

Perth and Kinross Council
Planning and Placemaking Committee – 3 July 2024
Report of Handling by Strategic Lead - Economy, Development & Planning
(Report No. 24/206)

PROPOSAL:	S42 application to vary condition 9 (signalised junction) of permission 21/02137/AMM
LOCATION:	The James Hutton Institute, Errol Road, Invergowrie, Dundee, DD2 5DA

Ref. No: [24/00594/AMM](#)
Ward No: P1- Carse Of Gowrie

Summary

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

BACKGROUND AND DESCRIPTION OF PROPOSAL

- 1 The James Hutton Institute (formerly known as the Scottish Crop Research Institute) is an internationally renowned organisation that conducts scientific research into agricultural and environmental issues, including research into crop and food science.
- 2 Planning Permission in Principle (PPP) (20/01103/IPM) was granted in November 2020 for a mixed-use development including alterations to existing and erection of new buildings. All to be used for: agricultural research and development; industry engagement; skills development, as well as the formation of parking areas, landscaping, infrastructure and other associated works.
- 3 Several other related planning permissions exist including: for the erection of polytunnels (21/00651/FLL); the erection of 2 agricultural research buildings, stores, wash/filling bays, formation of access road, footpaths, parking area, hardstanding and associated works (21/00780/FLL); formation of SUDS ponds (21/01662/FLL and 21/01663/FLL); a Section 42 approval to modify condition 3 (building height) of planning permission 20/01103/IPM.
- 4 A separate detailed planning application (20/01104/FLL) has also been approved for a new road from the Invergowrie roundabout, to serve the expanded campus. This access road has been constructed, however, at present is only open to construction vehicles.

- 5 Of relevance to this current application is the AMSC planning permission 21/02137/AMM for the erection of two new facilities, an International Barley Hub (IBH) and an Advanced Plant Growth Centre (APGC). This consent has been implemented and these buildings are currently under construction with an expected completion date of late summer 2024.
- 6 Section 42 of the Act (Town and Country Planning (Scotland) Act 1997 as Amended) applies to applications for Planning Permission to develop land which departs from conditions attached to an existing permission. The effect of granting permission for a section 42 application is therefore such that a new and separate permission exists for the development with different (or no) conditions attached. The previous planning permission remains unaltered by, and is not varied by, the decision on the section 42 application.
- 7 The primary purpose of this Section 42 (S42) application seeks a revision to the requirements of Condition 9 of the extant AMSC consent 21/02137/AMM.
- 8 The original wording of condition 9 currently states:
- 9 *Prior to the bringing into use of any part of the development hereby approved, the proposed junction modifications shown on drawing number 40 for the signalisation and improvements to the A85 Riverside Avenue/Main Street junction shall be implemented in full and fully operational, to the satisfaction of Perth & Kinross Council as Planning Authority. Prior to the implementation of the scheme, the relevant written agreements must be sought from Perth & Kinross Council and Dundee City Council as Roads Authorities. Evidence must be provided to Perth & Kinross Council that the relevant agreements from Dundee City Council are in place prior to the works being undertaken. For the avoidance of doubt, the active travel provision at the junction shall be subject to further discussion and written agreement from Perth & Kinross Council in consultation with Dundee City Council. The applicant shall also provide specifications of the provision of Close Circuit Television (CCTV) pole(s), camera(s) and hard line connection to Dundee City Council Urban Traffic Control System (UTC) for written agreement prior to any works being undertaken.*
- 10 *Reason - In the interests of road safety and to provide active travel routes to the development site.*
- 11 The proposal seeks to vary this condition, removing the requirement to deliver the signalised junction at the A85 Riverside Avenue/Main Street junction with the retention of “*the active travel provision at the junction shall be subject to further discussion and written agreement from Perth & Kinross Council in consultation with Dundee City Council.*”
- 12 Assessment for the proposed changes for this condition is set out below.

Pre-Application Consultation

- 13 The Pre-Application Consultation (PAC) requirements have been fulfilled in association with the submission of planning application 20/01103/IPM and there is no further PAC needed procedurally in relation to this Section 42 application.

DEVELOPMENT PLAN

- 14 The Development Plan for the area comprises National Planning Framework 4 (NPF4) and the Perth and Kinross Local Development Plan 2 (2019) (LDP2).

National Planning Framework 4

- 15 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.
- 16 NPF4 was adopted on 13 February 2023. NPF4 has an increased status over previous NPFs and comprises part of the statutory development plan.
- 17 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 13: Sustainable Transport
 - Policy 14: Design, Quality and Place

Perth and Kinross Local Development Plan 2

- 18 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.
- 19 The principal relevant policies are, in summary:
- Policy 1A: Placemaking
 - Policy 1B: Placemaking
 - Policy 60B: Transport Standards and Accessibility Requirements: New Development

Planning Advice Notes

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

- PAN 75 Planning for Transport
- PAN 77 Designing Safer Places

Supplementary Guidance

- [Supplementary Guidance - Placemaking](#) (adopted in 2020)

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.

Designing Streets 2010

- 22 Designing Streets is the policy statement in Scotland for street design and changes the emphasis of guidance on street design towards place-making and away from a system focused upon the dominance of motor vehicles. It was created to support the Scottish Government's place-making agenda, alongside Creating Places.

National Roads Development Guide 2014

- 23 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

- 24 The following extensive planning history is relevant:
- 25 **98/01380/FUL** Erection of research glasshouses and support header house. Approved on 25 November 1998.
- 26 **01/01562/OUT** Formation of science and technology park with shared facilities for SCRI and associated roadworks (in outline). Approved on 29 October 2003.
- 27 **02/00169/PN** Erection of a general building. Approved on 27 February 2002.
- 28 **02/01144/FUL** Erection of research glasshouse and header building. Approved on 3 September 2002.
- 29 **02/02026/FUL** Extension of general building. Approved on 21 February 2003.
- 30 **03/00701/FUL** Extension to header house building. Approved on 30 June 2003.

- 31 **03/01532/FUL** Extensions to header and glass houses. Approved on 24 October 2003.
- 31 **07/01073/FUL** Erection of research glasshouses and support headerhouse Approved on 20 July 2007.
- 32 **07/01985/PN** Erection of a general purpose agricultural storage building. Approved on 1 October 2007.
- 33 **10/00005/FLL** Erection of prefabricated building. Approved on 5 February 2010.
- 34 **15/00832/FLL** Installation of solar PV panels. Approved on 10 June 2015.
- 35 **15/01731/IPL** Erection of a plant growth facility and associated works (in principle). Approved on 1 December 2015.
- 36 **16/00126/FLL** Erection of a plant growth research and production facility and ancillary works. Approved on 29 April 2016.
- 37 **19/00472/FLL** Siting of 3 hydroponic containers. Approved on 1 May 2019.
- 38 **19/00011/PAN** Mixed use development for Class 4 and Class 8 uses to include agricultural research, industry engagement, skills development, training and education, associated business uses, formation of vehicular access, car parking, hard and soft landscaping and associated infrastructure works. Contents agreed on 30 January 2020.
- 39 **20/00324/SCRN** Erection of a 2MW solar farm. Decision issued April 2020.
- 40 **20/00348/SCRN** Mixed use development Decision issued April 2020.
- 41 **20/00662/FLL** Siting of 3 office/welfare facility units and formation of parking for a temporary period. Approved on 21 July 2020.
- 42 **20/01103/IPM** Mixed use development including alterations and erection of buildings for agricultural research and development, industry engagement, skills development and formation of parking areas, landscaping, infrastructure and associated works (in principle). Approved on 19 November 2020.
- 43 **20/01104/FLL** Formation of vehicular access, access road, SUDS pond and associated works. Approved on 24 November 2020.
- 44 **20/01435/FLL** Installation of a ground source heat pump system, formation of equipment yard and associated works. Approved on 30 January 2021.
- 45 **20/01464/ADV** Advertisement Consent for Display of signs. Approved on 24 November 2020.
- 46 **21/00651/FLL** Erection of polytunnels. Approved on 17 June 2021.

- 47 [21/00780/FLL](#) Erection of 2 agricultural research buildings, stores, wash/filling bays, formation of access road, footpaths, parking area, hardstanding and associated works. Approved on 31 August 2021.
- 48 [21/01494/FLL](#) Erection of compost storage unit and associated works. Approved on 20 October 2021.
- 49 [21/01495/FLL](#) Erection of a chemical storage building, cold storage building and associated works. Approved on 1 November 2021.
- 50 [21/01612/FLL](#) Installation of cable and associated works. Approved on 19 January 2022.
- 51 [21/01662/FLL](#) Formation of SUDS pond and associated works. Approved on 24 November 2021.
- 52 [21/01663/FLL](#) Formation of SUDS pond and associated works. Approved on 24 November 2021.
- 53 [21/02031/FLL](#) Siting of 2 relocated portable office buildings and associated works. Approved on 14 February 2022.
- 54 [21/02137/AMM](#) Erection of a linked building for agricultural research and development, industry engagement and skills development and formation of roads, parking areas, landscaping, infrastructure and associated works (approval of matters specified by conditions 20/01103/IPM). Approved on 11 August 2022.
- 55 [22/00187/IPM](#) An application to modify condition 3 (building height) of planning permission 20/01103/IPM. Approved on 14 April 2022.
- 56 [22/00212/FLL](#) Planning permission for the change of use from a dwellinghouse to an office (Class 4) for agricultural research and development industry engagement and skills development. Approved on 2 May 2022.
- 57 [22/01685/FLL](#) Siting of 4 office/staff welfare units (for a temporary period). Approved on 21 December 2022.
- 58 [22/02258/FLL](#) Extension to plant growth research building, erection of office building and store, formation of parking and associated works. Approved on 30 June 2023.
- 59 [24/00544/ADV](#) Advertisement Consent for display of signs. Approved on 27 May 2024.

CONSULTATIONS

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

External

61 **Dundee City Council** – no objection.

62 **Transport Scotland** – no objection.

63 **Invergowrie and Kingoodie Community Council** – no comment.

Internal

64 **Strategy and Policy** – no comment.

65 **Transportation and Development** - no objection subject to revised conditions.

66 **Enterprise Team** – no comment.

Representations

67 One representation was received. The main issues raised within the representation are:

- Traffic Congestion

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

ADDITIONAL STATEMENTS

69	Screening Opinion	Not Required
	Environmental Impact Assessment (EIA): Environmental Report	Not Required
	Appropriate Assessment under Habitats Regulations	Habitats Regulations Appraisal AA not required
	Design Statement or Design and Access Statement	Not Required
	Report on Impact or Potential Impact eg Flood Risk Assessment	Not Required

APPRAISAL

70 Section 42(1) of the Town & Country Planning (Scotland) Act 1997 (as amended) relates to applications for planning permission for the development of land without complying with conditions subject to which a previous permission was granted.

71 Section 42(2) requires that the Planning Authority shall consider only the question of the condition(s) subject to which planning permission should be granted, and:

- (a) If they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it would be granted unconditionally, they shall grant planning permission accordingly;
- (b) If they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

72 The determining issues in this case are whether the proposal complies with Development Plan policy or if there are any other material considerations which justify a departure from that policy. The Development Plan comprises NPF4 and the Perth and Kinross Local Development Plan 2 (2019). 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 supplementary guidance, statutory consultees and additional statements submitted.

73 It is important to note that both National Planning Framework (NPF4) policies and Local Development Plan 2 (LDP2) policies apply except where they are not compatible in which case NPF4 policies prevail.

Principle

74 The principle of the development subject of the application has been previously established through the approval of the extant planning permission (21/02137/AMM). The principle of the development is therefore well-established and is not reviewed as part of this S42 application. The amendment of Condition 9 to remove the requirement to deliver the signalised junction at the A85 Riverside Avenue/Main Street junction with the retention of “the active travel provision at the junction shall be subject to further discussion and written agreement from Perth & Kinross Council in consultation with Dundee City Council” is not in itself contrary to the general terms of the Development Plan, however, consideration must be given to the specific characteristics of the amendment and whether any adverse impacts are calculated.

Condition 9

75 The requirement for mitigation to the A85 Riverside Avenue/Main Street Junction had been identified by the applicant through their Transport Assessment for Planning Application 20/01103/IPM. At the time of submitting the application the applicant had identified that to mitigate the capacity issues associated with their development at the A85 Riverside Drive/Main Street that signalisation should be implemented. The layout presented by the applicant provided additional ahead lanes on both the north and south A85 approaches by widening the carriageway into the large central reservation. The applicant also proposed to provide signalised pedestrian crossings for active travel. The initial mitigation concept provided by the applicant was presented with the Transport Assessment in Appendix J, as shown in Figure 1.

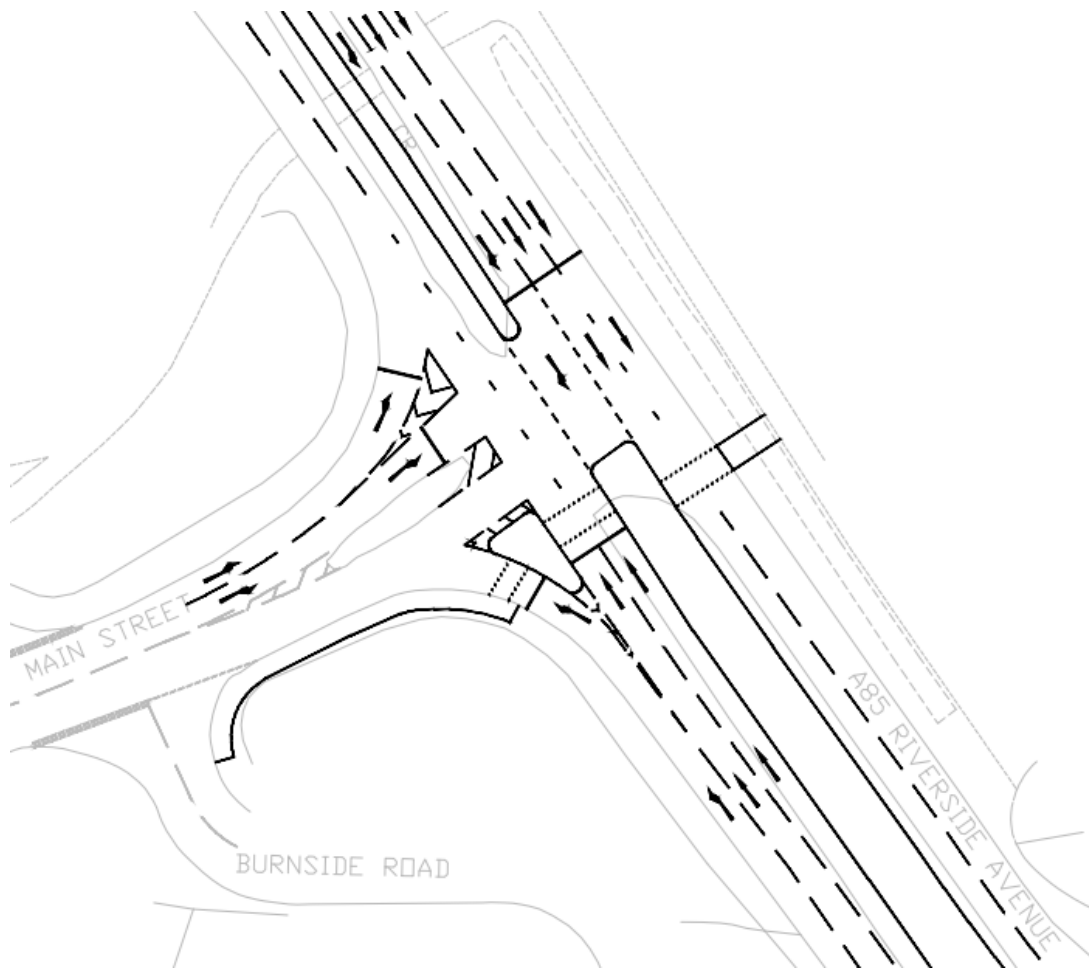


Figure 1: 20/01103/IPM Design

- 76 Due to the design being conceptual at the point of determining Planning Application 20/01103/IPM, Condition 15 was applied, so that the further details could be provided for the junction design and the date for the signals to be implemented.
- 77 Condition 9 of planning permission 21/02137/AMM was applied after much discussion with the applicants, who initially provided no information to satisfy Condition 15 (below) of Planning Application 20/01103/IPM:
- 78 *As part of any application for the Approval of Matters Specified by Condition (AMSC) or Page 6 of 10 detailed application the mitigation measures identified for Junction 4 - A85 Riverside Avenue / Main Street for its signalisation to reduce the queueing impact from the development, a detailed design shall be undertaken, along with a date for their implementation shall be submitted and agreed in writing by the Council as Planning Authority.*
- 79 *Reason - In the interests of road safety.*
- 80 Planning Application 21/02137/AMM submitted a Road Safety Audit but did not submit an updated Transport Assessment to that previously undertaken in 2020.

Noted within the Planning Statement, the writer has stated that an updated assessment addressing the new access to the A90 and revised traffic flows alongside changed working patterns may have circumvented the imposition of Condition 9, however, this information was not requested by PKC. Whilst this may have been the case, it should be noted that if the applicant had felt that the junction mitigation was not required or their circumstances had changed at that time, due to changing traffic volumes or patterns, this was for the applicant to have undertaken an assessment and presented the data to Perth and Kinross Council for consideration.

- 81 As alluded to above, when the applicant initially submitted application 21/02137/AMM, the applicant did not provide any details in relation to Condition 15 that was applied to 20/01103/IPM, so Transportation and Development were not initially in a position to support the application.
- 82 During the determination of Planning Application 21/02137/AMM and after much discussion, the applicant submitted a detailed design which resulted in the design as shown in Figure 2 (drawing number 40), for the mitigation at the junction. They did not present any data to alter the position that the signals were not required as mitigation and as such the condition was applied for the delivery of the signals as mitigation.

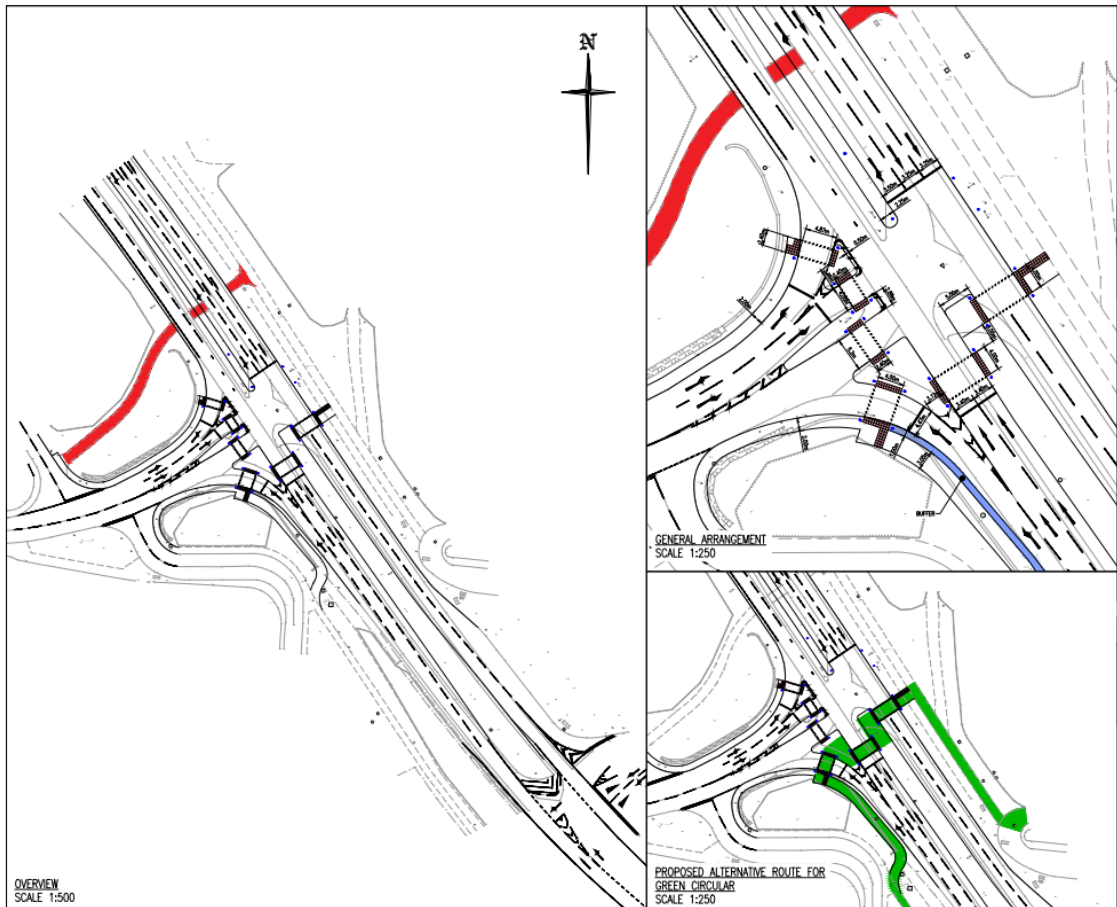


Figure 2: 21/02137/AMM Design

- 83 It can be seen from the initial designs submitted for the mitigation by the applicant as shown in Figure 1 and the changes identified by the applicants Stage 1 Roads Safety Audit which identified a number of actions from large vehicles over-running verges and footways, signing strategy, relocation of gulleys, future maintenance, signal position and increasing active travel provision, which resulted the design shown in Figure 2.
- 84 Noted within the Planning Statement for this current application, following approval of planning permission 21/02137/AMM, JHI identified that the originally reserved budget of £100,000 for any potential upgrades was significantly deficient in covering the infrastructure costs subsequently imposed by Condition 9. In 2023, JHI identified the associated costs imposed by Condition 9 were circa. £1 million plus VAT, resulting in a significant deficit and as such they are not financially able to deliver the signalised junction. The Planning Statement advises that the JHI had originally budgeted for £100,000, however, the imposition of Condition 9, imposed a requirement for significantly more upgrades than was ever anticipated by the JHI, or budgeted for.
- 85 The Planning Statement further advises that the lack of funds jeopardises the delivery of the International Barley Hub (IBH) and Advanced Plant Growth Centre (AGPC) due to the imposition of Condition 9.
- 86 With regards to the increased costs being attributed to Perth and Kinross Councils requests through Condition 9, the requests for the inclusion of Close Circuit Television (CCTV) pole(s), camera(s) and hard-line connection to Dundee City Council Urban Traffic Control System (UTC) would not have resulted increased costings from £100,000 to £1million. Notwithstanding that, the applicant has not presented where the cost increases from £100,000 to £1million are attributed. Had the imposition of Condition 9 increased costs from £100,000 to £1million, reducing these requirements back to the original design concept to bring the costings back in line with their estimates could have been considered. Whilst a number of options were tabled by the Applicant as shown below, this was not one of them.
- 1 Apply for the removal of the condition.
 - 2 Apply to vary the timescales of the condition.
 - 3 For JHI to pay the sum of £100,00 to PKC as a contribution to the junction upgrade with the works to be carried out by others.
 - 4 For the JHI to pay 1/3rds contribution of the total costs for the junction upgrade up to a maximum of £250,000 with the remaining 2/3rds shared between PKC and Dundee City Council (DCC) with he works to be carried out by others.
- 87 The JHIs preferred approach was option 3 and PKCs preferred approach was option 2 which would require the submission of a S42 application with supporting information to fully justify the delayed delivery of the mitigation, with a proposed date for delivery.

88 The Applicant progressed option 2 and commissioned a fresh assessment of the originally submitted Transport Assessment. This was carried out by Systra in March 2023, the conclusions of which advised that the JHI may wish to consider amendment or removal of the relevant planning condition as Systra's analysis confirmed that upgrading of the A85/Main Street junction is not required to accommodate the proposed development, hence the submission of this current S42 application.

Roads and Access

89 In progressing this S42 application PKCs Transport and Development team have been consulted and reviewed the information provided by Systra and have made the following comments:

90 Through the work undertaken by SYSTRA, it has been identified that the applicant's original Transport Assessment April 2020 in support of Planning Application 20/01103/IPM may have had an error in the modelling. The text within the original Transport Assessment states that calibration factors were applied to the Traffic Model for Junction 4 to accurately reflect the current conditions, this resulted in the following parameters being applied:

- AM – Main Street Left-turn – Direct intercept adjustment of -66pcu/hr
- AM – Main Street Right-turn – Direct intercept adjustment of -130pcu/hr
- PM – Main Street Left-turn – Direct intercept adjustment of -135pcu/hr
- PM – Main Street Right-turn – Direct intercept adjustment of -300pcu/hr

91 Following a detailed review of the previous Transport Assessment, undertaken by SYSTRA it has been identified that the values above may have been transposed, as the values in the text do not reflect the work undertaken in the modelling.

92 In the original Transport Assessment in April 2020 the applicant had stated that there were 333 staff employed on site, with a proposed increase of a further 159 staff members. This would have resulted in an estimated headcount of 48%. This assumption was applied to modelling and traffic volumes.

93 The work that has been undertaken by SYSTRA in 2024, the applicant has advised that the number of employees currently employed on site is 277, with a future increase estimated to be 86 employees. The estimated headcount increase has now reduced to 31%. It is clear from these new assumptions that the level of staff being employed has reduced, by 56 employees and with the estimated new 86 employees, this is a new estimated total of 363 employees on site after works have been complete. Thus, showing that from the April 2020 head count of 333, there is an increase of 9% in the number of jobs (+30), not 48% as originally planned.

- 94 From the reports that have been presented by the applicant, there are a number of different staff count figures being presented. It should be noted that the SYSTRA 2024 report assumes that there were 242 staff employed on site, which is a reduction of 91 from the figure used in the April 2020 Transport Assessment.
- 95 The applicant has undertaken an analysis of the observed flows from 2020 and the new count undertaken in 2024. The results have shown that in general the inbound traffic volumes on the public road network at the three junctions have decreased (Swallow Roundabout, A90 Invergowrie Roundabout and A85 Riverside Drive/Main Street Junction), with the exception of the A90 Invergowrie Roundabout which has increased by 13% in the AM Peak Hour with a net increase of 26 vehicles. The increase of 26 vehicles could be attributed to the vehicles utilising the James Hutton Institute entrance off the A90 Invergowrie Roundabout.
- 96 An automatic traffic counter was installed on Errol Road close to the James Hutton Institute entrance showing that in 2020 there were 744 vehicles arriving and departing the site and in 2024 there were 563 vehicles arriving and departing the site, equating a reduction of approximately -24%. The applicant has attributed this reduction to an increase in home working and flexible working.
- 97 Using the data from the automatic traffic counter from 2024, the applicant has then added the increase traffic volumes of 31%. A comparison of the new trips predicted to be attracted to the site from the 2020 and 2024 reports have been presented below:

Period	Scenario	Inbound	Outbound
AM	2020 TA	51	6
	2024 SYSTRA	22	2
	Change	-57%	-67%
PM	2020 TA	6	41
	2024 SYSTRA	2	14
	Change	-67%	-66%

- 98 It can be seen that on all occasions there have been a reduction in the number of new trips being attracted to the site, with reductions of up to two thirds from what was assumed in the 2020 Transport Assessment.
- 99 The applicant has then used the new data and traffic predictions for the new staff members attracted to the site to undertake a junction modelling of the A85 Riverside Drive/Main Street junction. This has shown that the in 2024, the junction appears to operate within an acceptable capacity both with and without the development.
- 100 The applicant has also proposed that all traffic will utilise the A90 to access the site, resulting in no traffic for the James Hutton Institute utilising Main Street. Further details have been submitted on this proposal which advises in order to

seek to secure that traffic to the JHI utilises the A90 access, rather than Main Street, the Applicant intends to update JHI's Green Travel Plan (GTP), subject to Planning Permission being granted, to make it clear to all staff and visitors they must enter and leave the site at the A90 junction and not use the Main Street junction.

- 101 The response advises that the Travel plan will be updated, with new travel details issued to staff advising that to access the site, with all traffic entering and exiting the site at the A90. If all traffic was to utilise the A90 junction only, this would result in all egressing traffic heading south on the A90 to Longforgan Interchange to undertake a U-turn manoeuvre at the Grade Separated Junction and then turn back towards the Swallow Roundabout. Whilst the applicant may advise staff and visitors to exit via this route, this will result in staff and visitors having to travel a further 4 miles to reach the Swallow Roundabout, rather than using the Main Street Junction, however, should staff or visitors not follow the instructions given to utilise the A90 Junction, there is capacity for the vehicles that may not follow the instructions.
- 102 With regard to the applicants proposed varying of Condition 9, there are concerns with the wording of the proposed condition and its compliance with the Scottish Government's advice on imposing planning conditions, contained in paragraph 2 of Scottish Government Circular 4/1998. It is, therefore, recommended that the condition is deleted in full, with the Travel Plan condition (condition 7) being updated to reflect that no further works will be undertaken at the A85 Riverside Avenue junction. Furthermore, the requirements of the condition will allow for the promotion of sustainable transport options.
- 103 Taking into consideration the information submitted by the applicant and also the views of PKC Transportation and Development colleagues, full removal of the condition is satisfactory and the proposal therefore complies with the policies noted above.

Developer Contributions

- 104 The site is not located within the Transport Infrastructure contributions zone, therefore, no developer contributions are required, and proposal does not conflict with LDP2 Policy 5 – Developer Contributions.

Economic Impact

- 105 The economic impact from this proposal is anticipated to be limited.

LEGAL AGREEMENTS

- 106 None required

DIRECTION BY SCOTTISH MINISTERS

- 107 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

- 108 To conclude, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. The proposed development in this instance relates solely to the change of condition regarding the signalised junction at the A85/Riverside Drive. Having taken account of the Development Plan and material considerations, the development proposed does not conflict with the Development Plan. It should be noted that all other matters are unaffected from the existing permission and, therefore, as a new standalone permission would be granted here, all other conditions from the existing permission are recommended to be re-attached.
- 109 Accordingly the proposal is recommended for approval subject to the following conditions.

RECOMMENDATION

Conditions and Reasons for Recommendation

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

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

2. Prior to the use of any lifting equipment including cranes etc the applicant must receive written confirmation from Dundee Airport that aircraft departing and arriving on runway 09/27 will be safeguarded. Furthermore, the applicant must receive written confirmation from Dundee that the use of lights, during construction, shall not dazzle nor distract aircraft preparing to land at Dundee Airport, all to the satisfaction of the Council as Planning Authority.

Reason: To not impact on the operations of Dundee City Airport.

3. All plant or equipment shall be so enclosed, attenuated and/or maintained such that any noise therefrom shall not exceed Noise Rating 35 between 0700 and 2300 hours daily, or Noise Rating 25 between 2300 and 0700 hours daily, within any neighbouring residential property, with all windows slightly open, when measured and/ or calculated and plotted on a rating curve chart.

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

4. All external lighting shall be sufficiently screened and aligned so as to ensure that there is no direct illumination of neighbouring land and that light spillage beyond the boundaries of the site is minimised to a degree that it does not adversely affect the amenity of the neighbouring land.

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

5. No part of the development shall be occupied or brought into use, whichever is the earlier, until the applicant has provided the minimum parking provision as shown on drawing number 39 or 66 of planning approval 21/02137/AMM, to the satisfaction of the Council as Planning Authority. Once provided, the parking shall thereafter be permanently retained as such for the life of the development.

Reason: To provide a suitable parking provision for the development.

6. Prior to the occupation of any of the development hereby approved, the proposed modifications to the A90/Main Street Roundabout, generally as illustrated on Drawing No. 135585/sk7001 - page 86 of Transport Assessment (PKC Ref: 20/01103/16) by Fairhurst dated April 2020, shall be implemented and available for use for any vehicles travelling to the site, subject to the satisfaction of the Planning Authority, after consultation with Transport Scotland.

Reason: To ensure that the standard of access layout complies with the current standards, and that the safety and free flow of traffic on the trunk road is not diminished.

7. No part of the development hereby approved shall be occupied until the approved Staff Travel Plan (STP) (document 71 of permission 21/02137/AMM) has been updated. The update shall be reflective of the removal of the proposed mitigation works identified at A85 Riverside Avenue/Main Street Junction and shall have regard for the revised operational situation within the development area identified on drawing number 1. The updated STP shall be submitted to and agreed in writing by the Council as Planning Authority in consultation with Transportation and Development. Thereafter, the agreed STP shall be brought into effect in line with the bringing into use of the development and will be subsequently implemented for the life of the development. The STP will have particular regard to the following:

- provision for walking, cycling and public transport access to and within the site and will identify the measures to be provided;
- the vehicular routes to the site for staff and visitors to access and egress the site;
- the system of management, monitoring, review, reporting; and,
- the duration of the plan.

Reason: To promote sustainable transport options and to meet advice within National Planning Framework on transport.

8. The details submitted and agreed as part of condition 8 of planning permission 21/02137/FLM (drawing number 50) with regards to Construction Traffic Management Scheme (TMS), shall be adhered to at all times to the satisfaction of the Council as Planning Authority, unless otherwise agreed in writing by the Council as Planning Authority. The TMP is to remain a fluid document and will be required to be updated where necessary

Reason: In the interest of proper site management.

9. Access along core path INGI/8 and Right of Way 52/8, or along the short diversion as specified in drawing number 38 should remain open for responsible access throughout the construction phase. On completion the diversion must be removed and access along the original core path/Right of Way restored.

Reason: To ensure a satisfactory standard of local environmental quality; to safeguard the core paths.

10. The details submitted and agreed as part of condition 11 of planning permission 21/02137/FLM with regards to contamination (drawing numbers 48, 55 and 56), shall be undertaken and delivered in line with the subsequently approved plans, prior to the completion or bringing into use of any part of the development.

Reason: to ensure a satisfactory standard of local environmental quality.

11. The conclusions and recommended action points within the supporting Ecological Surveys, Bird Mitigation Plan and Biodiversity Action Plan submitted and approved as part of planning approval 21/02137/FLM (drawing numbers 26, 27 and 37) shall be fully adhered to, respected and undertaken as part of the construction phase of development.

Reason: To ensure a satisfactory standard of local environmental quality; to safeguard the welfare of any protected wildlife.

12. Measures to protect animals from being trapped in open excavations and/or pipe and culverts shall be implemented for the duration of the construction works of the development hereby approved. The measures may include creation of sloping escape ramps for animals, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day and open pipework greater than 150 mm outside diameter being blanked off at the end of each working day.

Reason: In the interests of employing best practice ecology and to ensure there is no adverse impact on any protected species as identified under the Wildlife and Countryside Act (1981).

13. The detailed landscaping and planting scheme (drawing numbers 16, 23 and 31 of planning permission 21/02137/AMM) shall be completed within the first available planting season (October to March) after the completion or bringing into use of the development, whichever is the earlier. The approved scheme shall

thereafter be maintained to the satisfaction of the Council as Planning Authority, with any planting which fails to become established within five years being replaced in the following planting season with others of a size and species as previously approved.

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

14. The details submitted and agreed as part of condition 15 of planning permission 21/02137/FLM with regards to external finishing materials (drawing numbers 49, 51, 52 and 53), shall be implemented prior to the completion or bringing into use of the development, whichever is the earlier, 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.

JUSTIFICATION

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

PROCEDURAL NOTES

None

INFORMATIVES

1. 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. Please use the form attached herewith.
2. Existing buildings or structures may contain nesting birds between 1st March and 31st August inclusive. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning permission for a development does not provide a defence against prosecution under this Act.
3. The applicant is advised that if there is any proposal to alter a route of an existing core path or right of way a further legal procedure is required.
4. The granting of planning permission does not stop the continued right of public access along the existing core path or right of way. An order under the Town and Country Planning (Scotland) Act 1997, Section 208 or an amendment of the Core Path Plan under the Land Reform (Scotland) Act 2003 should be sought.

5. The applicant is advised to refer to Perth & Kinross Council's Supplementary Guidance on Flood Risk and Flood Risk Assessments 2021 as it contains advice relevant to your development. <https://www.pkc.gov.uk/ldp2floodrisk>
6. This planning permission is granted subject to conditions, some of which require further information to be submitted to Development Management either before works can start on site or at a certain time. The required information must be submitted via the ePlanning portal if your original application was lodged that way, otherwise send it to us at developmentmanagement@pkc.gov.uk. Please be aware that a fee is payable in respect of each request made, though there is no limit to the number of conditions that can be discharged in a single request. The Fees Charter is available on our website www.pkc.gov.uk.
7. The Council has two months to consider the information. You should therefore submit the required information more than two months before your permission expires. We cannot guarantee that submissions made within two months of the expiry date of your permission will be able to be dealt with before your permission lapses.
8. The applicant should be aware of the requirements of the Council's Environment and Regulatory Services in relation to waste collection from the site and should ensure adequate measures are provided on site to allow for the collection of waste.
9. Further information on the need for and level of provision of Changing Places Toilet Facilities can be found in Section 41B of the Town and Country Planning (Scotland) Act 1997, the Town and Country Planning (Changing Places Toilet Facilities) (Scotland) Regulations 2020 and the associated Circular 1/2020: Changing Places Toilets Regulations.
10. This development will require the 'Display of notice while development is carried out', under Section 27C(1) of the Town and Country Planning Act 1997, as amended, and Regulation 41 of the Development Management Procedure (Scotland) Regulations 2013. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. In accordance with Regulation 41 the notice must be:
 11. Displayed in a prominent place at or in the vicinity of the site of the development
 - Readily visible to the public
 - Printed on durable material.

Background Papers: One letter 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.