

Perth and Kinross Council  
Planning & Development Management Committee – 13 April 2022  
Report of Handling by Head of Planning & Development  
(Report No. 22/74)

<b>PROPOSAL:</b>	S42 application to amend condition 16 (service delivery times) of permission 19/00163/AMM
<b>LOCATION:</b>	Land 90 Metres South West of Cemetery House Lodge Perth Road Blairgowrie

Ref. No: [22/00046/AMM](#)  
Ward No: P3- Blairgowrie And Glens

### 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 application site is located to the south-western edge of Blairgowrie immediately adjacent to the A93 Perth Road. It extends to approximately 3.5 hectares and is mainly rough grassland with a small area of woodland in the southern end. Currently access is directly off the A94 and the B847 Essendy Road. To the east, across the A93, and south are residential areas. To the west is an area of Ancient Woodland with a Site of Special Scientific Interest (SSSI) known as Ardblair and Myreside Fens 250 metres beyond and north is further rough grassland.
2. The site benefits from planning permission for a mixed use development comprising a residential development, employment land, education/recreation/community facilities, infrastructure including roads, footpaths, landscaping, drainage, open space and associated works consistent with the original Local Development Plan (LDP) allocation (MU5). This mixed-use allocation has been continued in the Local Development Plan 2 (LDP2) (2019), again as MU5. Planning Permission in Principle (PPP) for a mixed-use development (employment, retail, residential, community and education) for the entire MU5 allocation was approved in December 2018 (REF: 17/00939/IPM).
3. The first Approval of the Matters Specified by Condition (AMSC) application within that 2018 PPP application was for the erection of 2 retail units (Class 1) (one of the retail units is to be operated by Lidl and the other Home Bargains), a neighbourhood centre comprising 3 retail units (Class 1), formation of parking areas, landscaping, SUDS pond and associated works, all proposed within Phase 1A (Ref: 19/00163/AMM).

4. 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.
5. Application reference 20/01696/FLL is a separate approval for the 2<sup>nd</sup> large retail unit which is to be operated by Home Bargains. A number of changes were proposed from the previous consented scheme Ref:19/00163/AMM in relation to that unit, which required the submission of a new application.
6. The primary purpose of this Section 42 (S42) application seeks a revision to the requirements of Condition 16 of the extant planning permission 19/00163/AMM. The proposed revision seeks an extension to the Sunday delivery hours where at present Condition 16 limits delivery hours to 07:00 – 21:00 Monday to Saturday and 09:00 – 17:00 on Sundays. The applicant wishes an extension to the Sunday delivery hours to 07:00 – 21:00 for Lidl only.
7. The original wording of Condition 16 currently states:

“All servicing and deliveries to any retail unit hereby approved must be within the core hours of 07:00 and 21:00 Monday to Saturday and within the hours of 09:00 and 17:00 hours on Sundays. Where any retail unit is to receive deliveries between the extended hours of 21:00 and 23:00 Monday to Saturday only, a Delivery/Service Noise Management Plan, outlining mitigation measures to reduce noise, shall be submitted to and approved in writing by the Council as Planning Authority prior to activity taking place during these hours. The servicing and delivery arrangements must be in accordance with the core hours or, where approved, in accordance with any scheme and mitigation approved under the extended hours.”

Reason: To safeguard the amenity of neighbouring residential properties.

8. Assessment for the proposed changes for this condition is set out below.

### **Pre-Application Consultation**

9. The Pre-Application Consultation (PAC) requirements have been fulfilled in association with the submission of planning application 17/00939/IPM and there is no further PAC needed procedurally in relation to this Section 42 application.

### **NATIONAL POLICY AND GUIDANCE**

10. The Scottish Government expresses its planning policies through The National Planning Frameworks, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Creating Places, Designing Streets, National Roads Development Guide and a series of Circulars.

## **National Planning Framework**

11. NPF3 is a long-term strategy for Scotland and is a spatial expression of the Government's Economic Strategy and plans for development and investment in infrastructure. This is a statutory document and material consideration in any planning application. It provides a national context for development plans and planning decisions as well as informing the on-going programmes of the Scottish Government, public agencies and local authorities.

## **The Scottish Planning Policy 2014 (SSP)**

11. The Scottish Planning Policy (SPP) sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:
  - The preparation of development plans;
  - The design of development, from initial concept through to delivery; and
  - The determination of planning applications and appeals.
12. The following sections of the SPP will be of particular importance in the assessment of this proposal:
  - Sustainability : paragraphs 24 – 35
  - Placemaking : paragraphs 36 – 57

## **Planning Advice Notes**

13. The following Scottish Government Planning Advice Notes (PANs) and Guidance Documents are of relevance to the proposal:
  - PAN1/2011 Planning and Noise
  - PAN 40 Development Management

## **Creating Places 2013**

14. 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.

## **DEVELOPMENT PLAN**

15. The Development Plan for the area comprises the TAYplan Strategic Development Plan 2016-2036 and the Perth and Kinross Local Development Plan 2019.

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

16. TAYPlan sets out a vision for how the region will be in 2036 and what must occur to bring about change to achieve this vision. The vision for the area as set out in the plans states that:
17. *“By 2036 the TAYplan area will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice where more people choose to live, work, study and visit, and where businesses choose to invest and create jobs.”*
18. The following sections of the TAYplan 2016 are of particular importance in the assessment of this application.

Policy 1: Locational Priorities

### **Perth and Kinross Local Development Plan 2**

19. 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.
20. The principal relevant policy is, in summary;

### **Policy 56: Noise Pollution**

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

### **LDP2 Allocation MU5:Western Blairgowrie**

22. Identified mixed use site extending to 24.55ha for 179-280 residential units, employment use (4ha) and education (4ha) with associated site specific developer requirements

### **SITE HISTORY**

23. [14/00008/PAN](#) Mixed use development for employment use, residential use, retail use and education – Content of PAN agreed 11 November 2014
24. [14/01768/SCRN](#) Proposed mixed use development – response provided on 13 January 2015.
25. [17/00939/IPM](#) Mixed use development comprising residential development, employment land, education/recreation/community facilities, infrastructure including roads, footpaths, landscaping, drainage, open space and associated works – Approved by Planning and Development Management Committee 21 December 2018.

- 26 [19/00163/AMM](#) Erection of 2 retail units (Class 1), a neighbourhood centre comprising 3 retail units (Class 1), formation of parking areas, landscaping, SUDS pond and associated works (approval of matters specified by conditions 17/00939/IPM) (Phase 1A - MU5) – Approved by Planning and Development Management Committee 16 January 2020.
- 27 [19/00496/ADV](#) Advertisement Consent for Display of signs – Approved 22 May 2019.
- 28 [19/01629/ADV](#) Advertisement Consent for Display of signs - Refused 18 November 2019.
- 29 [20/01214/FLM](#) Full Planning Permission Major application for S42 application to modify condition 27 (retail sales floorspace) of permission 17/00939/IPM - Withdrawn 27 April 2021.
- 30 [20/01696/FLL](#) Full Planning Permission for Erection of retail unit (Class 1) with associated access, parking, servicing and external works - Approved 20 January 2021.
- 31 [21/00560/ADV](#) Advertisement Consent for Display of totem sign - Approved 18 May 2021.
- 32 [21/00629/ADV](#) Advertisement Consent for Display of signs - Approved On 26 May 2021.

## CONSULTATIONS

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

### Internal

- 34 **Environmental Health (Noise Odour):** No objections to modify condition 16, subject to additional conditions (21, 22 and 23 and a minor modification to condition 15.

## REPRESENTATIONS

- 35 A total of 2 letters of representation have been received in respect of the current application. The main issues raised within the representations are:

- Noise pollution

- 36 These issues are addressed in the Appraisal section of the report.

## ADDITIONAL STATEMENTS

37	Screening Opinion	EIA Not Required
	Environmental Impact Assessment (EIA): Environmental Report	Not Required
	Appropriate Assessment	Habitats Regulations AA Not Required
	Design Statement or Design and Access Statement	Not Required
	Report on Impact or Potential Impact eg Flood Risk Assessment	Noise Assessment

## **APPRAISAL**

- 38 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.
- 39 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.
- 40 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. Currently the adopted Development Plan comprises the TAYplan Strategic Development Plan 2016–2036 and the Perth and Kinross Local Development Plan 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 national policy and guidance, the Council's other approved policies, supplementary guidance, statutory consultees and additional statements submitted.

### **Principle**

- 41 The principle of the development subject of the application has been previously established through the approval of the extant planning permission (19/00163/AMM). The principle of the development is therefore well-established and is not reviewed as part of this S42 application. The amendment of Condition 16 to extend delivery hours on Sundays is not in itself considered to be 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.
- 42 The applicant proposes to modify Condition 16 to allow for extended hours for service deliveries on Sundays for the Lidl foodstore only. In support of this proposed modification, the applicant has specified in the supporting statement that there has been a strong growth in retail sales across its stores in Scotland and in order to ensure that goods are able to be delivered timeously to stores throughout Scotland, and also to allow for the efficient return to the Regional Distribution Centre (RDC) in North Lanarkshire of all packaging materials for recycling, the company increasing needs greater flexibility for the operation of any timing of service deliveries to its stores.
- 43 It is also noted within the supporting statement that during the period of the Covid-19 pandemic, as directed by the Scottish Government Chief Planner, temporary changes were made during the emergency period. One of these

temporary changes was for planning authorities to informally relax planning controls, particularly by using their discretion not to take enforcement action against planning breaches that are acceptable in the “current” circumstances. One of the examples provided, although the list was not exhaustive, was for a relaxed approach on food retail opening times and deliveries outwith their conditioned hours. The current S42 planning application seeks a permanent amendment to permitted delivery times for the Lidl foodstore.

- 44 The applicant has submitted a Noise Impact Assessment (NIA) of the potential impacts that would arise with the proposed alterations to the service delivery times which has concluded that there should not be any significant adverse impact on the surrounding residential properties.

### **Residential Amenity**

- 45 The applicant Lidl Great Britain Ltd is now seeking consent to extend the delivery hours to allow for deliveries on Sundays between the hours of 07.00 and 21.00 whereas it is currently restricted to between the hours of 09.00 and 17.00 on Sundays.
- 46 Policy 56 of the Perth and Kinross Local Development Plan 2019 relates to noise generation and seeks to ensure that activities which generate noise do not impact detrimental on nearby residential amenity. The nearest residential properties are 26 and 28 Ardblair Terrace, located to the south west of the store, 5 and 6 Ardblair Cottages to the south east of the store and 16-19 Rowan Avenue, located to the east of the store. It is noted that 2 letters of objections have been received, however, neither of these representations are from properties which are considered to be the closest noise sensitive receptors to the site.
- 47 Environmental Health colleagues have been consulted on the proposed extension of delivery hours and whilst they initially objection, have since removed their objection. After further correspondence with the applicant and noise consultant EEC Ltd, clarifications have been submitted in relation to the predicted measurements in the NIA dated 5 January 2022. It has been confirmed that a 3dB penalty has been applied to the rating level and not potentially 6dB as discussed in Section 7.08. It should be noted that section 7.08 of the report included a typographical error with an errant reference to “tonality”. The NIA has now been amended (document number 4).
- 48 The predicted levels in Tables 7.1 and 7.2 correspond to first floor levels at neighbouring properties and not ground floor garden areas. Updated Technical Response, reference number EC18885-2 (document number 5) states that these levels are 34dB(A) at Rowan Terrace, 36dB(A) at Perth Road and 28dB(A) at Ardblair Terrace. When adding on a +3dB penalty and comparing against the background LA90, 1 hour the predicted levels at all properties are within L A90,1 hour background noise level plus 5dB. These levels are also well below the WHO guidance for community noise recommended levels of Leq50-55dB(A) for external amenity areas.
- 49 Sunday deliveries between the hours of 09.00 and 17.00 have already been established through Condition 16 of 19/00163/AMM. In light of this, the

amended NIA and in compliance with the specific delivery methodology as described in EC18885-2 (document 5), it is not considered that the proposal to modify Condition 16 would have a significant detrimental impact on neighbouring residential amenity.

- 50 On that basis the proposal to vary Condition 16 and with the inclusion of conditions 21, 22 and 23 as recommended by EH to control noise, it is considered to be acceptable and to accord with the relevant criteria contained within Policy 56 of the LDP2.

### **Roads and Access**

- 51 The proposed modification of Condition 16 does not have any direct or significant impact on the road network.

### **Developer Contributions**

- 52 No change to developer contributions through amending Condition 16 of planning permission 22/00046/AMM. The terms of S75 and associated contributions will not change.

### **Economic Impact**

- 53 The economic impact from this proposal is anticipated to be limited albeit it may have a positive impact for the applicant.

### **LEGAL AGREEMENTS**

- 54 No additional legal agreement is required in this instance as relevant matters continue to be appropriately covered by the original agreement associated with planning permission 17/00939/IPM. On that basis it does not require to be updated in respect of the proposal.

### **DIRECTION BY SCOTTISH MINISTERS**

- 55 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**

- 56 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 extension of delivery hours on a Sunday. Having taken account of the Local 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.



57 Accordingly the proposal is recommended for approval subject to the following conditions.

## **A RECOMMENDATION**

### **Approve the application**

#### **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 development hereby approved being completed or brought into use, all matters regarding access, car parking, road layout, design and specification, including the disposal of surface water, shall be in accordance with the standards required by the Council as Roads Authority.

Reason: In the interest of vehicle and pedestrian safety and in accordance with the policies of the adopted Perth and Kinross Local Development Plan 2019.

3. Prior to the commencement of development, a scheme to provide a right turn lane from the A93 (southbound) in to the development and a signalised pedestrian crossing on the A93 shall be submitted to, and approved in writing by, the Council as Planning Authority. The scheme shall confirm the location, specification, detailed design and delivery timescales of both the turn and pedestrian crossing. The approved scheme shall thereafter be implemented in full, prior to the occupation of the first retail unit.

Reason: In the interests of road and pedestrian safety.

4. Prior to the commencement of works on the development, the applicant shall submit for the written approval of the Planning Authority a Construction Traffic Management Scheme (TMS) which shall include the following:

- a) restriction of construction traffic to approved routes and the measures to be put in place to avoid other routes being used;
- b) timing of construction traffic to minimise impact on local communities particularly at school start and finishing times, on days when refuse collection is undertaken, on Sundays and during local events;
- c) arrangements for liaison with the Roads Authority regarding winter maintenance;
- d) emergency arrangements detailing communication and contingency arrangements in the event of vehicle breakdown;
- e) arrangements for the cleaning of wheels and chassis of vehicles to prevent material from construction sites associated with the development being deposited on the road;
- f) arrangements for cleaning of roads affected by material deposited from construction sites associated with the development;

- g) arrangements for signage at site accesses and crossovers and on roads to be used by construction traffic in order to provide safe access for pedestrians, cyclists and equestrians;
- h) details of information signs to inform other road users of construction traffic;
- i) arrangements to ensure that access for emergency service vehicles are not impeded;
- j) monitoring, reporting and implementation arrangements; and
- k) arrangements for dealing with non-compliance.

The TMS as approved shall be strictly adhered to during the entire site construction programme all to the satisfaction of the Council as Planning Authority.

Reason: In the interests of road safety.

5. Prior to the commencement of development, a scheme for the technical details, delivery phasing and signage needed for the diversion of Core Path BLAI/29 and for the future maintenance of the path within the site shall be submitted to, and approved in writing by, the Council as Planning Authority. This scheme shall also ensure that all existing rights of way, core paths within or adjacent to the completed development shall at all times be protected and remain operational during the construction phases. The scheme shall thereafter be implemented in full accordance with the approved details.

Reason: In the interest of sustainable transportation being maintained.

6. Prior to the commencement of development hereby approved, a scheme shall be submitted to, and approved in writing by, the Council as Planning Authority that demonstrates how at least 10% of the current carbon emissions reduction set by the Scottish Buildings Standards will be met through the installation and operation of low and zero-carbon technologies. This scheme shall detail for each building:
  - (a) the technology types;
  - (b) illustrate, through technical calculations, that these will meet at least the 10% reduction;
  - (c) their siting and location; and
  - (d) ongoing operation and maintenance.

7. Once approved, the development shall be completed in accordance with the approved scheme and no individual unit shall be occupied until the scheme has been installed and operating.

Reason: To embed low and zero-carbon technologies within the development in the interest of environmental sustainability.

8. Prior to the commencement of development hereby approved, the final construction details for the disposal of surface water via a Sustainable Urban Drainage System (SUDs), and the subsequent maintenance of the scheme, shall be submitted to, and approved in writing by, the Council as Planning Authority. The design for the SUDs basin shall incorporate an emergency

spillway for exceedance flood events to be directed towards a watercourse. Further, this design shall ensure that, where any outfall will affect the adjacent swamp/pond area, only clean water enters this wetland area. The scheme shall thereafter be implemented in full, prior to the occupation of the first retail unit and thereafter maintained in accordance with the approved scheme.

Reason: In the interest of protecting environmental quality and of biodiversity.

9. Prior to the commencement of development, updated landscape proposals shall be submitted to, and approved in writing by, the Council as Planning Authority. The updated proposals shall include a planting scheme which incorporates increased native species, detail the delivery implementation and arrangements for maintenance. The landscaping scheme, as approved, shall thereafter be implemented in full, in accordance with the approved scheme. Further, any planting which, within a period of 5 years from the completion of the approved phase of development, in the opinion of the Planning Authority is dying, has been severely damaged or is becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted in the next available planting season. The approved scheme as approved, shall be maintained thereafter to the satisfaction of the Council as Planning Authority.

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

10. Development hereby approved shall not commence until a detailed Construction Environmental Management Plan (CEMP) detailing environmental mitigation measures and construction method statements, including specific measures for environmental monitoring during construction, shall be submitted to, and approved in writing by, the Council as Planning Authority as Planning Authority, in consultation with Scottish Natural Heritage (SNH) and Scottish Environment Protection Agency (SEPA). Such details shall be submitted not less than two months prior to the agreed scheduled commencement date and shall incorporate detailed pollution avoidance and mitigation measures for all construction elements. Thereafter the development shall be fully undertaken in accordance with the agreed CEMP.

Reason: In the interests of protecting environmental quality and of biodiversity.

11. Development shall not begin until a scheme to deal with contamination on the site has been submitted to and approved in writing by the Planning Authority. The scheme shall contain details of proposals to deal with contamination to include:
  - I. the nature, extent and type(s) of contamination on the site
  - II. measures to treat/remove contamination to ensure the site is fit for the use proposed
  - III. measures to deal with contamination during construction works
  - IV. condition of the site on completion of decontamination measures

12. Before any residential or commercial unit is occupied the measures to mitigate all identified risks after intrusive investigation shall be fully implemented as approved by the Planning Authority.

Reason: In order to deal with any potential contamination of the site as a result of its former use.

13. Development shall not commence until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of archaeological investigation which has been submitted by the applicant and agreed in writing by the Council as Planning Authority, in consultation with Perth and Kinross Heritage Trust. Thereafter, the developer shall ensure that the programme of archaeological works is fully implemented including that all excavation, preservation, recording, recovery, analysis, publication and archiving of archaeological resources within the development site is undertaken. In addition, the developer shall afford access at all reasonable times to Perth and Kinross Heritage Trust or a nominated representative and shall allow them to observe work in progress.

Reason: The site lies adjacent to areas of archaeological significance.

14. Prior to the occupation of any retail unit hereby approved, a scheme for all external lighting shall be submitted to, and approved in writing by, the Council as Planning Authority. This scheme shall ensure appropriate alignment and provide sufficient screening so as to ensure that there is no direct illumination of neighbouring land including the A93 (Perth Road) and Ardblair Terrace and that light spillage beyond the boundaries of the site is minimised. The lighting scheme shall thereafter be implemented in full, prior to the occupation of each retail unit.

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

15. All plant or equipment on each building hereby approved 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 the interest of protecting residential amenity from noise generated by plant or equipment.

16. Within any neighbouring residential property, noise levels shall be limited to an internal night time target noise level of 42 dB LAFmax, with window slightly open.

Reason: In the interest of protecting residential amenity from noise.

17. In the event of a justified noise complaint being received by the Council relating to the operation of the development hereby approved, the operator shall, at its

own expense, employ a consultant approved by the Planning Authority to carry out a noise assessment. The assessment will be carried out to an appropriate methodology agreed in writing with the Planning Authority. If the noise assessment shows that the noise levels do not comply with noise conditions, a scheme of noise mitigation shall be included with the noise assessment, specifying timescales for the implementation of the scheme and shall be submitted to the Planning Authority with 28 days of the assessment. The mitigation scheme shall thereafter be implemented in accordance with the approved scheme and timescales.

Reason: In the interest of protecting residential amenity.

18. With the exception of Lidl, all servicing and deliveries to any retail unit hereby approved must be within the core hours of 07:00 and 21:00 Monday to Saturday and within the hours of 09:00 and 17:00 hours on Sundays. Where any retail unit is to receive deliveries between the extended hours of 21:00 and 23:00 Monday to Saturday only, a Delivery/Service Noise Management Plan, outlining mitigation measures to reduce noise, shall be submitted to and approved in writing by the Council as Planning Authority prior to activity taking place during these hours. The servicing and delivery arrangements must be in accordance with the core hours or, where approved, in accordance with any scheme and mitigation approved under the extended hours.

Reason: To safeguard the amenity of neighbouring residential properties.

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

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

20. All existing trees and hedgerows shown to be retained shall be protected by suitable fencing in accordance with BS5837:2012 (Trees in Relation to Construction). No materials, supplies, plant, machinery, soil heaps, changes in ground levels or construction activities shall be permitted within the protected areas without the written agreement of the Council as Planning Authority.

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

21. 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 order to prevent animals from being trapped within any open excavations.

22. All road gullies within 500m of a waterbody or Sustainable Urban Drainage System (SUDs) pond shall have wildlife kerbs installed adjacent to the gully.

Reason: In the interests of protecting environmental quality and of biodiversity.

23. Noise from deliveries to Lidl shall not exceed 50dB(A) Leq, 1 hour including any relevant penalties for tonality, impulsivity, intermittency or other sound characteristics, or L A90, 1 hour background noise level plus 5dB when measured within external amenity areas at any residential property.

Reason: To safeguard the amenity of neighbouring residential properties.

24. Prior to the commencement of the development a Noise Management Plan for Lidl shall be submitted for the written approval of the Planning Authority. The plan shall include all sources of noise associated with deliveries and the measures that will be put in place to minimise and/or control noise. The plan shall be reviewed on a regular basis or, following receipt of a justified complaint or at the request of the Planning Authority. Once the Noise Management Plan has been approved, it shall be fully implemented for the lifetime of the development.

Reason: To safeguard the amenity of neighbouring residential properties.

25. Servicing of and deliveries to the premises (Lidl) shall be carried out between 0700 and 2100 Monday to Sunday.

Reason: To safeguard the amenity of neighbouring residential properties.

## **B JUSTIFICATION**

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

## **C PROCEDURAL NOTES**

None.

## **D INFORMATIVES**

1. This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
2. Under Section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the Planning Authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under

section 123(1) of that Act, which may result in enforcement action being taken.

3. As soon as practicable after the development is complete, the person who completes the development is obliged by Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position
4. This development will require the 'Display of notice while development is carried out', under Section 27C (1) of the Town and Country Planning Act 1997, as amended, and Regulation 41 of the Development Management Procedure (Scotland) Regulations 2013. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. According to Regulation 41 the notice must be:
  - Displayed in a prominent place at or in the vicinity of the site of the development.
  - Readily visible to the public.
  - Printed on durable material.
5. The applicant should be advised that in terms of Section 21 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to construct a new road prior to the commencement of roadworks. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environment Protection Agency.
6. The applicant is advised that the detailed design of all SUDS shall conform to 'PKC Flooding and Flood Risk Guidance Document (June 2014)', or any subsequent update.

Associated with this, it is recommended that the following information and design should be embedded within the final drainage details:

- In the event that the soakaway overtops due to a capacity issue or siltation over time, the surrounding ground should be contoured such to allow a volume of water to be retained before it can overland flow elsewhere. I.e. the land would be graded down to the soakaway (very gently). This would make it easier to identify a problem with the soakaway in the future because it would pond around it. This would provide additional protection to surrounding land/property.
  - A clear indication of the design standard of all the SUDS features on the design and As-Built drawings.
7. Please consult the Street Naming and Numbering Officer, The Environment Service, Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth PH1 5GD.
  8. The applicant is advised that the granting of planning consent does not guarantee a connection to Scottish Water's assets. The applicant must make a separate application to Scottish Water Planning & Development Services team

for permission to connect to the public wastewater system and/or water network and all their requirements must be fully adhered to.

9. No work shall be commenced until an application for building warrant has been submitted and approved.
10. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended, it is an offence to remove, damage or destroy the nest of any wild birds while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act.
11. The applicant is recommended to follow and incorporate all associated comments included within PKC Waste Services response (dated 04/07/2016). Further details and clarification of the requirements can be sought in discussion with the Council Waste Services Team.

Background Papers: 2 letters of representation  
Contact Officer: Gillian Peebles  
Date: 31 March 2022

**DAVID LITTLEJOHN  
HEAD OF PLANNING & DEVELOPMENT**

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