent submitted further justification as they felt that a 20-cover café is unjustified and that the café would not be open for the same time as the golfing range, however, more likely to be open 7-9 hours dependent on the time of year.
- 65 The information submitted goes on to state that this reduction in covers would have a significant negative impact on the reasonable provision of all other elements of the development such as number of driving range bays, full time equivalent staff, toilet and other facilities that would no longer be justifiable if there was a limit of 20 café numbers imposed. It further states a reduction of a 40-cover cafe to 20 will impact on the viability of the investment required to establish the appropriate kitchen and catering facilities which would most likely result in vending machines and therefore a significant reduction in the creation of new jobs. The Applicant has advised that the proposal as amended would be to the detriment of the local community and the project's financial viability.
- 66 Whilst some may argue it is about letting the market decide and that the 20 is somewhat arbitrary, a 40-cover competitor would be significant in relation to existing town centre businesses (current 120 cover). In addition to town centre impact there is the ancillary test, and it is considered that due to the combined scale of the café and retail element proposed, it would not be ancillary, but has the potential to move towards being the main use proposed.
- 67 The principle of a golf driving range use and associated building along with ancillary facilities is acceptable in terms of meeting the sequential test, however, together the café and retail element at the scale proposed would not meet NPF4 Policy 27 b) ii or LDP2 Policy 8 (h). It is considered that a maximum 20 cover café together with 33 sqm of retail space could be ancillary to the driving range and limit impacts on Kinross and Milnathort town centres.
- 68 In terms of land classification, the land here is classed as 3.1 on the capability for agriculture scale which falls within NPF4 Policy 5 and LDP2 Policy 50. Development on such land is not permitted unless necessary to meet a specific established need, such as a major infrastructure proposal and only when there is

no other suitable site available on non-prime land. This proposal does not meet the definition of a specific established need and cannot be considered small scale which is defined as a single building directly linked to (implied) existing rural business.

- 69 Noted within the supporting Planning Statement, the land is defined as being non-prime class 3.2, however, this classification has been taken from the 1:250,000 (national) layer whereas the 3.1 (prime) classification is taken from the 1:50,000 map layer. For the avoidance of doubt the James Hutton Institute (JHI) recommends the following:
- 70 Where it exists (predominantly in the agricultural lowlands of the south and east of the country) the 1:50,000 scale map information is seen as the definitive mapped assessment and the 1:50,000 scale map should be used in preference to the 1:250,000 scale map. For a more site-specific query or to resolve a planning issue, we recommend that a further and very detailed site inspection is carried out.
- 71 The applicant has put forward a case for support of the proposed development, despite its land classification. It is noted within the Planning Statement that the footprint of the proposed building together with hardstanding and new footpath is less than 2 per cent of the overall site. The supporting information also advises that the subject site comprises approximately 10.4 percent of the overall agricultural landholding controlled by the Burleigh Farm Partnership. It further states that it is unlikely that the proposed development of the land as a golf driving range will neither negatively impact the viability of the agricultural unit nor result in an unacceptable loss of prime agricultural land given that the majority (84.62 hectares, 89.6 percent) of the landholding will remain in agricultural use and is classification 3.1 in accordance with the 1:50,000 scale map.
- 72 The applicant has submitted supporting information in respect to recent agricultural yield which contends that, whilst no direct soil sampling and analysis has been undertaken, the land classification as prime agricultural land may not be accurate based on cereal yields over the last two years which have produced marginal returns.
- 73 The supporting information goes on to say that the proposed development will not adversely affect the viability of the wider agricultural unit, nor result in an unacceptable loss of prime agricultural land in the context that the application site is relatively small in area in comparison to the remaining landholding and that the application site does not exhibit qualities of being prime agricultural land for the reasons noted above. Furthermore, the information provided advises that the proposed development is not considered to be of high impact to the majority of the existing soil on the site, allowing the site to be re-instated for agricultural use, if it were decided in the future to return the land to farming use.
- 74 Whilst the points made within the supporting information have been considered and the area of built development may seem relatively small when compared to

the overall site area, the full use of the land (9.9 hectares) as a golf driving range is not a small-scale development, nor is it directly linked to a rural business, farm or croft as per NPF4 Policy 5 b) ii. Furthermore, the loss of such prime agricultural land would result in the loss of food production potential and food security over its lifetime.

- 75 Overall the Development Plan does not support the principle of this development for the reasons noted above. The proposal is contrary to NPF4 Policy 27 b) ii, LDP2 Policy 8 (h) and Policy 13. NPF4 Policy 5 b) and LDP2 Policy 50

### **Scale, Design and Layout**

- 76 NPF4 Policy 14 seeks to encourage, promote and facilitate well designed places that are in compliance with the six qualities of place: Healthy, Pleasant, Connected, Distinctive, Sustainable and Adaptable. LDP2 Policy 1 Placemaking requires development of all scales to contribute positively to the quality of the surrounding built and natural environment. The design, density and siting of development should respect the character and amenity of the place and should create and improve links within and where practical beyond the site. Proposals should also incorporate new landscape and planting works appropriate to local context.
- 77 The application has included a Design Statement outlining ways in which the development of the proposals have sought to reduce impact and attempt to deliver a development which fits its context taking into consideration heritage assets, nearby buildings, core paths, Special Protection Area (SPA) and Ramsar sites.
- 78 The proposed building would be located in the southwest corner of the site. It would provide a floodlit 19 bay driving range that would be open all year round between 9am and 9pm. Each bay would include the professional ball tracking system Top Tracer which provide real time information on every shot hit to enable a statistical analysis of ball striking. Other elements of the building include a reception, pro shop, café, kitchen and toilet facilities.
- 79 The design of the building is a curved roof based on a modular grid using a steel structure which allows for flexibility in the spaces underneath the roof. The design statement advises 108 solar panels are proposed on the roof of the building. The building would be split into 2 main sections, the driving range with the hitting bays at the north and the ancillary spaces to the south which include the entrance, shop, café, kitchen, toilets and plantroom. The curve is described as being shallow with an approximate radius of 180m providing the optimum hitting target for the range.
- 80 The building slopes upwards away from the entrance providing an open outlook for the golf driving range. The footprint of the combined building and driving range measures approximately 771 sqm (external) to a maximum height of 5.6 metres sloping down to 2.7 metres.

- 81 In terms of materials proposed, the roof will be finished in standing seam metal (leaf green), the walls would be finished in a combination of natural stone (Denfind or equal) and vertical timber cladding. The windows would be finished in aluminium/alu-clad (anthracite grey).
- 82 The design of the building is relatively simple and functional in its form and the roof design helps to limit its impact to a certain degree. It is considered that the overall benefits of the development proposal including the new path link in with the Heritage Trail paths to the east of the site and connection into the core path to the west to create pedestrian and cycle links with the site to the wider area, secure cycle storage including e-bike cover and landscaping proposals will have an overall positive impact on the wider community. Furthermore, the design and layout of the proposal respects the character and amenity of the place. The proposed development is therefore consistent with NPF4 Policy 14 and LDP2 Policy 1 Placemaking and with policy guidance set out within the associated Supplementary Guidance: Placemaking 2020.

### **Historic Environment**

- 83 It was clear from Historic Environment Scotland's (HES) initial objection that the proposed development had the potential to have a significant adverse impact on the setting of Burleigh Castle scheduled monument. Further information was provided by the applicant's agent including photomontages/visualisations taken from the elevated areas of the Castle. It was noted that the visualisations did not include the 5m fence, however, HES were content that they broadly represent the change in view that will occur.
- 84 HES commented that although there would still be an impact on the monument's setting, the line of sight from Burleigh to Loch Leven Castle was predominantly blocked by the listed buildings of Burleigh farmstead immediately to the south. Furthermore, the visualisations indicated that the proposed development would not break the line of sight from Burleigh to the loch itself.
- 85 In regard to Kinross House, a category A listed building, and its Garden and Designed Landscape, HES have commented that the proposed driving range is approximately 0.5km to the north of the Inventory designed landscape and approximately 2km from Kinross House. The most sensitive views are on an axis following the drive to the house and framing views of Loch Leven Castle to the east and the Ochil Hills to the west. The proposal would be in a different direction to these key views and therefore not likely to have a significant impact on them. They further advise, however, that through the design of the house, there was an intended avenue from the east of the house that would provide views north through the designed landscape.
- 86 Following the submission of The Addendum to the Planning Statement which included a heritage assessment of the house and the designed landscape, with photographs showing limited visibility between Kinross House and the proposal site, HES are content that there are unlikely to be significant impacts on the

designed landscape. HES also recognise the efforts made by the applicant to mitigate the visual impact of lighting extending south of the proposed site.

- 87 Furthermore, whilst the proposed 5m high mesh fence will remain, its length on the west boundary has been reduced back to 150 yards from 200 yards and on the east boundary reduced back to 150 yards (approximately 133m) whereas it was proposed to extend the full length of the driving range to protect the path. The reduction on the extent of the mesh wire fence has been done to balance the requirement of safety with visual amenity, animal passageway and the overprovision of fencing in locations that are unlikely to require protection from golf balls.
- 88 Whilst HES have noted that the proposed development would still have some impact upon the setting of Burleigh Castle, the level of impact has been reduced to a level below where they would maintain their objection and as such have withdrawn their objection.
- 89 A number of Category B listed buildings are located to the north and west of the site and one Category A listed building located to the south. These are all located at distance from the proposed development. As such the proposal will have no impact on the setting of these listed buildings. The Council's Conservation Officer has been consulted and no objections have been received. The proposal is, therefore, consistent with NPF4 Policy 7 and LDP2 Policies 26A, 27A and 29.

### **Visual and Landscape Impact**

- 89 NPF4 Policy 14 and Policies 1A and 1B relate to placemaking which are relevant here and require new development to respect the character and visual amenity of the area. Furthermore, the site is located within the Loch Leven and Lomond Hills Local Landscape Area (LLA) and therefore the impact which the proposed development has on the landscape character of the LLA is a key consideration and LDP2 Policy 39 applies. This states that development should be compatible with the distinctive characteristics and features of the landscape and references the Tayside Landscape Character Assessment.
- 90 A Landscape Strategy was submitted together with a number of visualisations taken from different viewpoints including core paths and roads to help determine the impact on the landscape.
- 91 Concerns have been noted in respect to fencing and lighting having the potential to impact on the landscape and visual amenity of the area. The floodlighting is directed towards the hitting zone directly due north-east and away from Loch Leven Nature Reserve. The lights themselves are proposed to be located on the underside of the roof meaning they are invisible from the main frontage (east) of the building.
- 92 A lighting assessment accompanies the application. The scheme has been designed to ensure that only the driving range area will be lit and lighting will be

designed in line with top tracer ball tracing technology requirements. The information supplied specifies due to the technology proposed, the lighting spill will be greatly reduced which mitigates the need to see the ball in the distance as it is tracked and shown on screen. In terms of the fencing, as noted in paragraph 87 above, the fencing will remain, however, has been reduced in length.

- 93 Whilst it is noted that the proposed development would be located in an area of relatively open landscape, there is an existing sewage treatment plant located adjacent to the site to the west. The proposed building including hardstanding would only equate to approximately 2 percent of built development, therefore, the remainder of the site area would remain open.
- 94 Consideration has been given to the character of the area and the characteristics of the site and its surrounding area in addition to the visibility of the site from all directions. Due regard has also been given to comments made from representations. The visual impact of the proposal from viewpoints along the core path and surrounding public roads is not considered to be significant. It is considered that the development with enhanced landscaping will not have an adverse impact on the character and appearance of the site or the surrounding area. The proposed development would, therefore, not have a negative impact on landscape character by virtue of its siting, design and visual impact and that it would not detract from the qualities of the Loch Leven and Lomond Hills LLA and is therefore compliant with NPF4 Policy 14, LDP2 Policy 1A and 1B and LDP2 Policy 39.

### **Archaeology**

- 95 Perth and Kinross Heritage Trust (PKHT) have been consulted and advised that the proposed development site lies within an area that is considered to be archaeologically sensitive with there being a number of cropmark sites, historic building and scheduled monuments recorded within the vicinity of the proposed development.
- 96 An archaeological desk-based assessment and walk-over survey has been carried out and submitted with this application. Twenty-five features were identified, including 8 within or on the boundary of the proposed development area. PKHT are in agreement with the mitigation measures as outlined within the report.
- 97 A programme of archaeological works to assess the presence/absence, character, condition and significance of archaeological deposits presumed to be present and the extent to which the development will impact upon can be set out as a condition. This will inform a mitigation strategy, if required, to either preserve significant deposits within the development or for further archaeological works, to consist of the excavation, post excavation analysis and publication of these deposits. The proposals comply with NPF4 Policy 7 and LDP2 Policy 26B, subject to suitable Conditions being applied.



## **Contamination**

- 98 The Council's Contaminated Land team have been consulted on the proposal and advised that a search of the historical mapping has not identified any potential sources of contamination likely to impact upon the proposed development site and there is no further information held by the Authority to indicate that the application area has been affected by contamination. It shall, however, be the responsibility of the applicant to satisfy themselves that the ground conditions are suitable for the development for which planning consent has been granted. The proposals comply with NPF4 Policy 9 and LDP2 Policy 58A.

## **Residential Amenity**

- 99 The closest residential properties to the new driving range are 1 to 5 Burleigh Road and Burleigh Farmhouse and steading which are approximately 500 metres from the northwest corner of the driving range.
- 100 The closest to the proposed driving range/café/retail building is Lethangie Estate which is approximately 520 metres away and the closest to the centre of the proposed range is Burleigh Farmhouse and Steading which is approximately 380 metres away.
- 101 The proposed hours of operation for the driving range are 0900 to 2100 hrs all year round.

## Noise

- 102 The applicant has submitted a Noise Impact Assessment (NIA) ' Golf Driving Range, Milnathort' document reference 1037676-CDL-XX-ZZ-RP-AS-45220- P02 dated 17 July 2023 which was undertaken by Cundall consultants.
- 103 Colleagues in Environmental Health (EH) have reviewed the NIA and have advised that the NIA assessed the noise from the proposed plant and equipment such as two Mitsubishi Ecodan PUHZ-W85VHA2(-BS) Air Source Heat Pumps, CVAB-N extract & intake kitchen extraction system, petrol ride-on lawn mower (STIHL RT 4097 SX) and ball collection. The sound power levels from the plant items associated with the site have been estimated based on the models used for a clubhouse of a similar size.
- 104 The predicted noise levels at the closest noise sensitive receptor (NSR) has been calculated, the predictions of noise propagation did not consider ground absorption by the green land. Therefore, the predicted levels are represented as reasonable worst-case scenario and noise levels emitted from the Site to the closest NSRs could be significantly lower than the predicted results.

- 105 Therefore, the assessment indicates the noise levels from the proposed plant associated with the development will meet the internal and external criteria at the closest NSR.
- 106 EH have concluded that with conditional control the proposal accords with NPF4 Policy 23 and LDP2 Policy 56.

#### Light Pollution

- 107 As noted above, a Lighting Impact Assessment, drawing number KDR-CDL-ZZ-XX-DR-LG-63801, which was undertaken by Cundalls has been submitted with the application and this has been reviewed by colleagues in EH.
- 108 The floodlighting is to be directed towards the hitting zone directly due north-east and the 6no. large floodlighting racks will be located on the underside of the roof.
- 109 The site has been classed as Environmental Zone E2 in line with the ILP Guidance Notes 01 of the Reduction of Obtrusive Light. The assessment determined that the pre curfew level 5 Lux and post curfew level 1 Lux (curfew 2300) levels for E2 would not be exceeded at the closest residential properties. Therefore, the residential amenity of neighbouring dwellinghouse would not be adversely affected, however, EH have recommend a condition to protect residential amenity.
- 110 The assessment stated that the upwards light ratio does not meet the guidance level, this is due to the luminaires specification required to correlate and coordinate with the top tracer camera system to be installed. The assessment recommends mitigation through implementing a curfew for the lighting which should be turned off when driving range is not in use.
- 111 Therefore, EH have recommended conditions are included on any given consent to protect the residential amenity of neighbouring dwellinghouses. As such with conditional control, the proposal accords with NPF4 Policy 14 and LDP2 Policy 56.

#### Odour

- 112 The proposed development includes kitchen facilities. The applicant would need to be mindful that any proposed extraction system is commensurate with the types of cooking to be undertaken within the kitchen and controlled such that odours do not affect the residential amenity of any neighbouring properties. This can be controlled by condition.

#### Overlooking/Overshadowing

- 113 Concerns have been raised in the letters of representations in relation to the development having a harmful impact on daylight/sunlight and overlooking.

- 114 In this case it is not considered the proposed development will result in any overlooking or overshadowing of neighbouring properties due to the distance from the site to the nearest residential property.

### **Contaminated Land**

- 115 Colleagues in Environmental Health have been consulted and advised a search of the historical mapping has not identified any potential sources of contamination likely to impact upon the proposed development site and there is no further information held by the Authority to indicate that the application area has been affected by contamination. The proposal, therefore, complies with NPF4 Policy 9 and LDP2 Policy 58A.

### **Drainage and Flooding**

#### Flooding

- 116 The site is not shown to be at flood risk based on the SEPA future flood maps, however, there is a fluvial flood risk source adjacent to the site. The flood mapping in the Flood Risk Assessment (FRA) shows the area of the site where the buildings are to be built could be flooded in a 0.1% Annual Exceedance Probability (AEP) flooding event. Encroachment into the site during a 0.5% AEP flood event is also shown. SEPA provided a holding objection pending the submission of an updated FRA as no information had been submitted for the 0.5% AEP, plus an allowance for climate change.
- 117 Following the submission of an updated FRA and fluvial hydraulic model outputs (on 27th March 2024) for a 1 in 200-year scenario with climate change allowance, SEPA maintained their holding objection as the information provided did not adequately address their concerns and therefore, they could not appropriately assess the flood risk to the site.
- 118 Further information was provided to SEPA (dated 1st , 28th and 29th of May 2024), however, following a review of this information SEPA have maintained their holding objection as the information provided remains insufficient to allow them to determine the potential impacts.
- 119 To date, the applicant has failed to demonstrate that SEPA concerns have been addressed. The application therefore fails to adequately address the concerns raised by SEPA and is contrary to NPF4 Policy 22 a): Flood Risk and Water Management and LDP2 Policy 52: New Development and Flooding.

#### Drainage

- 120 A Flood Risk Assessment and Drainage Strategy Report has been submitted in support of the application. Flooding and Structures have been consulted and sought clarifications in relation to the proposals. Initially the proposals included a SUDS basin in the south west corner of the site, however, following the outcome

of the hydraulic modelling exercise this was subsequently amended to a beneath ground geocellular storage tank. Following the submission of further information, these concerns have been satisfactorily addressed, however, would require amended plans that include details such as location of permeable paving to the access, hydro brake location, section through the attenuation tank, etc. They have therefore requested that this be covered by condition. Additionally they have also recommended a condition in respect to the submission of SUDS details.

- 121 Scottish Water has advised that there is currently sufficient capacity at the Glenfarg Water Treatment Works to service the development. They further advise there is sufficient capacity in the Milnathort Waste Water Treatment works to service the development.
- 122 As such, the proposal, subject to conditions, complies with NPF4 Policy 22 c) and d) and LDP2 Policy 53: Water Environment and Drainage.

## **Roads and Access**

### Vehicle Access

- 123 The development proposes a new vehicle access onto the C495 public road network as the sole vehicular access to the site. The vehicle access will be located approximately 100 metres to the east of the access to the waste treatment plant. The applicant has undertaken a speed survey and included the data in order to apply for a relaxation to the visibility splay. Speeds show that the 85%ile on the road are at approximately 50mph. As a result, a splay of 160 metre is to be provided. A condition would be required for the provision of the visibility splay.

### Parking

- 124 The applicant is proposing to provide 67 car parking spaces on site, with 20 associated with the driving range, 18 with the café, 5 for staff, 3 accessible parking bays and a further 20 for visitors to the facilities or using the Heritage trail.

### Trip Rates

- 125 The applicant has considered the impact of 19 golf range bays. It is noted within the Transport Assessment (TA) that there is limited information within the database for driving ranges with only one survey available. No trip rates have been considered for other elements as the applicant has considered that the one golf range would give a robust estimate for all elements on site, due to the site use being in Doncaster with a population of 100,000 to 125,000 people within a 5-mile radius of the site. The applicant has utilised data from TRICS which is an industry standard tool. Of the 19 golf range bays it is anticipated that there will

be 3 vehicle trips to and from the development in the AM Peak Period and 38 in the PM Peak Period.

### Core Path Connections

- 126 The applicant is proposing to connect to the Core Path Network. The works to connect to the network, will involve works out with the redline boundary, particularly for those looking to use the Heritage Trail Paths, as there is a water course to pass over to connect into the path network. A condition would be required insofar as consent is gained prior to commencing any works on site.

### Sustainable Travel

- 127 The principles of sustainable travel are a central thread running through the provisions of Development Plan policies, namely NPF4 Policies 1, 2 and 13 and LDP2 Policies 1 and 60. The Transport Assessment seeks to assess the development sites suitability for access via sustainable modes of travel and considers the impact of development traffic on the surrounding road network. The site benefits from being located within walking distance to Kinross and Milnathort Golf Club(s). The site also benefits from being located relatively close to existing settlements through the Loch Leven Heritage Trail and Core Path Network where walking and cycling links are provided.
- 128 The applicant has identified that the nearest bus stop to the site is on Burleigh Road out with the recommended 400 metre distance. This would require users of the facilities to travel approximately 1km along unlit, uneven core paths to reach the public road network, for onward connections to bus services within Milnathort for connections to Kinross, Perth, Glenrothes and the Express Coach between Perth and Edinburgh that serves Milnathort. Whilst it is recognised that walking along unlit rural footpaths can be unattractive, the use of these footpaths to connect to the public road network is not atypical and visitors would be aware of the potential need and risks associated.
- 129 A people trip assessment of the development proposals has been undertaken for all modes of travel which confirms that the walking, cycling and public transport provision for the area is sufficient to accommodate the expected future demand from the site with improvements. Footway connections with the adopted routes and core paths would be formed as part of the development proposals to ensure that staff and visitors can link to the existing infrastructure and public transport facilities.

### SuDS Geocellular Storage

- 130 The proposed SuDS Geocellular Storage is within 5 metres of the access road to the wastewater treatment plant, the applicant has proposed that this is not to be an infiltration system so should not cause any issues of water damage to the roads structure. The applicant should ensure that the roads structure is not impacted by the construction of the SuDS Geocellular Storage. It is also noted

that the outfall to the river, will also require works out with the red line boundary. A condition would be required insofar as consent is gained prior to commencing any works on site.

#### Ebike Parking

- 131 The applicant is proposing to provide covered ebike parking for up to 12 bikes. A condition would be required for its delivery.

#### Construction Traffic Management Plan

- 132 A Construction Traffic Management Plan will be provided by the applicant and provide details of how contaminated soils and materials will be removed for site, as well as for the general construction of the site. A condition could control the Construction Traffic Management Plan.

#### Green Travel Plan

- 133 The applicant has provided a framework for a green travel plan, the proposals are acceptable. A condition would be required for the delivery of the Green Travel Plan.
- 134 It is recognised that the development has the potential to ensure that there is a reasonable choice of access via all modes of transport. The approach to active travel shown within the details submitted is considered to meet with policy. Transportation and Development colleagues have offered no objection subject to conditions as noted above. The proposed development is therefore considered to comply with NPF4 Policy 13 and LDP2 Policy 60.

#### **Waste Collection**

- 135 Waste collection is considered to be appropriately addressed through both the provision and access to the site. A swept path diagram has been submitted that confirms the site can be adequately serviced by refuse vehicles.

#### **Natural Heritage, Biodiversity and Trees**

- 136 NPF4 Policy 1: Sustainable Places, Policy 3: Biodiversity, Policy 4: Natural Places and Policy 6: Forestry, Woodland and Trees are relevant considerations as are LDP2 Policies 38: Environment and Conservation, 40 Forestry, Woodland and Trees and 41: Biodiversity.
- 137 The proposed site is close to Loch Leven Special Protection Area (SPA) and Site of Special Scientific Interest (SSSI). The SPA is classified for several breeding and non-breeding bird species and the SSSI is protected for its vascular plant assemblage, hydromorphological mire range and eutrophic loch features of interest. Loch Leven Ramsar site may also be affected but any concerns about

the interest of this designation are fully addressed as part of consideration of the European site.

- 138 The sites status means that the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended apply. Consequently, consideration on the effect of the SPA as a result of the proposed development is required.
- 139 Naturescot have commented that the proposal could cause disturbance to pink-footed geese from the construction process, lighting that will be present once the site is operational and from noise during construction. The disturbance from construction would be short term once the driving range is operational, there could be longer term impacts.
- 140 Naturescot have further advised that the proposal is likely to have an effect on the pink-footed geese of Loch Leven SPA and therefore as competent authority, PKC require to carry out an Appropriate Assessment in view of the sites conservation objectives for its qualifying interests. In conclusion it is considered that there will no likely significant effect on the qualifying features of the Loch Leven SPA as a result of the proposed development. This is on the basis that there is sufficient alternative foraging available in the nearby vicinity of the site for pink footed geese and drainage arrangements will be connected to the public drainage network and there is also a SUDs feature to capture any pollutants from surface water run off.
- 141 Furthermore, any planning approval would be conditioned to include submission of a Construction and Environmental Management Plan (CEMP) to ensure contaminated flows cannot exit the site. This will ensure that the proposal complies with Policy 38A of the LDP2 and Policy 4(b) of NPF4.
- 142 The submitted information regarding trees is comprehensive and in accordance with best practice. The report confirms that all trees and hedgerows will be retained, and a Tree Protection Plan has been provided. This must be adhered to in full. The proposal is in compliance with NPF4 Policy 6: Forestry, Woodland and Trees and LDP2 Policy 40: Forestry Woodland and Trees.
- 143 The submitted Preliminary Ecological Appraisal and Ecological Impact Assessment (Tay Ecology, July 2023) is in accordance with best practice and surveys were undertaken at the correct time of year. The Report provides comprehensive impact assessments of the proposed development on protected habitats, species, and wider biodiversity. Consideration of designated sites has also been provided. The Report considers that the development will have a low impact on the local habitat and wildlife, and there are opportunities to enhance biodiversity.
- 144 All recommendations listed in section 6 of the report would have to be adhered to in full to mitigate the impacts of the proposed development. A Construction Environmental Management Plan (CEMP) detailing proposed methods of working and measures to ensure protection of all habitats on and adjacent to the

site would be required to ensure protection of Loch Leven. This would be controlled by condition.

- 145 NPF4 requires major planning applications to provide significant enhancement to biodiversity. Meaning that proposed actions and management will make the site significantly better for biodiversity than before the development. The Council's Biodiversity Officer has commented that the submitted Biodiversity Enhancement Measures and Biodiversity Net Gain Calculation Report (Tay Ecology, July 2023) is an exemplar of best practice and is in accordance with PKC Planning for Nature Supplementary Guidance. The Report lists a range of practical measures and calculates a 52% biodiversity net gain.
- 146 The proposal, subject to conditions, complies with NPF4 Policies 1, 3, 4 and 6 and LDP2 Policies 38, 40 and 41.

### **Construction Period**

- 147 For a project of this scale and within a rural location, construction implications must be considered. All development has a construction impact, however, this is not the same as long-term impacts of the end development/use. In this case it is considered that a Construction Traffic Management Plan could be put in place to mitigate and manage any impacts. This would be managed by condition.

### **Developer Contributions**

- 148 The proposed site is located out with any area where financial contributions towards roads infrastructure is required. As such, the Developer Contributions Supplementary Guidance is not applicable to this application and therefore no contributions are required in this instance.

### **Economic Impact**

- 149 The Development Plan supports sustainable economic growth. The planning system supports economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The Development Plan, with reference to the principles of sustainable development, is supportive of development that would achieve net economic benefits. The aim is to achieve the right development in the right place.
- 150 A development of this scale will create and sustain jobs. The Planning Statement specifies 15.7 FTE will be created and there will be a significant number of downstream economic opportunities associated in terms of the construction period. As such the impact of the proposal on the rural economy at this location is considered to be positive. It is therefore, accepted that there would be economic benefits to the local economy through this development. However, even where net economic benefit is demonstrated, the provisions of the



Development Plan as a whole require consideration and justification clearly set out where proposals are contrary to the Development Plan.

- 151 The development has been assessed against the relevant policies of the Development Plan and other applicable material considerations and it is considered that the proposals do not accord overall with the provisions of the Development Plan for the reasons noted above. Despite any economic benefit of these proposals, the proposals introduce a development on prime agricultural land and a 40-cover café which is of a significant scale and would likely cause harm to the viability and vitality of Kinross and Milnathort centres. In respect of these substantive issues, it is concluded that the proposals do not accord with the Development Plan overall. It is, therefore, not considered that the economic benefits of the development would outweigh this conclusion and indicate approval.

### **PLANNING OBLIGATIONS AND LEGAL AGREEMENTS**

- 152 None required.

### **DIRECTION BY SCOTTISH MINISTERS**

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

### **CONCLUSION AND REASONS FOR RECOMMENDATION**

- 154 To conclude, the application must be determined in accordance with the Development Plan unless material considerations indicate otherwise. In this respect, the proposal is considered to be contrary to the Development Plan. Account has been taken account of the relevant material considerations and none has been found that would justify overriding the Development Plan.
- 155 Accordingly the proposal is recommended for refusal on the grounds identified below.

### **RECOMMENDATION**

**Refuse the application**

### **REASONS FOR RECOMMENDATION**

1. The proposal is contrary to National Planning Framework 4 Policy 5 'Soils' and Local Development Plan 2 Policy 50 'Prime Agricultural Land' as the site is designated as prime agricultural land (Class 3.1), which does not support development on such land out-with settlement boundaries unless it is necessary to meet a specific established need or a small scale development directly linked

to a rural business. Furthermore, the loss of such prime agricultural land would result in the loss of food production potential and food security over its lifetime.

2. The proposal is contrary to National Planning Framework 4 Policy 27 b) ii and Local Development Plan 2 Policy 8 (h) and 13 as the cafe and retail element proposed would have a significant impact on the vitality and viability of Milnathort and Kinross Town Centres and due to their combined scale would not be ancillary to the main use of the site.
3. The proposal is contrary to Policy 22 of National Planning Framework 4 and Policy 52 of the Perth and Kinross Local Development Plan 2 (2019) as the information submitted is insufficient to allow SEPA to determine the potential impacts of the proposed development in relation to flood risk.

### **JUSTIFICATION**

The proposal is not in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

### **PROCEDURAL NOTES**

None.

### **INFORMATIVES**

None.

Background Papers: 11 letters of representation  
Contact Officer: Gillian Peebles  
Date: 20 June 2024

### **DAVID LITTLEJOHN STRATEGIC LEAD: ECONOMY, DEVELOPMENT AND PLANNING**

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.

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

All Council Services can offer a telephone translation facility.