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Council Building
2 High Street
Perth
PH1 5PH

06/12/2021

A meeting of the **Planning and Development Management Committee** will be held virtually on **Tuesday, 14 December 2021 at 10:00.**

If you have any queries please contact Committee Services on (01738) 475000 or email Committee@pkc.gov.uk.

THOMAS GLEN
Chief Executive

Those attending the meeting are requested to ensure that all notifications are silent on their device and other devices are in silent mode.

Please note that the meeting will be broadcast online and recorded. The recording will be publicly available on the Council's website following the meeting.

Members:

Councillor Roz McCall (Convener)
Councillor Bob Brawn (Vice-Convener)
Councillor Michael Barnacle
Councillor Rhona Brock
Councillor Tom Gray
Councillor David Illingworth
Councillor Ian James
Councillor Tom McEwan
Councillor Crawford Reid
Councillor Lewis Simpson
Councillor Richard Watters
Councillor Mike Williamson
Councillor Willie Wilson

Planning and Development Management Committee

Tuesday, 14 December 2021

AGENDA

MEMBERS ARE REMINDED OF THEIR OBLIGATION TO DECLARE ANY FINANCIAL OR NON-FINANCIAL INTEREST WHICH THEY MAY HAVE IN ANY ITEM ON THIS AGENDA IN ACCORDANCE WITH THE COUNCILLORS' CODE OF CONDUCT.

- 1 WELCOME AND APOLOGIES/SUBSTITUTES**
- 2 DECLARATIONS OF INTEREST**
- 3 DEPUTATIONS**
- 4 MINUTE OF MEETING OF THE PLANNING AND DEVELOPMENT MANAGEMENT COMMITTEE OF 17 NOVEMBER 2021 FOR APPROVAL
(copy to follow)**
- 5 APPLICATIONS FOR CONSIDERATION**
 - 5(1) MAJOR APPLICATIONS**
 - 5(1)(i) 20/00868/FLM - SITING OF 122 HOLIDAY ACCOMMODATION UNITS, FORMATION OF VEHICULAR ACCESS, ERECTION OF HUB BUILDING, LANDSCAPING, CAR PARKING AND ASSOCIATED WORKS, LAND 1KM EAST OF MUIRHEAD COTTAGE, MUIRTON, AUCHTERARDER** **5 - 28**

Report of Handling by Head of Planning and Development
(Recommendation - Refuse) (copy herewith 21/238)

This planning application has now been withdrawn and no longer requires to be determined by the Planning Authority.
 - 5(1)(ii) 21/00756/FLM - FORMATION OF A 49.9MW ENERGY STORAGE FACILITY COMPRISING 50 BATTERY STORAGE CONTAINER UNITS, CONTROL BUILDING, ANCILLARY EQUIPMENT, PARKING, ACCESS TRACK, BOUNDARY** **29 - 54**

**TREATMENTS, LANDSCAPING AND ASSOCIATED WORKS,
SHINDOUR, FEDDAL HILL WOOD, NEAR BRACO**
Report of Handling by Head of Planning and Development
(Recommendation - Approve) (copy herewith 21/239)

**5(1)(iii) 21/01518/IPM - S42 APPLICATION TO DELETE CONDITION 7 55 - 70
(PUBLIC TRANSPORT INFRASTRUCTURE) OF PERMISSION
19/02033/IPM, LAND 150 METRES SOUTH OF TARGET
HOUSE, RUTHVENFIELD ROAD, INVERALMOND
INDUSTRIAL ESTATE, PERTH**
Report of Handling by Head of Planning and Development
(Recommendation - Refuse) (copy herewith 21/240)

**5(1)(iv) 21/01519/IPM - S42 APPLICATION TO DELETE CONDITION 2 71 - 86
(DEVELOPER CONTRIBUTIONS) OF PERMISSION
19/02033/IPM, LAND 150 METRES SOUTH OF TARGET
HOUSE, RUTHVENFIELD ROAD, INVERALMOND
INDUSTRIAL ESTATE, PERTH**
Report by Head of Planning and Development (Recommendation
- Refuse) (copy herewith 21/241)

6 PROPOSAL OF APPLICATION NOTICE (PAN)

**6(i) 21/00014/PAN - RESIDENTIAL DEVELOPMENT, ACCESS, 87 - 96
LANDSCAPING, SUDS, AND ASSOCIATED WORKS AT
LAND SOUTH WEST OF KINTILLO CEMETERY, BRIDGE OF
EARN (PART OF LDP2 SITE H14)**
Pre-Application Report by Head of Planning and Development
(copy herewith 21/242)

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Perth and Kinross Council
Planning & Development Management Committee – 14 December 2021
Report of Handling by Head of Planning & Development (Report No. 21/239)

PROPOSAL: Formation of a 49.9MW energy storage facility comprising 50 battery storage container units, control building, ancillary equipment, parking, access track, boundary treatments, landscaping, and associated works

LOCATION: Shindour Feddal Hill Wood near Braco

Ref. No: [21/00756/FLM](#)
Ward No: P7 - Strathallan

Summary

This report recommends approval of the application, subject to a number of planning conditions. 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 This application seeks detailed planning permission to construct and operate an energy storage facility immediately to the southeast of the existing Beaully Denny transmission line at the Braco West substation. The site is located in Feddal Forest on Feddal Hill, within an area of harvested coniferous plantation woodland. The site of 1.1 hectares lies some 3.7km to the west of Braco and the nearest residential property of Bentick Farm is 1.2km to the south.
- 2 The proposed energy storage facility would accommodate up to 50 battery storage units housed within steel shipping containers, along with ancillary structures including a substation compound containing transformers, and an adjacent electrical control building. The site would be partly surrounded by an inner security fence by a buffer of restored habitat along with a drainage swale.
- 3 The proposed energy storage facility of 49.9MW would provide electrical back-up to the electricity grid. The storage of electricity is regarded as a generation activity, however, the electrical power would be drawn power from the electricity grid and stored, for release back into the grid when required.
- 4 A new length of access track 164m in length and up to 7m wide will connect the site to the existing access track off the B8033 road at the Muckle Burn that serves the adjacent substation and forestry. The proposed development would be temporary in nature, with consent being sought for an operational period of up to 50 years. After this period the site would be decommissioned and restored to commercial coniferous plantation woodland.

ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

- 5 An EIA screening has been undertaken as part of this submission, concluding that an EIA was not required, as the proposal was not considered likely to have significant environmental effects. Nevertheless, a combined suite of supporting environmental information was included in the supporting information, including assessment of the following areas:
- Transport
 - Ecology including Reptile Assessment
 - Sustainability including Carbon Assessment
 - Construction and Environmental Management Plan (CEMP)
 - Peat Management Plan
 - Supporting Statement including Design and Access Statement; Landscape and Visual Impact Assessment; Noise & Lighting Assessment

Pre-Application Consultation

- 6 The proposed development is a 'Major' development, in terms of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, due to the potential energy storage capacity proposed. The applicant was therefore required to undertake formal pre-application consultation with the local community. The approach followed current Scottish Government guidance, included a dedicated [website](#) for the project and an online event on 21 January 2021 with a live presentation and question and answer session. The Ward Councillors, MSP, MP, and Braco & Greenloaning Community Council were advised of the event, alongside relevant material being made available, both before and beyond the proposed online event, all to give the public the best possible opportunity to have input. Five residential properties that share the access route off the B8033 were contacted directly by the developer.
- 7 The submitted Pre-Application Consultation (PAC) Report identified that no members of public attended the online consultation event and that no written feedback was received. The content and coverage of the community consultation exercise is considered sufficient and proportionate.

National Policy and Guidance

- 8 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 2014

- 9 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)

- 10 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.
- 11 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
 - Supporting Business and Employment: paragraphs 92 – 108
 - Delivering Heat and Electricity: paragraphs 152 – 173
 - Managing Flood Risk and Drainage: paragraphs 254 – 268.

Planning Advice Notes

- 12 The following Scottish Government Planning Advice Notes (PANs) and Guidance Documents are of relevance to the proposal:
- PAN 3/2010 Community Engagement
 - PAN 40 Development Management
 - PAN 51 Planning, Environmental Protection and Regulation
 - PAN 61 Planning and Sustainable Urban Drainage Systems
 - PAN 69 Planning and Building standards Advice on Flooding
 - PAN 75 Planning for Transport
 - PAN 77 Designing Safer Places

Development Plan

- 13 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

- 14 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:

“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.”

15 The following sections of the TAYplan 2016 are of particular importance in the assessment of this application.

- Policy 7: Energy, Waste and Resources.

Perth and Kinross Local Development Plan 2

16 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.

17 The principal relevant policies are, in summary;

- Policy 1: Placemaking
- Policy 5: Infrastructure Contributions
- Policy 15: Public Access
- Policy 26: Scheduled Monuments and Archaeology
- Policy 32: Embedding Low & Zero Carbon Generating Technologies in New Development
- Policy 33: Renewable and Low Carbon Energy: New Proposals for Renewable and Low-Carbon Energy
- Policy 35: Electricity Transmission Infrastructure
- Policy 39: Landscape
- Policy 40: Forestry, Woodland and Trees: Forest and Woodland Strategy
- Policy 41: Biodiversity
- Policy 51: Soils
- Policy 53: Water Environment and Drainage
- Policy 54: Health and Safety Consultation Zones
- Policy 55: Nuisance from Artificial Light and Light Pollution
- Policy 56: Noise Pollution
- Policy 60: Transport Standards and Accessibility Requirements

Other Policies

Developer Contributions and Affordable Housing Supplementary Guidance April 2020

18 This document sets out the Council’s policies on Developer Contributions in relation to Primary Education and Transport Infrastructure/A9 junction upgrades, as well as setting out what Affordable Housing provision is required for new developments.

Placemaking Guide 2020

19 The Council has prepared Placemaking Supplementary Guidance (2020) to support Policy 1 (Placemaking) of the Perth and Kinross Local Development Plan 2 (2019). It is to be used in the assessment of planning applications and to assist in the placemaking process.

Site History

- 20 [05/01911/FUL](#) Planning Permission for construction of 275/33kv electricity substation, associated building and temporary storage areas, site huts, upgrading/widening works to existing private access road and improvements to junction where access road meets the B8033. Approved April 2006
- 21 [13/01036/FLL](#) Planning Permission for formation of a temporary works compound and topsoil storage area. Approved July 2013
- 22 [14/01758/FLL](#) Planning Permission for permanent retention of temporary access track constructed as part of Beauly-Denny overhead power line. Approved December 2014
- 23 [15/00470/FLL](#) Planning Permission for erection of substation control building, formation of access road and associated works. Approved June 2015
- 24 [16/01719/PN](#) Prior Notification for formation of a forestry track. Approved November 2016.
- 25 [17/01810/FLL](#) Planning Permission for formation of an energy storage facility, vehicular access, and associated works. Approved November 2017.
- 26 [20/00013/PAN](#) Proposal of Application Notice for formation of an energy storage facility comprising control building, battery storage container units, ancillary equipment, parking, boundary treatments, landscaping, and associated works. Approved February 2021.

CONSULTATIONS

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

External

- 28 **Scottish Environment Protection Agency:** No objection following submission of additional ecological information. Conditions recommended regarding peat management and bog restoration.
- 29 **NatureScot:** No comments. The site lies out with mapped zones of priority peatlands and carbon rich soils.
- 30 **Scottish Water:** No objection.
- 31 **Transport Scotland:** No objection, subject to planning conditions in respect of a Construction Traffic Management Plan (CTMP), approval for any abnormal load deliveries and details of any additional signage or temporary traffic control measures.
- 32 **Scottish Forestry:** No objection. Clarification required on alternative planting for the rest of the proposed site.

33 **National Grid Plant Protection Team:** No objection subject to condition for reinforcement of road crossings of the nearby gas pipeline.

34 **Braco and Greenloaing Community Council:** No response received.

Internal

35 **Environmental Health:** No objection. Planning conditions are requested in respect of controlling noise levels and hours of construction operations.

36 **Planning and Housing Strategy:** No objection following submission of additional survey information regarding carbon calculations.

37 **Development Contributions Officer:** No developer contributions are required.

38 **Transport Planning:** No objection.

39 **Structures and Flooding:** No objection.

40 **Biodiversity/Tree Officer:** No objection following submission of additional survey information including reptile survey. A number of biodiversity maintenance and enhancement conditions are recommended.

Representations

41 One representation has been received in respect of the current application. The main issues raised within the representations are:

- Road safety concerns as access road is used by residential properties
- Unsuitable road surface used during substation installation.

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

ADDITIONAL STATEMENTS

43

| | |
|--|--|
| Screening Opinion | EIA Not Required |
| Environmental Impact Assessment (EIA): Environmental Report | Not Required |
| Appropriate Assessment | AA Not Required |
| Design and Access Statement | Submitted |
| Report on Impact or Potential Impact e | Habitat Assessment including Reptile Survey, Peat Management Plan, Carbon Assessment, Supporting Statement including Noise. Lighting, Transport, Heritage and Landscape and Visual Impact |

APPRAISAL

44 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 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 considerations of the Council’s other approved policies and supplementary guidance.

Principle

45 The principle of the proposed use at this location has already been established through the previous planning approval 17/01810/FLL in November 2017 for the formation of a smaller scaled energy storage facility (a 0.4 hectare site, with up to 9.99MW of storage/generation), vehicular access, and associated works. The current proposal is for a larger scale energy storage.

46 In addition, LDP2 Policy 33 sets out that: *"Proposals for the utilisation, distribution and developments of renewable and low-carbon sources of energy will be supported"* subject to siting and land use compatibility criteria.

47 The Plan’s key objectives in respect of achieving ‘low-carbon’ include:

- ensuring that development and land uses make a positive contribution to helping minimise the causes of climate change; and
- promotion of the sustainable development of electricity generation from a diverse range of renewable and low-carbon energy technologies.

48 While the proposal is not itself categorised as a renewable energy generator, its role in enabling better and more efficient use of energy and renewable technologies is acknowledged. This approach accords with the above objectives, in terms of minimising the causes of climate change through assisting with the efficient use of the energy generation from renewables and enabling the temporary storage of surplus energy generated from a diverse range of technologies.

49 LDP2 Policy 33A implicitly supports the principle of energy storage as a means of assisting grid balancing, subject to several criteria. Relevant to this site are visual amenity, noise, and landscape impact. Overall, it is considered that the proposal will contribute towards meeting carbon reduction and renewable energy generation targets.

50 In terms of the specific locational need for an energy storage facility, it is accepted that available site locations are largely dependent on proximity to existing grid infrastructure. In this case the principal site selection reason is its proximity to the existing Braco West substation, which offers a nearby grid connection.

- 51 The proposal would provide essential energy balancing services to the National Grid, actively contributing towards Scotland's CO₂ reduction targets, supporting the strategic principles of SES. Specifically, electricity would be drawn from the Grid at times of low demand, stored and released back as required. When demand is higher, greater generation from non-renewable sources is required. Energy storage facilities such as that proposed could help reduce reliance on non-renewable resources, decreasing CO₂ emissions.
- 52 In conclusion it is accepted that there is a specific, locational need for the proposed development due to the proximity to Braco West substation. This development addresses LDP2 Policy 33 and national policy objectives for development of this type to help make more efficient use of the energy generated by renewables.

Design and Layout

- 53 The proposed design and layout primarily reflect the physical and engineering requirements to deliver and service an energy storage facility of this scale. The specification of the development is consistent with industry standards and other approved battery storage sites in Perth and Kinross. In physical terms, the structures and engineered boundary treatment are primarily below 4m in height (with the exception of two 33kw transformers and the control building roof). The resultant horizontal massing is therefore more significant than vertical impacts.
- 54 These visual impacts are further considered in the Landscape and Visual Amenity section below. Internally within the site, separation between each container is maintained for installation and maintenance purposes. The final detailing, colour and material finishes of the proposed infrastructure, including landscape boundary details are proposed to be controlled via conditions (Conditions 9 and 19). Subject to verification of this final detail, the proposed development is considered consistent with LDP2 Policy 1.

Landscape and Visual Amenity

- 55 LDP2 Policies 1 and 39 require developments to contribute positively to the quality of the surrounding built and natural environment and to not conflict with maintaining and enhancing the landscape qualities of Perth and Kinross.
- 56 LDP2 Policy 39 also seeks to safeguard and enhance landscape character and green infrastructure. In this instance, the proposed design is largely set by technical requirements, type of equipment and infrastructure required for electricity storage. Given the rural landscape and location the visual impact of the proposal is largely minimal as it will be surrounded by a coniferous tree plantation and is less intrusive when compared to the adjacent substation.
- 57 In association, LDP2 Policy 1B requires consideration to be given to a proposal's visual impact and landscape setting. In terms of enhancement and mitigation, LDP2 Policy 40 supports planting of new trees and woodlands and new landscape planting around the perimeter of the site is proposed.

- 58 The visual impact during construction will be temporary and the proposed design, existing and proposed woodland planting is considered robust and appropriate mitigation for the resultant visual impact, subject to further conditional control (Condition 9) to secure the detailing and timing for delivery, satisfying the terms of LDP2 Policies 1 and 39.

Residential Amenity

- 59 In respect of residential amenity, LDP2 Policy 55 relates, this seeks to avoid proposals which result in lighting with obtrusive and/or intrusive effects. Additionally, Policy 56 sets a presumption against siting of development proposals involving elevated levels of noise in the locality of existing or proposed noise sensitive land uses. The context sees the closest residential properties of Tamano and Bentick Farm over 1km south east of the proposed site.

Lighting

- 60 The applicant has confirmed with the Supporting Statement that there will be no permanent lighting within the site and that the only lighting will be motion-sensored at the entrances of various buildings and storage units. They will also be downward facing to minimise light spillage. Environmental Health have no adverse comments on this aspect of the proposal and no condition has been requested. Therefore, the proposal is considered to comply with LDP2 Policy 55.

Noise

- 61 Within the applicants Supporting Statement it states that the proposed energy units will be acoustically enclosed to attenuate noise and meet the day and night-time requirements for the nearest residential properties. The potential noise emissions at the closest receptors of Tamano and Bentick Farm are over 1km away and given the distance and forest landscape the predicted impact will not exceed any background levels. Operational vehicle movements will be limited to occasional maintenance visits. Environmental Health are in agreement but recommend a standard noise is applied and is in line with similar applications in the area (Condition 7).
- 62 In terms of installation impact, this will be temporary. Environmental Health recommend that the proposed 07.00 start on Saturdays should be adjusted to an 08.00 start to protect the amenity of the residential properties along the access road (Condition 8).
- 63 Overall, Environmental Health have, subject to planning conditions, raised no concerns over the potential for adverse noise and lighting impact on residential properties (Conditions 7 and 8). The proposal is therefore considered to comply with LDP2 Policies 55 and 56, with no unacceptable impact on the amenity of residential properties.

Roads and Access

- 64 LDP2 Policy 60 requires that local road networks and accessibility requirements are sufficient and capable of absorbing traffic generated by development, and also that satisfactory access is provided. Neither Transport Scotland nor PKC Transport Planning have raised concerns in relation to transport or access arrangements, either during construction or during operation.
- 65 It is recognised that the access route off the B8033 road to the proposed site and existing substation also provides access to five residential properties and concern has been expressed about road safety impact during the installation process. The access route already serves the existing substation and, following installation of the battery storage facility, the traffic impact will be minimal.
- 66 Both Transport Scotland and Transport Planning recommend that construction traffic be controlled to ensure suitable arrangements and routes are in place (Conditions 2, 3, 4, 5). Subject to compliance with these conditions, the impact on the residents that share the access road will be minimised. The proposals are considered to be in accordance with LDP2 Policy 60.

Drainage and Flooding

- 67 In respect of the flood risk and drainage, there are no flooding concerns identified within the site. The requirements for sufficient surface water and SUDs detailing can also be addressed in advance of development commencing (Condition 18). The proposals are therefore considered to satisfy LDP2 Policy 53.

Biodiversity and Woodland

- 68 LDP2 Policies 38, 40 and 41 are all relevant considerations in respect of potential biodiversity impacts or for identifying opportunities arising from the development. It is noted that the proposed development would result in the loss of coniferous woodland for the construction of the energy storage facility. As stated in Policy 40, the Council will follow the principles of the Scottish Government Policy on Control of Woodland Removal.
- 69 Normally the mitigation for the loss of forest woodland due to the proposed development is through compensatory planting of a forest area of equivalent size. However, Scottish Forestry have advised that the proposed loss is quite small and compensatory planting will not be required on this occasion. LDP2 Policy 40 is therefore complied with.
- 70 LDP2 Policy 41 seeks to protect and enhance all wildlife and habitats. It advises that planning permission will be granted where evidence is provided to show there is no adverse effect on ecological interests. The applicant has submitted an Ecological Survey and a Reptile Survey, and these have been assessed by the Councils Biodiversity/Tree Officer. Whilst both surveys were not carried out at the optimum time period, they are enough to ensure there will be no adverse impact on protected species and reptiles. A number of conditions have been recommended to ensure compliance with LDP2 Policy 41. (Conditions 12, 13, 15, 16, 17)

Soils and Peatland

- 71 The proposed development is located on Class 5 soil (defined in the Carbon and Peatland Map) which has little or no hazard of erosion and is mainly used for pasture, forestland, and food for wildlife. Disturbance of carbon rich soils, as set out in LDP2 Policies 33A and 51, should be avoided. A Peat Survey and Draft Peat Management Plan have been submitted and assessed by both the Council and SEPA.
- 72 LDP2 Policy 51 also states that the Council is committed to ensuring that development avoids disturbance to, and the loss of, carbon rich soils, including peatland, which are of value as carbon stores. Development will only be permitted on areas of carbon-rich soils, including peatland, where it has been clearly demonstrated that there is no viable alternative, or where the economic and social benefits of the development would outweigh any potential detrimental effect on the environment. Where exceptions allow for development that would disturb carbon rich soils, development should be informed by:
- an appropriate peat survey and management plan;
 - any disturbance or excavation be minimised; and
 - an assessment of the likely effects of the development on carbon dioxide emissions, and suitable mitigation measures implemented to
 - minimise carbon emissions (with details of both submitted as part of the application);
 - details setting out how the development could contribute towards local or strategic peatland habitat enhancement or restoration
- 73 In offsetting the loss of peat, LDP2 Policy 51 then requires development to implement appropriate peat management measures, adopt best practice when moving, storing, and reinstating peat and consider the opportunity to re-use peat necessarily excavated from the site. These requirements are proposed to be secured via Condition 14.
- 74 SEPA advise that management to strongly control the soft rush will be important at this site. This is essential to enable peatland plants and sphagnum mosses to compete, and to establish the bog as a carbon sink.
- 75 SEPA consider the proposed monitoring to be acceptable. The proposed reuse of surplus peat in reinstatement of 10% of the hardstanding area and along the floating access track shoulders are acceptable. They advise that the applicant should consider removing the hardstanding from the area where the 30cm of surplus peat will be placed. SEPA advise this would restore hydrological conditions and remove the need for the impermeable membrane. Condition 14 will ensure this is achieved.
- 76 The remaining surplus peat (126m³) is proposed for use in ditch blocking and bog restoration in the adjacent recently felled area to the east of the site. This is a relatively small volume of peat, however, seems likely to be more than required for peat dams at the locations marked on the submitted Drain Blocking Locations drawing. It is not clear whether the applicant intends to infill the base of some of the forestry furrows in the bog restoration area with the excavated

peat in comparison with a baseline of deep ridges and furrows. If the intention is to deposit excavated peat on the recently felled bog restoration site, then the peat must not be placed on top of brash. The forestry residue must be removed as much as possible or mulched to a thin layer. SEPA recommend the applicant refer to established guidance on forest to bog restoration in preparing their detailed Peat Management Plan and CEMP (required under Conditions 11 and 14). LDP2 Polices 33 and 51 have been satisfied.

Carbon Impact

- 77 The applicant has submitted a Carbon Balance Assessment due to the proposed impact on peatland. This has been assessed by the Council's Strategy and Policy team.
- 78 The proposed construction of the project will lead to no net increase in carbon emissions. The retention of all existing peat within the site, and the use of excavated peat to restore an adjacent area of damaged peatland will result in a significant decrease in current carbon emissions from the existing previously afforested peatland. The proposed peatland restoration will deliver carbon capture within the managed area. The proposal complies with LDP Policy 51 as it will lead to peatland enhancement.

Health and Safety

- 79 National Grid advised that the access track crosses over their infrastructure. A condition is recommended to ensure that there will be no risk of damage and ensure compliance with LDP2 Policy 54 (Condition 6).

Waste Collection

- 80 There is minimal or no ongoing waste collection requirements anticipated post construction.

Developer Contributions

- 81 No developer contributions are required for this type of development.

Economic Impact

- 82 In the short term, construction will create jobs with scope for local employment. Beyond this, local employment opportunities will be limited. Holistically, however, there is a clear fit between Scottish Government aims of promoting a transition to a low carbon economy and this proposal. The proposal would directly support local renewable energy generation, by helping balance fluctuations of intermittent energy generation and more widely, assisting in the creation of a national grid asset of regional significance for the Perth and Kinross Area.

Lifespan of Facility

- 83 Infrastructure developments of this nature tend to have a particularly long lifespan, and consideration should be given to the long-term maintenance and

eventual decommissioning of the proposal, including removal with site restoration when not viable or obsolete.

- 84 The lifespan of the facility has been proposed by the applicant to extend to 50 years. As such, a condition is proposed that places a simple requirement on the operator/landowner that the site will be decommissioned and re-instated should the energy storage facility (as approved) not be in use for a continuous period of 12 months (Condition 20).

PLANNING OBLIGATIONS AND LEGAL AGREEMENTS

- 85 None required.

DIRECTION BY SCOTTISH MINISTERS

- 86 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

- 87 To conclude, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, the proposal is considered to comply with the approved TAYplan 2016 and the adopted Local Development Plan 2 (2019). The proposal is considered to be compatible with existing neighbouring land uses, subject to enhanced boundary landscape treatment. The proposal will directly contribute towards meeting carbon reduction and renewable energy generation targets. Account has been taken account of the relevant material considerations and none has been found that would justify overriding the adopted Development Plan.
- 88 Accordingly, the proposal is recommended for approval subject to the following conditions.

A RECOMMENDATION

Approve the application

Conditions and Reasons for Recommendation

General

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.

Roads and Access

2. Prior to the commencement of the development hereby approved, the developer shall submit for the further written agreement of the Council as Planning Authority, in consultation with the Roads Authority, a Construction Traffic Management Scheme (CTMS) 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) a code of conduct for HGV drivers to allow for queuing traffic to pass;
 - (d) arrangements for liaison with the Roads Authority regarding winter maintenance;
 - (e) emergency arrangements detailing communication and contingency arrangements in the event of vehicle breakdown;
 - (f) 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;
 - (g) arrangements for cleaning of roads affected by material deposited from construction sites associated with the development;
 - (h) 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;
 - (i) details of information signs to inform other road users of construction traffic;
 - (j) arrangements to ensure that access for emergency service vehicles are not impeded;
 - (k) co-ordination with other significant developments known to use roads affected by construction traffic;
 - (l) traffic arrangements in the immediate vicinity of temporary construction compounds;
 - (m) monitoring, reporting and implementation arrangements;
 - (n) arrangements for dealing with non-compliance; and
 - (o) details of HGV movements to and from the site.

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

Reason: To minimise interference with the safety and free flow of the traffic on the access road off the B8033 road.

3. Prior to the commencement of development, a comprehensive Construction Traffic Management Plan shall be submitted for the approval of the Planning Authority, after consultation with Transport Scotland.

Reason: To minimise interference with the safety and free flow of the traffic on the trunk road.

4. The proposed route for any abnormal loads on the trunk road network must be approved by the trunk roads authority prior to the movement of any abnormal load. Any accommodation measures required including the removal of street furniture, junction widening, traffic management must similarly be approved.

Reason: To ensure that the transportation of abnormal loads will not have any detrimental effect on the trunk road network.

5. Any additional signing or temporary traffic control measures deemed necessary due to the size or length of loads being delivered must be undertaken by a recognised Quality Assured traffic management consultant, to be approved by the trunk road authority before delivery commences.

Reason: To ensure that the transportation of abnormal loads will not have any detrimental effect on the trunk road network.

Health and Safety

6. Not less than two months from the date of this planning permission, a detailed scheme for the management of vehicles crossing of the National Grid pipeline at Easting 282178; Northing 709479 and any necessary reinforcement works of that road and or crossing shall be submitted to, and approved in writing by, the Planning Authority in consultation with National Grid. The scheme shall include the frequency of vehicle movements during both the construction and operational phases of development, specify vehicle weights and set out the technical specification of the reinforcement works to the road or crossing point and their delivery. Thereafter, the scheme shall be implemented in complete accordance with the approved scheme and all reinforcement works complete prior to the commencement of development hereby approved.

Reason: In order to ensure that suitable vehicle crossing arrangements are provided.

Amenity

7. 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 20 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: to ensure a satisfactory standard of local environmental quality.

8. Construction work shall be limited to Monday to Friday 0700 hours to 1900 hours and Saturday 0800 hours to 1300 hours with no noisy works out with these times or at any time on Sundays or bank holidays (as identified by Scottish Government).

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

Landscape

9. Prior to the commencement of the development hereby approved, a detailed boundary landscaping and planting scheme on all four sides of the site shall be submitted for the written agreement of the Council as Planning Authority. The scheme shall include details of the height and slopes of any mounding or recontouring of the site, full details of all hard landscaping proposals including materials and installation methods and, species, height, size and density of trees and shrubs to be planted. The scheme as subsequently approved shall be carried out and completed within the first available planting season (October to March) after the completion or bringing into use of the development, whichever is the earlier, and the date of Practical Completion of the landscaping scheme shall be supplied in writing to the Council as Planning Authority within 7 days of that date. The scheme as agreed and implemented shall thereafter be maintained by the site operator.

Reason: To ensure a satisfactory standard of development and environmental quality and to reserve the rights of the Planning Authority.

10. Any planting failing to become established within five years shall be replaced in the following planting season with others of similar size, species, and number.

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

Ecology

11. A minimum of two months prior to the commencement of development, a site-specific Construction Environmental Management Plan (CEMP) which shall include a Construction Method Statement (CMS) shall be submitted to and approved by the Council as Planning Authority in consultation with key stakeholders as deemed appropriate. The CEMP must also include a Pollution Prevention Plan (PPP), Invasive Management Plan (IMP), Site Waste Management Plan (SWMP), Site Access Management Plan (SAMP), Construction Exclusion Zone (CEZ), Construction Traffic Management Plan (CTMP), Environmental Management Plan (EMP). Proposed measures for bog restoration methods, monitoring and ongoing long-term aftercare and maintenance shall be included. Measures to ensure the public road network is kept free from mud or debris shall also be required. The CEMP will remain a live document, any working practices deemed to be having an adverse impact on ecology or the environment will be the subject of revision. All revisions must be submitted to the Planning Authority as soon as reasonably practicable. Thereafter the development shall be fully undertaken in accordance with the agreed CEMP.

Reason: In the interest of protecting environmental quality and of biodiversity. To minimise any associated adverse landscape and visual impact of the above ground elements and protect the character and visual amenity of the immediate and surrounding countryside and associated nature and cultural heritage conservation interests.

12. Prior to the commencement of the development hereby approved, an independent and suitably qualified Ecological Clerk of Works (ECoW) shall be appointed at the developers' expense. Details of this appointment shall be subject to the prior written agreement of the Council as Planning Authority. The appointed person will remain in post for the duration and subsequent restoration of the proposed development. The ECoW shall have responsibility for the following:
- (a) Overseeing the implementation of the Construction Environmental Management Plan (CEMP) approved by this permission.
 - (b) Authority to stop operations or to alter construction methods should there be any works occurring which are having an adverse impact on the natural heritage.
 - (c) Prior to the commencement of development, they shall provide an environmental / ecological toolbox talk for construction staff.
 - (d) They will have authority to amend working practices in the interests of natural heritage. Any amendments shall be submitted to the Council as Planning Authority as an addendum to the approved CEMP.
 - (e) They shall make weekly visits to the development site at a time of their choosing. No notification of this visit is required to be given to the developer or contractor.
 - (f) Within 10 working days of the end of each calendar month, they are required to submit a detailed monthly report for the review of the Planning Authority in consultation with Scottish Environment Protection Agency (SEPA) for the duration of development.
 - (g) They shall notify the Council as Planning Authority in writing of any requirement to halt development in relation to this condition as soon as reasonably practicable.

The above shall be implemented throughout the construction, (including re-instatement and de-commissioning of the construction compounds) hereby approved unless otherwise agreed in writing with the Council as Planning Authority. The CEMP shall contain a site-specific Construction Method Statement (CMS) which will provide concise details for the implementation of the CEMP for site operatives.

Reason: To avoid habitat damage and safeguard natural heritage interests.

13. 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.

14. A minimum of two months prior to the commencement of development, a Detailed Peat Management Plan shall be submitted for the written approval of

the Council as Planning Authority, in consultation with SEPA and the Council's Biodiversity/Tree Officer, and all work shall be carried out in accordance with the agreed plan.

Reason: In the interests of protection of existing peatland.

15. The conclusions and recommended action points within the supporting biodiversity survey submitted and hereby approved shall be fully adhered to, respected, and undertaken as part of the construction phase of development. Particular attention is drawn to in the submitted Preliminary Ecological Appraisal Report and Reptile Survey 2021.

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

16. Prior to the commencement of the development hereby approved, final details of the proposed boundary fencing for the site shall be submitted for the written agreement of the Council as Planning Authority. For the avoidance of doubt the fencing will be required to be deer proofed. The scheme as subsequently agreed shall be implemented prior to the completion or bringing into use of the development, whichever is the earlier.

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

17. Prior to the commencement of development, the developer shall provide full written details of a scheme for mitigating any potential effects on reptiles on the site during the construction and operation of the energy storage project. This shall include:

- The deployment and searching of artificial reptile refugia to allow the capture and relocation to a suitable and safe area of reptiles within the site. Such measures to be undertaken during the reptile active period of May to October (inclusive).
- After an agreed period with no reptile captures, the site shall be cleared outward to an agreed methodology from the site centre to allow any remaining/undetected reptiles to disperse into adjacent habitats.
- The site shall then be maintained with no vegetation cover until construction works commence.
- Habitat clearance works shall be undertaken during the reptile's active phase i.e., April – October (inclusive).
- Details of proposals for the creation of reptile hibernacula within the site.

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

Drainage

18. Development shall not commence on site until a detailed sustainable urban drainage system (SUDS) has been submitted for the further written agreement of the Council as Planning Authority, in consultation with SEPA where necessary. The scheme shall be developed in accordance with the technical guidance contained in The SUDS Manual (C753) and the Council's Flood Risk and Flood Risk Assessments Developer Guidance and shall incorporate source

control. All works shall be carried out in accordance with the agreed scheme and be operational prior to the bringing into use of the development.

Reason: To ensure the provision of appropriate and effective drainage for the site.

Finishes

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

Reason: In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.

Project Lifespan and Site Aftercare

20. In the event the hereby approved development fails to store electricity on a commercial basis for a continuous period of 12 months, then it shall be deemed to have permanently ceased to be required. In such an event, the development shall be decommissioned, and the relevant parts of the site brought into an agreed condition within such timescale as agreed in writing by the Council as Planning Authority.

Reason: To ensure the facility is removed from the site at the end of its operational life, to ensure no adverse impact on the visual amenity of the area and a satisfactory standard of local environmental quality.

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. 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. Please send the required information to us at developmentmanagement@pkc.gov.uk. Please be aware that the Council has four months to consider the information. You should therefore submit the required information more than four months before your permission expires. We cannot guarantee that submissions made within two months (or four months) of the expiry date of your permission will be able to be dealt with before your permission lapses.
6. An application for Building Warrant may be required.
7. 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.
8. The applicant is reminded that, should any protected species be present a licence may be required from NatureScot to disturb a protected species. Failure to obtain a licence may constitute a criminal act under the Habitats Regulations and penalties are severe for non-compliance.
9. Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates. 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.

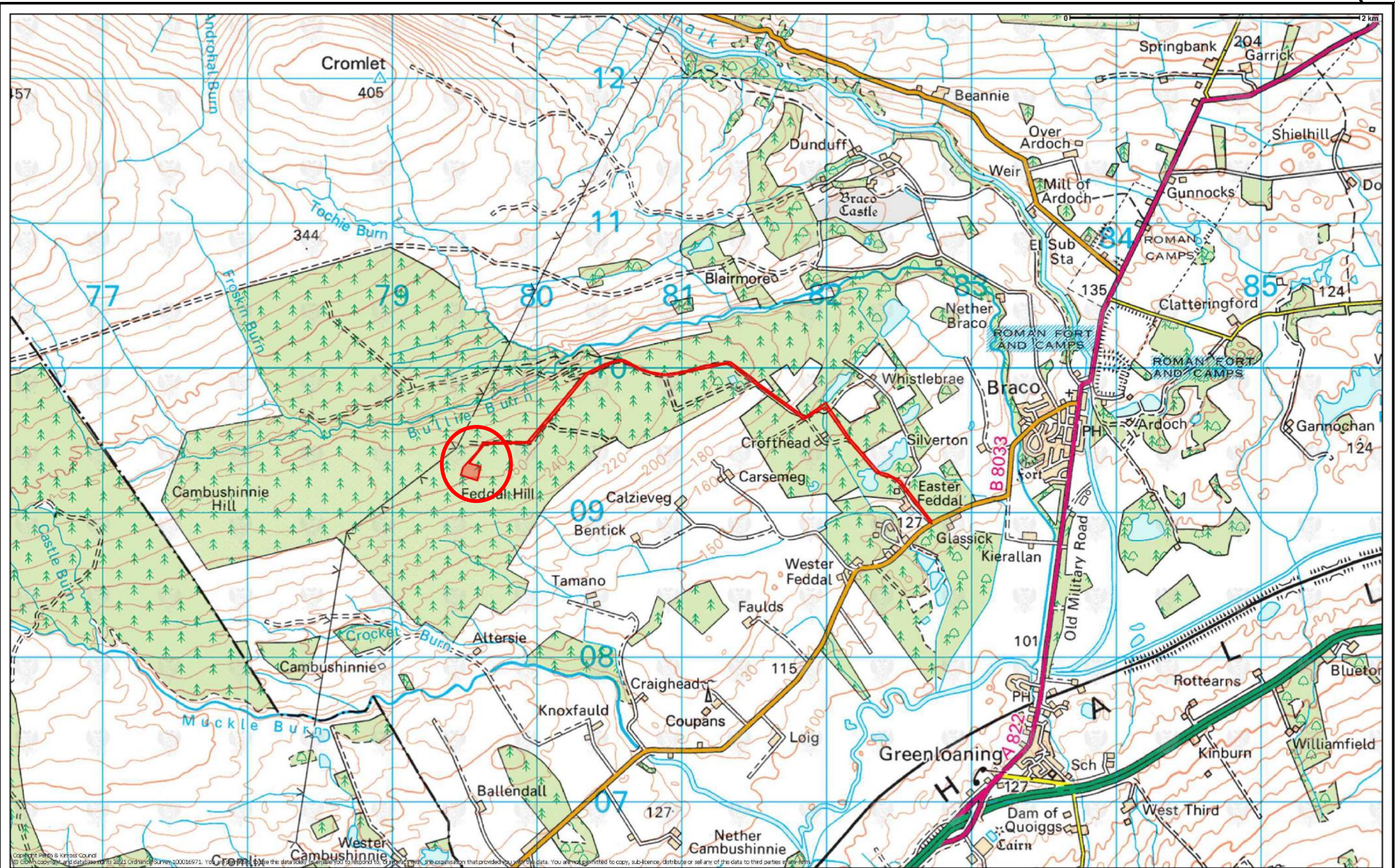
Background Papers: 1 letter of representation
Contact Officer: Steve Callan
Date: 2 December 2021

**DAVID LITTLEJOHN
HEAD OF PLANNING & DEVELOPMENT**

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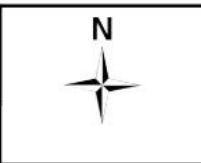
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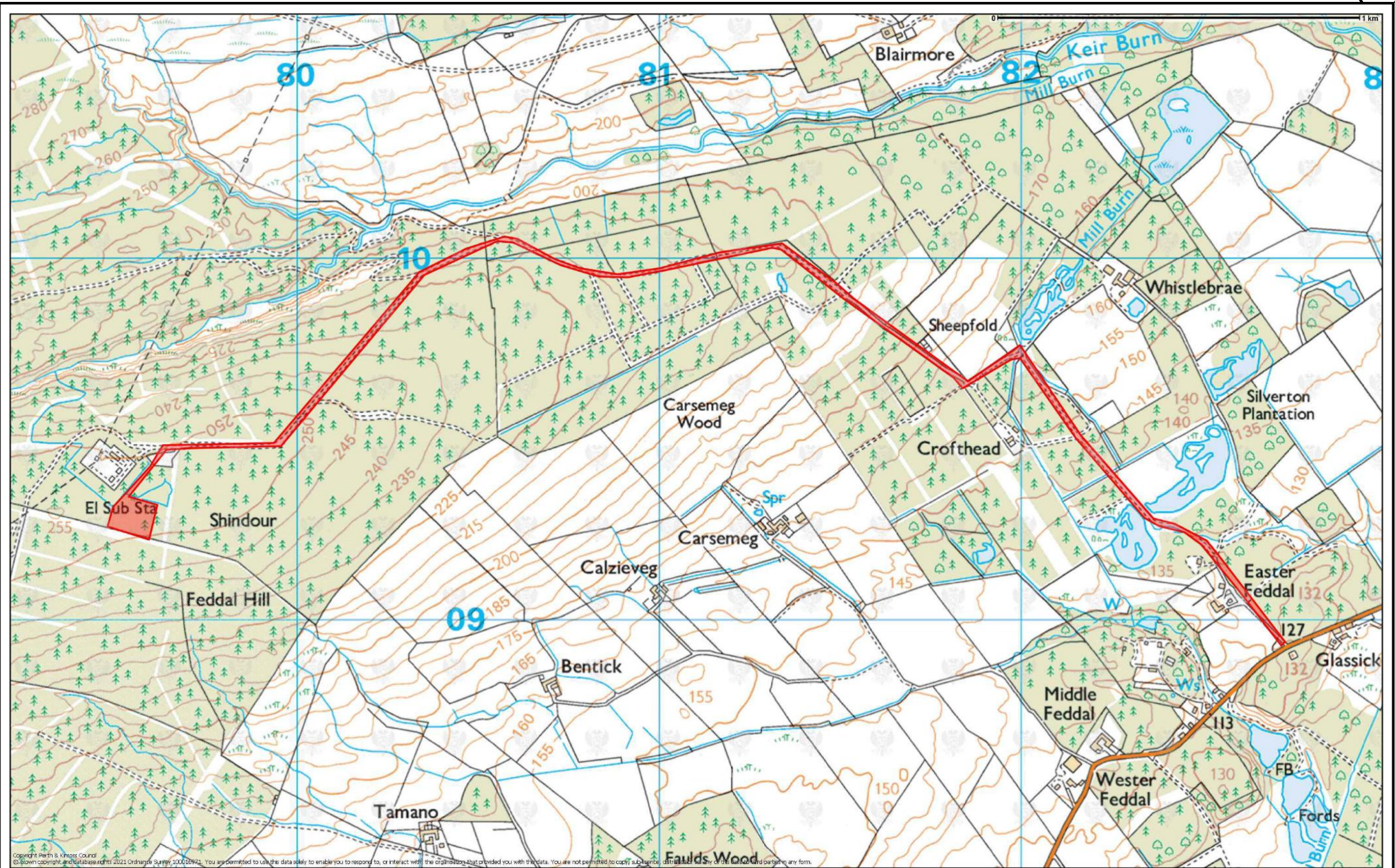
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Scale 1:25000



21/00756/FLM
 Formation of a 49.9MW energy storage facility comprising 50 battery storage container units, control building, ancillary equipment, parking, access track, boundary treatments, landscaping and associated works Shindour Feddal Hill Wood

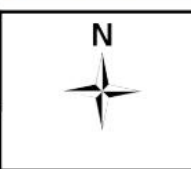




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Scale 1:10000



21/00756/FLM
 Formation of a 49.9MW energy storage facility comprising 50 battery storage container units, control building, ancillary equipment, parking, access track, boundary treatments, landscaping and associated works Shindour Feddal Hill Wood



Perth and Kinross Council
Planning & Development Management Committee – 14 December 2021
Report of Handling by Head of Planning & Development (Report No. 21/240)

PROPOSAL: S42 application to delete Condition 7 (Public Transport Infrastructure) of permission 19/02033/IPM

LOCATION: Land 150 metres South of Target House, Ruthvenfield Road, Inveralmond Industrial Estate, Perth

Ref. No: [21/01518/IPM](#)
Ward No: P11 - Perth City North

Summary

This report recommends refusal of the application, as the removal of the condition would fail to comply with the relevant provisions of the Development Plan and there are no material considerations apparent which would warrant departing from the Development Plan.

BACKGROUND AND DESCRIPTION OF PROPOSAL

- 1 The site comprises approximately 15 hectares (ha) of agricultural land, bordered primarily by Inveralmond Industrial Estate to the north (across Ruthvenfield Road) and to the east. The B993 Bertha Park link road defines the western boundary, this mainly serves the ongoing Bertha Park development further to the north. That road also forms part of the first phase of the Cross Tay Link Road (CTLR) project – the A9/85 junction. The A9 trunk road lies to the south. To the north-west, across Ruthvenfield Road is the Double Dykes Gypsy/Traveller site and beyond the proposed Almond Valley Village development area.
- 2 The application site forms the majority of the Local Development Plan 2 (LDP2) allocation known as 'E38' (23.6ha), which is identified for employment uses. The application itself is related to a Planning Permission in Principle (PPP) approved in January 2021 (Ref: 19/02033/IPM) to provide a mix of Class 4 (business), Class 5 (general industrial) and Class 6 (storage or distribution) uses and related access, landscaping, drainage and other infrastructure. One of the related planning conditions (Condition 7) requires the provision of public transport infrastructure within the site, in the form of additional bus stops. The wording of Condition 7 is:

“Prior to the development hereby approved being completed or brought into use, new public transport infrastructure, suitable to serve buses in both directions on Ruthvenfield Road as well as two-way bus movements internally within the site, are to be provided and available for use to a design and specification to the satisfaction of Perth & Kinross Council as Planning Authority.

Reason - In the interests of public transport provision.”

- 3 The applicant is now seeking permission to remove Condition 7, thereby removing any obligation on the developer to provide public transport infrastructure within the site.
- 4 A separate S42 application (Ref: [21/01519/IPM](#)) has also been submitted by the applicant that seeks the removal of Condition 2, this relating to developer contributions and reported elsewhere on this Agenda.

ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

- 5 The development approved under 19/02033/IPM is of a type listed within Schedule 2 of the EIA Regulations and has previously been subject of EIA screening (18/01958/SCRN). Through this screening opinion the Planning Authority adopted an opinion that the proposal is EIA development, and an EIA Report was duly submitted as part of the approved 2019 PPP (19/02033/IPM). As this current S42 application relates to a specific matter that has no significant bearing on the outcome of matters assessed within the EIA Report, it is considered that an addendum to the EIA Report is not required in this instance.

Pre-Application Consultation

- 6 Although the application relates to a Major development, as defined in the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009, Pre-Application Consultation (PAC) is not required for S42 applications.

National Policy and Guidance

- 7 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 2014

- 8 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.

Scottish Planning Policy 2014

- 9 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.
- 10 The following sections of the SPP will be of particular importance in the assessment of this proposal:
- Sustainability: 24 – 35
 - Placemaking: 36 – 57
 - Promoting Sustainable Transport and Active Travel: 269 – 291.

Planning Advice Notes

- 11 The following Scottish Government Planning Advice Notes (PANs) and Guidance Documents are of relevance to the proposal:
- PAN 1/2011 Planning and Noise
 - PAN 40 Development Management
 - PAN 51 Planning, Environmental Protection and Regulation
 - PAN 75 Planning for Transport
 - PAN 77 Designing Safer Places
 - PAN 83 Masterplanning.

Designing Streets 2010

- 12 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.

Creating Places 2013

- 13 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

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

Development Plan

- 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:

“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.”

- 17 The following sections of the TAYplan 2016 are of particular importance in the assessment of this application;
- Policy 2: Shaping Better Quality Places
 - Policy 3: A First Choice for Investment

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 2019 PPP (19/02033/IPM) assessed the development against a broader range of policies. As there has been no material change in the planning issues or considerations covered by the remainder of the conditions there is no requirement in relation to this application to revisit each of the policies previously considered. As this proposed modification relates specifically to the provision of public transport infrastructure, the principal relevant policies in this instance are, in summary;
- Policy 7: Employment and Mixed Use Areas
 - Policy 60: Transport Standards and Accessibility Requirements

LDP2 Allocation

- 20 **E38 Ruthvenfield Road 23.6ha Employment uses (core)**

Site-Specific Developer Requirements

- A Masterplan setting out the phasing and the comprehensive development of the whole of this site is required at the time of any planning application.
- Facilities to enable expansion area to be connected to Perth’s bus network.

Other Policies

- 21 Tay Cities Region Economic Strategy 2019-2039.

- 22 Perth & Kinross Council’s Developer Contributions and Affordable Housing Supplementary Guidance 2016.

Relevant Site History

- 23 [17/00551/SCRN](#) EIA Screening for development of site for business, industrial and storage use and associated works. Decision Issued May 2017 – EIA Required.
- 24 17/00004/PAN Proposal of Application Notice (PoAN) Commercial development (classes 1, 3, 4, 5, 6 and car showroom sui generis), landscaping, vehicular access and associated works. Approved May 2017.
- 25 [18/00006/PAN](#) Proposal of Application Notice (PoAN) Erection of industrial units (classes 4, 5 and 6), formation of SUDS, landscaping and associated works. Approved July 2018.
- 26 [18/01958/SCRN](#) EIA Screening for employment development (Class 4, 6 and 6) and associated works. Decision issued November 2018 – EIA Required.
- 27 [19/02033/IPM](#) Employment use development (class 4, 5 and 6) and associated works (allocated site E38) (in principle). Approved January 2021.
- 28 [21/01519/IPM](#) S42 application to delete Condition 2 (Developer Contributions) of permission 19/02033/IPM. Recommendation to refuse reported elsewhere on this Agenda.

CONSULTATIONS

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

Internal

Transport Planning

- 30 Object to the removal of Condition 7. Maintain view that additional bus stop infrastructure should be required by condition.

Representations

- 31 No representations have been received.

ADDITIONAL STATEMENTS

| | | |
|----|---|---|
| 32 | Screening Opinion | No addendum to EIA required. |
| | Environmental Impact Assessment (EIA): Environmental Report | Previously submitted with 2019 PPP application. Relevant documents transferred to current file, |
| | Appropriate Assessment | HRA Not Required AA Not Required |
| | Design Statement or Design and Access Statement | Supporting Statement provided |
| | Report on Impact or Potential Impact | None required |

APPRAISAL

- 33 Section 42(1) of the Town and Country Planning (Scotland) Act 1997 relates to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.
- 34 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 should 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.
- 35 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 LDP2. The relevant policy considerations are outlined above and are considered 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

- 36 The site is within the settlement boundary of Perth and is identified in TAYplan under Policy 3 as part of the West/North West Strategic Development Area (SDA), which is to provide over 50ha of employment land. It is also allocated in LDP2 as within site E38 for employment uses. This allocation in LDP2 is intended to support the growth and expansion of the existing Inveralmond Industrial Estate.
- 37 The principle of the development has also been established under the PPP granted in January 2021 (Ref: 19/02033/IPM) which approved a mix of Class 4 (business), Class 5 (general industrial) and Class 6 (storage or distribution) uses and related access, landscaping, drainage and other infrastructure. This permission was granted subject to a number of conditions, including Condition 7 that requires the provision of new public transport infrastructure, suitable to serve buses in both directions on Ruthvenfield Road as well as two-way bus movements internally within the site. This condition was considered required to ensure that any future detailed proposals met the site-specific developer requirements of the sites allocation as LDP2 site E38 and to comply with Policy 60B. The requirement for the provision of public transport infrastructure is also supported by Policy 2 of TAYPlan 2016 and SPP 2014.

- 38 This application seeks the removal of Condition 7, thereby removing any requirement for public transport infrastructure within the site. As discussed in greater detail below, the removal of this condition is not considered to be supported by the provisions of the Development Plan. Particularly it would result in a development that fails to comply with the requirements of E38 and Policy 60B of LDP2, as well as the requirements of Policy 2 of TAYPlan 2016 and SPP 2014.

Condition 7 – Public Transport Provision

- 39 As identified in the site-specific requirements set out in LDP2 and associated to opportunity site 'E38', facilities are to be provided to enable the expansion of the bus network through the site. This was reflected in Condition 7 of the PPP which requires new public transport infrastructure, suitable to serve buses in both directions on Ruthvenfield Road as well as two-way bus movements internally within the site, the details of which would be confirmed within future detailed applications.
- 40 The applicant is now seeking the removal of this condition as they consider that there is no requirement for additional public transport infrastructure within and around the site, due to sufficient existing provision out with the site.
- 41 The supporting statement correctly states that both SPP 2014 and Policy 60B of LDP2 require that sites such as this should be no more than 400m walking distance from public transport services, hence the reason that the Condition was applied. It is the applicant's contention that the condition is unnecessary as the site is within 400m of four existing bus stops on Ruthvenfield Road and two other existing bus stops on Ruthvenfield Avenue. However, the way that the applicant has presented this argument is considered flawed and therefore not accepted. To explain, the 400m distance stated in the SPP and Policy 60B relates to walking distance, however the applicant's calculations have been based a radius of 400m from each existing bus stop rather than via a reasonable walking route and is thus misleading. Analysis of the indicative masterplan layout sees calculations of walking routes indicate that three of the units will be over 500m from the nearest bus stop and a further two will be over 400m away.
- 42 Furthermore, Transport Planning also has concerns regarding the existing standard of bus stop infrastructure in the immediate vicinity of the site and are of the view that they are not suitable to accommodate increased demand, resulting from the development of this site. Contrary to comments within the supporting statement, during the assessment of the 2019 PPP the Transport Planning Team commented that there is the potential for a requirement for the provision of bus stop infrastructure within the site, to support future new bus services. This was detailed within the consultation response from Transport Planning and within the report to this Committee.
- 43 It is therefore considered that there is a clear and justified need for additional public transport infrastructure and that the requirement for Condition 7 remains necessary in order to ensure that any detailed proposals can comply with the requirements of both Policy 60B of LDP2, and the site-specific developer

requirements set out for this site within LDP2. Furthermore, the Condition also ensures that the development can meet with the requirements of Policy 2 of TAYPlan 2016 and SPP 2014, both of which seek to ensure that large scale developments such as this are served by adequate sustainable transport links to improve accessibility and reduce reliance on car travel.

Circular 4/1998 – The use of conditions in planning permissions

- 44 Planning Circular 4/1998 provides guidance on the use of conditions in planning permissions and sets out the six ‘tests’ that should be applied to ensure that conditions are exercised in a manner which is fair, reasonable and practicable. These ‘tests’ seek to ensure that conditions are:
- Necessary
 - Relevant to planning
 - Relevant to the development to be permitted
 - Enforceable
 - Precise
 - Reasonable in all other respects
- 45 The supporting statement suggests that Condition 7 fails the requirements of Circular as: it is not necessary as there are bus stops with 400m of the site; that it is not required to make the development acceptable; its wording is lacking the necessary precision; and the condition is unduly onerous and unreasonable.
- 46 In response to these suggestions, it is the Council’s view that the wording of Condition 7 meets all of the six tests of the Circular. As outlined in greater detail above, based on the indicative masterplan, there is a high likelihood that much of the development within the site will be over 400m walking distance from any existing bus stops. As such, there is a clear need for additional public transport provision within the site in order to meet the site-specific developer requirements of E38 and to comply with Policy 60B of LDP2. SPP 2014 also aligns with the need for additional public transport provision to service this proposed development. Therefore, the condition is necessary to ensure that there is adequate provision for public transport within the site and is relevant with respect to planning as it relates to the provision of public transport infrastructure specifically required to serve the proposed development. Furthermore, the condition is relevant to the development to be permitted, as without the condition imposed the development would not comply with the requirements of SPP 2014, the specific developer requirements of E38 and Policy 60B of LDP2. Without that condition the application may have been refused.
- 47 In respect to the final three tests, the requirements of the condition are quite basic and simply seek to ensure provision of appropriate public transport provision within the site. This is reflected in the wording of the condition, which is both clear and concise, setting out the precise requirements that will need to be met at the detailed planning stage and thereafter during the construction of the development. As such, the requirement of the condition is not unduly onerous and compliance with the condition is considered to be both reasonable and could be enforced should the requirements not be delivered.

48 As such, the condition is considered to meet with all six tests of the Planning Circular 4/1998.

Design and Layout

49 As this relates to a PPP, no detailed plans in relation to the design or layout have been approved at this stage. Nevertheless, the proposed modification to remove Condition 7 is not anticipated to have any impact on the general layout as represented within the masterplan.

Landscape and Visual Impact

50 Landscape and visual amenity was considered as part of the assessment of the 2019 PPP. The proposed modification to remove Condition 7 will have no impact on the landscape or visual amenity as no physical changes are being proposed.

Residential Amenity

51 Residential amenity was considered as part of the assessment of the 2019 PPP. The modification to delete Condition 7 will have no impact on the residential amenity of the area as no physical changes are being proposed.

Natural Heritage and Biodiversity

52 All matters regarding Natural Heritage and Biodiversity were fully considered as part of the EIA Report submitted with the previous PPP. The proposed deletion of Condition 7 will not result in change in the conclusions and recommendations set out in the previously approved Habitat Survey.

Cultural Heritage

53 A Cultural Heritage Assessment, including for Archaeology, was submitted as part of the previous EIA Report. The proposed deletion of Condition 7 will have no impact on the conclusions and recommendations of that assessment.

Flood Risk and Drainage

54 A Flood Risk Assessment (FRA) and Drainage Impact Assessment (DIA) was submitted as part of the previously approved EIA Report. The proposed deletion of Condition 7 will have no impact on the conclusions and recommendations of the FRA or DIA.

Developer Contributions

55 The modification to delete Condition 7 will have no impact on the developer contributions requirements, specifically in relation to transport infrastructure, that are secured under Condition 2 of the 2019 PPP. However, as noted earlier in this report, the applicant has submitted a separate application seeking the removal of Condition 2 relating to the application of Policy 5 'Infrastructure Contributions' and its associated supplementary guidance.

Economic Impact

- 56 The accessibility and incorporation of public transport infrastructure within large employment sites is essential to ensuring that good public transport links are provided, to promote less reliance on cars and more sustainable modes of accessing the site. Improved public transport provision will also improve the economic viability of the site by providing viable alternative methods of access.
- 57 The deletion of Condition 7 would remove any requirement to provide sustainable transport provision within the site, which would be detrimental to the economic viability of the site. The applicant predicts that the site will provide 443 jobs, many of which will rely on the provision of good public transport links and the failure to incorporate improved facilities will have a negative impact on the ability of workers to access the site.

PLANNING OBLIGATIONS AND LEGAL AGREEMENTS

- 58 None required at the PPP application stage.

DIRECTION BY SCOTTISH MINISTERS

- 59 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

- 60 To conclude, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, the proposed modification will result the in removal of any requirement to provide improved sustainable transport infrastructure for the site which is considered contrary to Policy 2 ‘Shaping Better Quality Places’ of the approved TAYplan 2016, as well as Policy 60B ‘Transport Standards and Accessibility Requirements’ and the site-specific developer requirements stated within the adopted Perth and Kinross Local Development Plan 2 (2019). Furthermore, the modification would also be considered contrary to Scottish Planning Policy (2014), as it would result in a development that fails to achieve an acceptable standard of access to local facilities via public transport networks.
- 61 Account has been taken of the relevant material considerations and none has been found that would justify overriding the adopted Development Plan.
- 62 Accordingly, the proposal is recommended for refusal.

A RECOMMENDATION

Refuse the application for the following reasons:

1. The proposal is contrary to Policy 60B 'Transport Standards and Accessibility Requirements' of Perth and Kinross Local Development Plan 2 (2019), as the proposed modification would result in a development that fails to provide any facilities to enable the development to be connected to Perth's bus network which will limit accessibility to sustainable public transport and thereby increase reliance on car travel.
2. The proposal is contrary to the site-specific requirements set out in Perth and Kinross Local Development Plan 2 (2019) under opportunity site 'E38', as the proposed modification would remove any requirement to provide sustainable transport provision within the site.
3. The proposal is contrary to Policy 2 'Shaping Better Quality Places' of TAYPlan (2016) as the proposed modification would remove any requirement to provide improved sustainable transport provision which would increase the need to travel by car and reduce accessibility to the site by means of public transport.
4. The proposal is contrary to 'A Connected Place – Promoting Sustainable Transport and Active Travel' of Scottish Planning Policy (2014), as the proposed modification would result in a development that would increase reliance on the car and fail to achieve an acceptable standard of access to local facilities via public transport networks.

B JUSTIFICATION

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

C PROCEDURAL NOTES

None required.

D INFORMATIVES

None required.

Background Papers: 19/02033/IPM Report of Handling

Contact Officer: David Niven

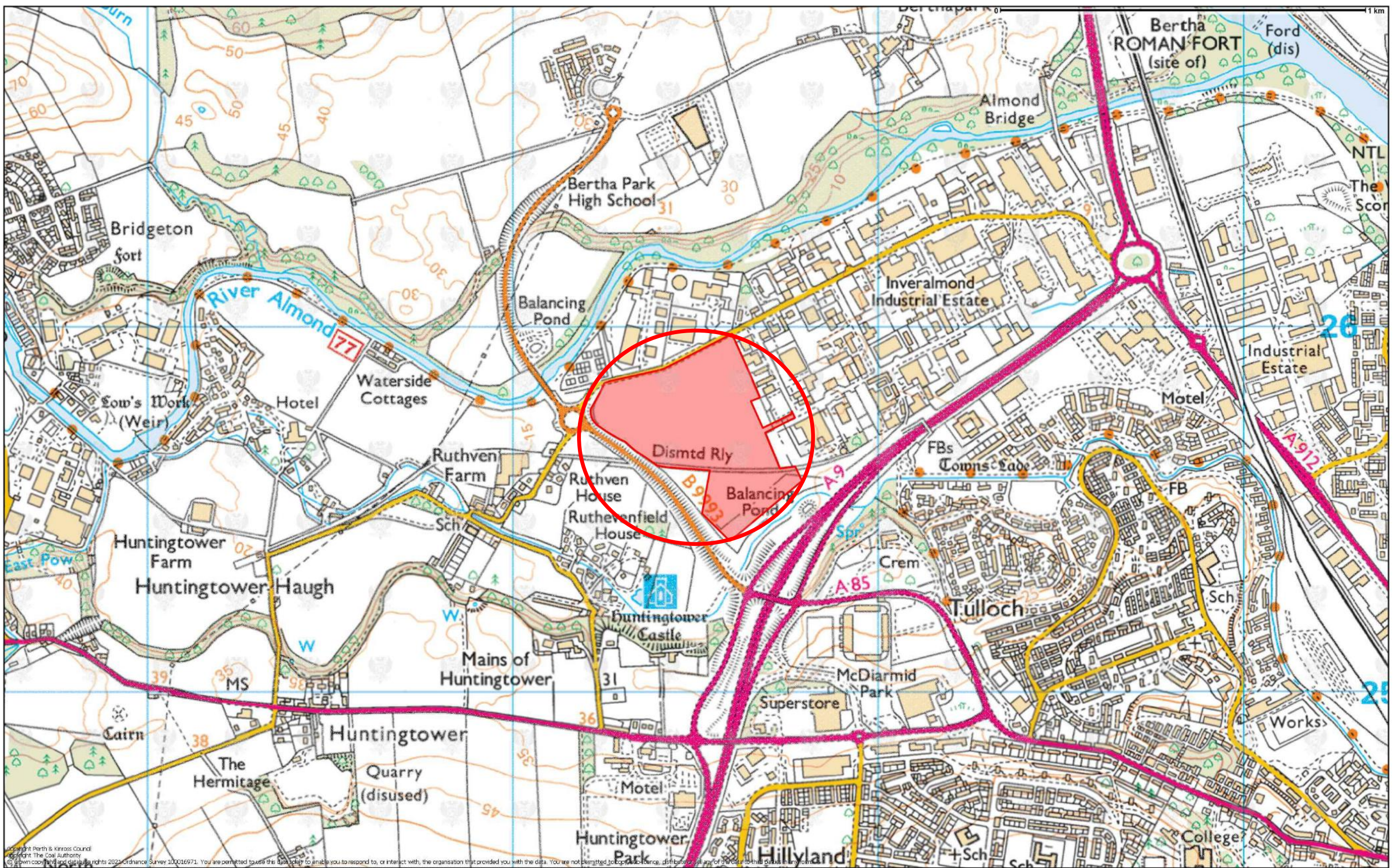
Date: 2 December 2021

DAVID LITTLEJOHN
HEAD OF PLANNING & DEVELOPMENT

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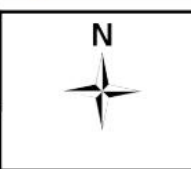
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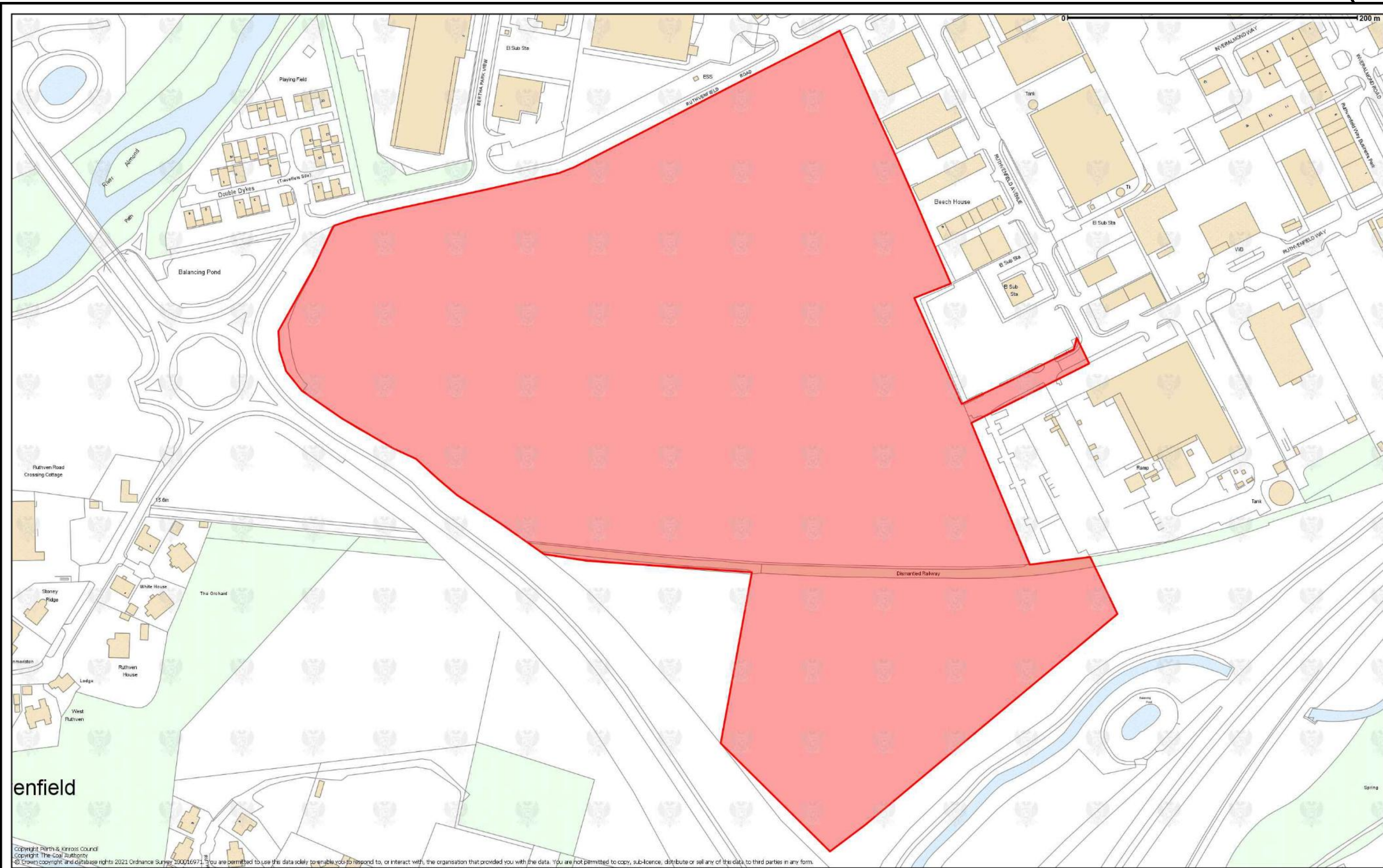
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Scale 1:10000



21/01518/IPM
 S42 application to delete Condition 7 (Public Transport Infrastructure) of permission 19/02033/IPM Land 150 Metres South Of Target House Ruthvenfield Road Inveralmond Ind Est Perth





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Perth and Kinross Council
Planning & Development Management Committee – 14 December 2021
Report of Handling by Head of Planning & Development (Report No. 21/241)

PROPOSAL: S42 application to delete Condition 2 (Developer Contributions) of permission 19/02033/IPM

LOCATION: Land 150 metres South of Target House, Ruthvenfield Road, Inveralmond Industrial Estate, Perth

Ref. No: [21/01519/IPM](#)
 Ward No: P11 - Perth City North

Summary

This report recommends refusal of the application, as the removal of the condition would fail to comply with the relevant provisions of the Development Plan and there are no material considerations apparent which would warrant departing from the Development Plan.

BACKGROUND AND DESCRIPTION OF PROPOSAL

- 1 The site comprises approximately 15 hectares (ha) of agricultural land, bordered primarily by Inveralmond Industrial Estate to the north (across Ruthvenfield Road) and to the east. The B993 Bertha Park link road defines the western boundary, this mainly serves the ongoing Bertha Park development further to the north. That road also forms part of the first phase of the Cross Tay Link Road (CTLR) project – the A9/85 junction. The A9 trunk road lies to the south. To the north-west, across Ruthvenfield Road is the Double Dykes Gypsy/Traveller site and beyond the proposed Almond Valley Village development area.
- 2 The application site forms the majority of the Local Development Plan 2 (LDP2) allocation known as 'E38' (23.6ha), which is identified for employment uses. Planning Permission in Principle (PPP) was also approved in January 2021 (Ref: 19/02033/IPM) to provide a mix of Class 4 (business), Class 5 (general industrial) and Class 6 (storage or distribution) uses and related access, landscaping, drainage and other infrastructure. One of the related planning conditions (Condition 2) requires that the Council's adopted Developer Contributions Guidance is applied to any future Approval of Matters Specified in Conditions (AMSC) application(s). The wording of Condition 2 is:

“Subject to the exemption referred to immediately hereafter, the development shall accord with the requirements of Perth & Kinross Council's Developer Contributions and Affordable Housing Supplementary Guidance 2016 in line with Policy 5: Infrastructure Contributions of the Perth & Kinross Local Development Plan 2 (2019) with regards to Transport Infrastructure. Notwithstanding these requirements, the Planning Authority will allow the first 10,000 sqm of Class 4, 5, or 6 of Gross Internal Area (as defined in the

Developer Contributions and Affordable Housing Supplementary Guidance 2016), approved as part of a future Approval of Matters Specified in Conditions application(s), to be exempt from these Developer Contributions.

Reason - To ensure that the development approved makes a contribution towards improvements of regional transport infrastructure, in accordance with the Development Plan policy and Supplementary Guidance relating to this application, but with appropriate mitigation to reflect economic conditions.”

- 3 It should be highlighted that this condition provides a substantial relaxation which exempts the first 10,000 sqm of the development, which equates to approximate one third of the entire development which may be accommodated by the site, from any requirement to pay transport infrastructure contributions. This relaxation was issued on the basis of the challenging economic circumstances and in order to allow the development of the site to progress in its early stages with certainty that contributions would not be required.
- 4 The applicant is now seeking permission to remove Condition 2, thereby removing any obligation to pay transport infrastructure contributions for the entirety of the development which may ensue via the PPP. For the avoidance of doubt, the applicant is only promoting the deletion of the condition and is not suggesting any other wording for an alternative condition nor to replace it with a legal agreement.
- 5 A separate S42 application (Ref: [21/01518/IPM](#)) has also been submitted by the applicant that seeks the removal of Condition 7, this relating to the provision of sustainable public transport provision within the site and reported elsewhere on this Agenda.

ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

- 6 The development approved by 19/02033/IPM is of a type listed within Schedule 2 of the EIA Regulations and has previously been subject of EIA screening (18/01958/SCRN). Through this screening opinion the Planning Authority adopted an opinion that the proposal is EIA development, and an EIA Report was duly submitted as part of the approved 2019 PPP. As this current S42 application relates to a specific matter that has no significant bearing on the matters assessed within the EIA Report, it is considered that an addendum to the EIA Report is not required in this instance.

Pre-Application Consultation

- 7 Although the application relates to a Major development, as defined in the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009, Pre-Application Consultation (PAC) is not required for S42 applications.

National Policy and Guidance

- 8 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 2014

- 9 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.

Scottish Planning Policy 2014

- 10 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.

- 11 The following sections of the SPP will be of particular importance in the assessment of this proposal:

- Sustainability: 24 – 35
- Placemaking: 36 – 57
- Promoting Sustainable Transport and Active Travel: 269 – 291.

Planning Advice Notes

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

- PAN 1/2011 Planning and Noise
- PAN 40 Development Management
- PAN 51 Planning, Environmental Protection and Regulation
- PAN 75 Planning for Transport
- PAN 77 Designing Safer Places
- PAN 83 Masterplanning.

Designing Streets 2010

- 13 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.

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.

National Roads Development Guide 2014

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

Development Plan

- 16 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

- 17 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:

“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 2: Shaping Better Quality Places
 - Policy 3: A First Choice for Investment
 - Policy 6: Developer Contributions

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 2019 PPP (19/02033/IPM) assessed the development against a broader range of policies. As there has been no material change in the planning issues or considerations covered by the remainder of the conditions there is no requirement in relation to this application to revisit each of the policies previously considered. As this proposed modification relates specifically to

developer contributions, the principal relevant policies in this instance are, in summary;

- Policy 5: Infrastructure Contributions
- Policy 7: Employment and Mixed Use Areas

LDP2 Allocation

21 E38 Ruthvenfield Road 23.6ha Employment uses (core)

Site-Specific Developer Requirements

- Perth Area contribution to road infrastructure (A9/A85 junction improvements required at commencement of development) (phasing details to be agreed).

Other Policies

- 22 Tay Cities Region Economic Strategy 2019-2039.
- 23 Perth & Kinross Council's Developer Contributions and Affordable Housing Supplementary Guidance 2016.

Relevant Site History

- 24 [17/00551/SCRN](#) EIA Screening for development of site for business, industrial and storage use and associated works. Decision Issued May 2017 – EIA Required.
- 25 [17/00004/PAN](#) Proposal of Application Notice (PoAN) Commercial development (classes 1, 3, 4, 5, 6 and car showroom sui generis), landscaping, vehicular access and associated works. Approved May 2017.
- 26 [18/00006/PAN](#) Proposal of Application Notice (PoAN) Erection of industrial units (classes 4, 5 and 6), formation of SUDS, landscaping and associated works. Approved July 2018.
- 27 [18/01958/SCRN](#) EIA Screening for employment development (Class 4, 6 and 6) and associated works. Decision issued November 2018 – EIA Required.
- 28 [19/02033/IPM](#) Employment use development (class 4, 5 and 6) and associated works (allocated site E38) (in principle). Approved January 2021
- 29 [21/01518/IPM](#) S42 application to delete Condition 7 (Public Transport Infrastructure) of permission 19/02033/IPM. Recommendation to refuse reported elsewhere on this Agenda.

CONSULTATIONS

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

External

Transport Scotland

31 No objection.

Scottish Water

32 No objection.

Internal

Strategy & Policy

33 Advise that the proposed modification to delete Condition 2 is contrary to the provisions of the Development Plan.

Developer Contributions Officer

34 The application falls within the identified Transport Infrastructure Supplementary Guidance boundary and a condition to reflect this should be attached to any planning application granted.

Transport Planning

35 Note comments provided by Contributions Officer regarding requirement to secure appropriate financial contribution towards the cost of delivering transport infrastructure improvements.

Environmental Health

36 No objection.

Perth & Kinross Heritage Trust

37 No objection. Removal of condition will have no impact on earlier recommendation given under 19/02033/IPM.

Representations

38 No representations have been received.

ADDITIONAL STATEMENTS

| | | |
|----|---|---|
| 39 | Screening Opinion | No addendum to EIA required. |
| | Environmental Impact Assessment (EIA): Environmental Report | Previously submitted with 2019 PPP application. Relevant documents transferred to current file, |
| | Appropriate Assessment | HRA Not Required AA Not Required |
| | Design Statement or Design and Access Statement | Supporting Statement provided |
| | Report on Impact or Potential Impact | None required |

APPRAISAL

- 40 Section 42(1) of the Town and Country Planning (Scotland) Act 1997 relates to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.
- 41 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 should 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.
- 42 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 LDP2. The relevant policy considerations are outlined above and are considered 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

- 43 The site is within the settlement boundary of Perth and is identified in TAYplan under Policy 3 as part of the West/North West Strategic Development Area (SDA), which is to provide over 50ha of employment land. It is also allocated in LDP2 as within site E38 for employment uses. This allocation in LDP2 is intended to support the growth and expansion of the existing Inveralmond Industrial Estate.
- 44 The principle of the development has also been established under the PPP granted in January 2021 (Ref: 19/02033/IPM) which approved a mix of Class 4 (business), Class 5 (general industrial) and Class 6 (storage or distribution) uses and related access, landscaping, drainage and other infrastructure. This permission was granted subject to a number of conditions, including Condition 2 that ensures that the requirements of Policy 5 of LDP2 and the Council's adopted supplementary Developer Contributions Guidance is applied to any future detailed application(s). The requirement for a developer contribution to achieve appropriate infrastructure improvements resulting from the development is also supported by Policy 6 of TAYPlan 2016.
- 45 This application seeks the removal of Condition 2, thereby removing any requirement to pay developer contributions in respect of transport

infrastructure. As discussed in greater detail below, the removal of this condition is not considered to be supported by the provisions of the Development Plan. Particularly it would result in a development that fails to comply with the requirements of Policy 5 'Infrastructure Contributions' of LDP2 and its associated supplementary developer contributions guidance, as well as the requirements of Policy 6 of TAYPlan 2016.

Condition 2 – Developer Contributions

- 46 The Council's Development Contributions Officer has again confirmed that, in line with the supplementary developer contributions guidance, the proposed development requires contributions for transport infrastructure associated to the local road network. However, as the application is only in principle, it is not possible to determine at this stage the precise level of contributions.
- 47 It is therefore considered that there is clearly a need to retain Condition 2 in order to ensure that any detailed proposals demonstrate compliance with the requirements of Policy 5 'Infrastructure Contributions' of LDP2 and its associated supplementary developer contributions guidance. If the condition is removed and no alternative mechanism introduced i.e. S75, the Planning Authority would have no way to legitimately secure any contribution towards transport infrastructure.
- 48 As such, the removal of Condition 2 would be contrary to the requirements of Policy 5 'of LDP2 and the supplementary developer contributions guidance.

Circular 4/1998 – The use of conditions in planning permissions

- 49 Planning Circular 4/1998 provides guidance on the use of conditions in planning permissions and sets out the six 'tests' that should be applied to ensure that conditions are exercised in a manner which is fair, reasonable and practicable. These 'tests' seek to ensure that conditions are:
- Necessary
 - Relevant to planning
 - Relevant to the development to be permitted
 - Enforceable
 - Precise
 - Reasonable in all other respects
- 50 The supporting statement suggests that Condition 2 fails the requirements of Circular and is ultra vires as its wording lacks the necessary precision for the applicant to be able to ascertain what he must do to comply with it. On that basis the applicant is simply seeking to remove the condition and thereby remove any obligation to pay a financial contribution towards transport infrastructure.
- 51 In response to these suggestions, it is the Council's view, in discussion with Legal Services, that the wording of Condition 2 is sufficiently precise to meet the requirements of the Circular. The existing permission, by its very nature, simply secures the principle of development and does not provide any certainty regarding the precise uses and floor areas of each unit. It is therefore not

possible to calculate or secure any specified financial contribution at this stage as there are no detailed proposals upon which to base the calculation. In such instances it is commonplace and appropriate to apply conditions that ensure compliance with certain policy requirements at later stage, as part of any future AMSC. The wording of Condition 2 simply seeks to ensure that the requirements of Policy 5 'Infrastructure Contributions' of LDP2 and its associated supplementary guidance are applied appropriately upon the submission of any future application(s) for AMSC. This position was clearly set out in the committee report for the 2019 PPP.

- 52 The wording of Condition 2 clearly states that, with the exception of the first 10,000 sqm, the development shall comply with the requirement of the Council's adopted supplementary developer contributions guidance. This provides clear certainty for the applicant that the first 10,000 sqm of the development can be developed without any requirement for a contribution, but thereafter the supplementary developer contribution guidance will be applied. It is also important to highlight the supplementary guidance document clearly and precisely sets out the parameters of how the transport infrastructure contributions are calculated, so there should be no difficulty for the applicant to determine the eventual contribution amount based on the final detailed scheme for the entire site or even individual units.
- 53 In respect of the question of securing the required payment of any future contributions, this would be agreed upon the submission of relevant AMSC application(s). On larger strategic sites such as this it would be anticipated that the contribution would be secure via a s75 legal agreement.
- 54 It is also noted that the applicant highlights that the contributions guidance was updated in 2020 and that the guidance referred to in the condition is now superseded, which leads to uncertainty regarding the level of contribution that will be applied. For clarity, Condition 2 refers specifically to compliance with the 2016 supplementary guidance, and it is this document that will be used to calculate any contributions associated with future AMSC application(s) associated with the 2019 PPP. As such, there should therefore be no confusion or ambiguity as to the contribution rates as these are stated in the guidance document.
- 55 It is the Council's view that the wording of Condition 2 is sufficiently precise to ensure that the applicant understands the obligation being placed on any future detailed scheme and also ensures that the Planning Authority has a legitimate way to secure any contribution towards transport infrastructure.

Design and Layout

- 56 As this relates to a PPP, no detailed plans in relation to the design or layout have been approved at this stage. Nevertheless, the proposed modification to remove Condition 2 is not anticipated to have any impact on the general layout as represented within the masterplan.

Landscape and Visual Impact

- 57 Landscape and visual amenity was considered as part of the assessment of the 2019 PPP. The proposed modification to remove Condition 2 will have no impact on the landscape or visual amenity as no physical changes are being proposed.

Residential Amenity

- 58 Residential amenity was considered as part of the assessment of the 2019 PPP. The modification to delete Condition 2 will have no impact on the residential amenity of the area as no physical changes are being proposed.

Roads and Access

- 59 Roads and access related matters were fully considered within the detailed Transport Assessment that formed part of the EIA Report submitted with the previous 2019 PPP. The removal of Condition 2 will not have any direct impact on the proposed development, but it will result in the potential loss of funding that is required to deliver important improvements to transport infrastructure.

Natural Heritage and Biodiversity

- 60 All matters regarding Natural Heritage and Biodiversity were fully considered as part of the EIA Report submitted with the previous 2019 PPP. The proposed deletion of Condition 2 will not result in change in the conclusions and recommendations set out in the previously approved Habitat Survey.

Cultural Heritage

- 61 A Cultural Heritage Assessment, including for Archaeology, was submitted as part of the previous EIA Report. The proposed deletion of Condition 2 will have no impact on the conclusions and recommendations of that assessment.

Flood Risk and Drainage

- 62 A Flood Risk Assessment (FRA) and Drainage Impact Assessment (DIA) was submitted as part of the previously approved EIA Report. The proposed deletion of Condition 2 will have no impact on the conclusions and recommendations of the FRA or DIA.

Economic Impact

- 63 The deletion of Condition 2 would remove any requirement for the applicant to pay transport infrastructure contributions. This in turn would result in the loss of funding that is required to deliver important improvements to transport infrastructure which are required for the release of all development sites and to support the growth of Perth and Kinross.

PLANNING OBLIGATIONS AND LEGAL AGREEMENTS

- 64 None required at the PPP application stage. Condition 2 highlights that a transport infrastructure contribution will be required after the first 10,000sqm are constructed.

DIRECTION BY SCOTTISH MINISTERS

- 65 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

- 66 To conclude, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, the proposed modification would remove any requirement to pay developer contributions in respect to Transport Infrastructure and as such is considered contrary to Policy 6 ‘Developer Contributions’ of TAYPlan 2016 and Policy 5 ‘Infrastructure Contributions’ of the adopted of Perth and Kinross Local Development Plan 2 (2019) and its associated adopted supplementary Developer Contributions Guidance. Account has been taken of the relevant material considerations and none has been found that would justify overriding the adopted Development Plan.
- 67 Accordingly, the proposal is recommended for refusal.

A RECOMMENDATION

Refuse the application for the following reasons:

1. The proposal is contrary to Policy 5 ‘Infrastructure Contributions’ of Perth and Kinross Local Development Plan 2 (2019) and the associated adopted supplementary Developer Contributions Guidance, as the proposed modification would remove any requirement to pay developer contributions in respect to Transport Infrastructure.
2. The proposal is contrary to Policy 6 ‘Developer Contributions’ of TAYPlan 2016 which seeks to ensure that developer contributions are sought for appropriate infrastructure, services and amenity requirements resulting from the development.

B JUSTIFICATION

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

C PROCEDURAL NOTES

None required.

D INFORMATIVES

None required.

Background Papers: 19/02033/IPM Report of Handling

Contact Officer: David Niven

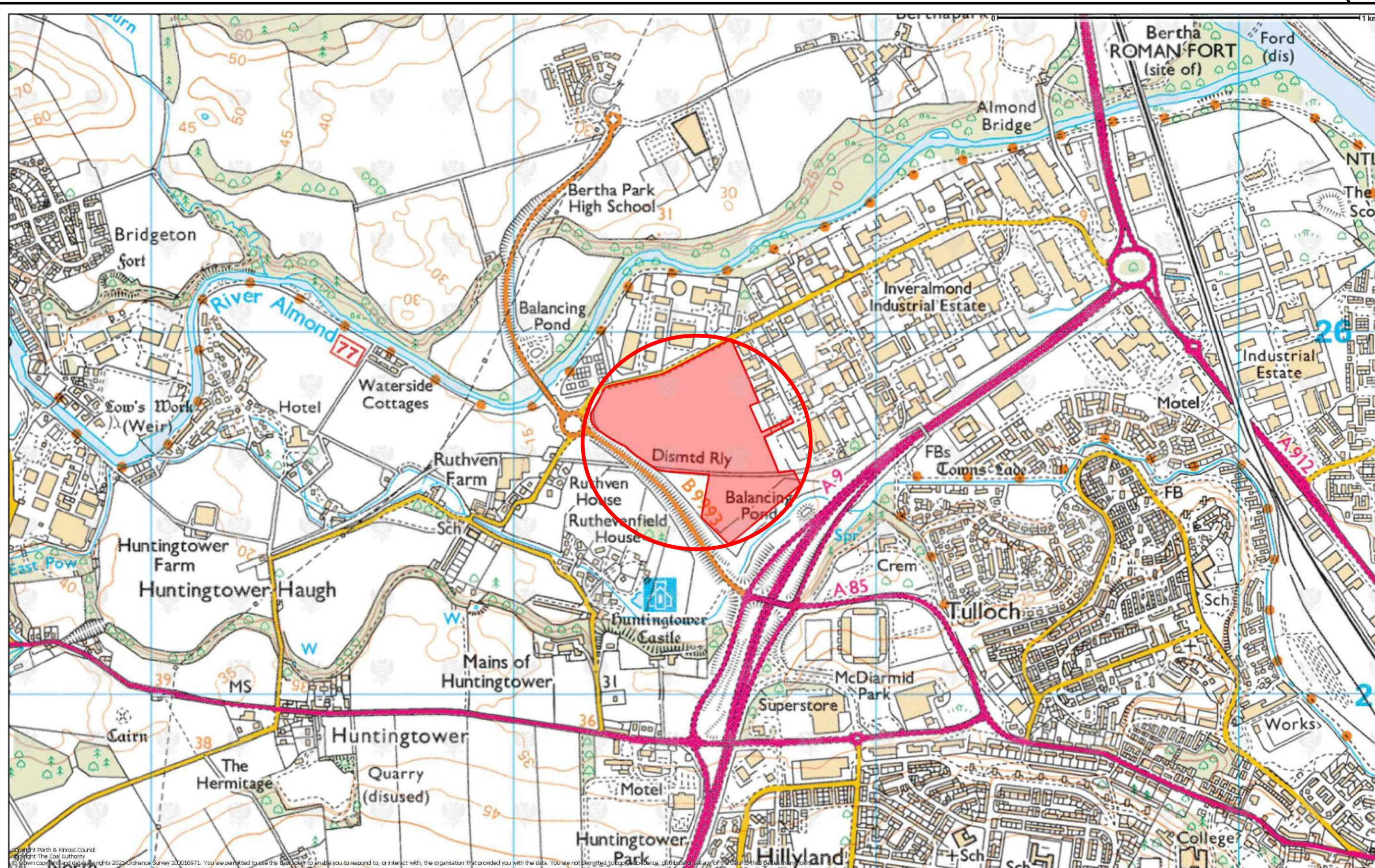
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DAVID LITTLEJOHN HEAD OF PLANNING & DEVELOPMENT

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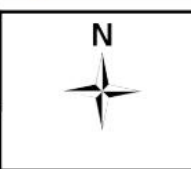
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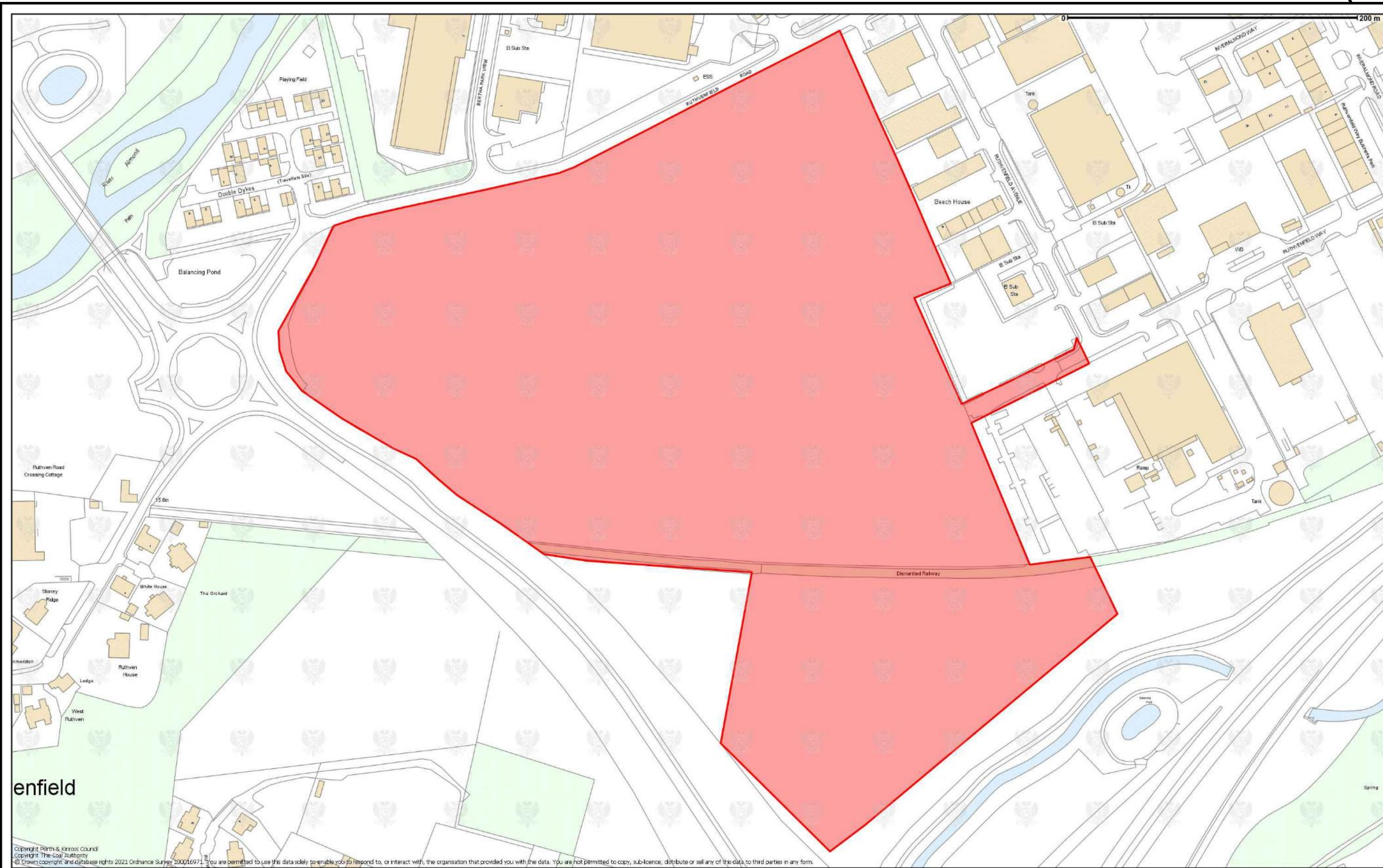
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21/01519/IPM
 S42 application to delete Condition 2 (developer contributions) of permission 19/02033/IPM
 Land 150 Metres South Of Target House Ruthvenfield Road Inveralmond End Est Perth





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Scale 1:2500



21/01519/IPM
 S42 application to delete Condition 2 (developer contributions) of permission 19/02033/IPM
 Land 150 Metres South Of Target House Ruthvenfield Road Inveralmond End Est Perth



Perth and Kinross Council
Planning & Development Management Committee – 14 December 2021
Pre-Application Report by Head of Planning and Development (Report No. 21/242)

Residential development, access, landscaping, SUDs, and associated works at land SW of Kintillo Cemetery, Bridge of Earn (Part of LDP2 site H14)

Ref. No: [21/00014/PAN](#)

Ward No: P9 - Almond and Earn

Summary

This report is to inform the Committee of a potential forthcoming planning application in respect of a major development for residential development, access, landscaping, SUDs, and associated works at land SW of Kintillo Cemetery, Bridge of Earn (Part of LDP2 Site H14). The report also aims to highlight the key planning policies and the likely stakeholders who would be involved in the decision-making process, and to offer a brief overview of the key planning issues which are likely to be relevant to the proposal.

BACKGROUND AND DESCRIPTION

- 1 In accordance with the provisions of the Town & Country Planning (Scotland) Act 1997 (as amended), the applicants submitted a Proposal of Application Notice (PoAN) on 27 October 2021. A PoAN (21/00011/PAN) was recently approved for the same site. However, a revised submission is required due to an additional applicant (landowner) being added. Timescales for public consultations are changing as a result of the new PoAN. Pre-application reports give the Committee an opportunity to raise issues which it would like to see addressed in the planning application.
- 2 This PoAN seeks to formally establish a major residential development at LDP2 site H14. The exact scale, design and layout of the development will be arrived at during pre-application discussions.

ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

- 3 Due to the scale of the proposal, it will require to be screened as to whether the proposal is an EIA development under the EIA 2017 Regulations. A screening request (21/01941/SCRN) was submitted by the applicant in October 2021, and it was confirmed that an EIA would not be required to accompany any planning application.

PRE-APPLICATION PROCESS

- 4 The PoAN confirmed that a public exhibition will be held virtually on 1 December 2021 and a physical event will be held on 20 January 2022 at the

Bridge of Earn Institute. The Ward Councillors, MSP, MP, and Earn Community Council have been notified. The results of the community consultation will be submitted with the planning application as part of the required Pre-Application Consultation (PAC) Report.

NATIONAL POLICY AND GUIDANCE

- 5 The Scottish Government expresses its planning policies through the National Planning Framework (NPF) 3, the National Roads Development Guide 2014, Scottish Planning Policy (SPP) 2014 and Planning Advice Notes (PAN).

National Planning Framework

- 6 The NPF3 is a long-term strategy for Scotland and is a spatial expression of the Government's Economic Strategy and plans for development and investment in infrastructure. Under the Planning etc (Scotland) Act 2006, this is now a statutory document and a material consideration in any planning application. The document provides a national context for development plans and planning decisions as well as informing the on-going programmes of the Scottish Government, public agencies, and local authorities.

The Scottish Planning Policy 2014 (SPP)

- 7 The SPP is a statement of Scottish Government policy on land use planning. 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
- Enabling Delivery of New Homes: paragraphs 109 – 134
- Delivering Heat and Electricity: paragraphs 152 -173
- Valuing the Natural Environment: paragraphs 193 – 218
- Maximising the Benefits of Green Infrastructure: paragraphs 219 – 233
- Managing Flood Risk and Drainage: paragraphs 254 – 268
- Promoting Sustainable Transport and Active Travel: paragraphs 269 – 291.

- 8 The following Scottish Government Planning Advice Notes are likely to be of relevance to the proposal:

- PAN 3/2010 Community Engagement
- PAN 40 Development Management
- PAN 51 Planning, Environmental Protection and Regulation
- PAN 60 Planning for Natural Heritage
- PAN 61 Planning and Sustainable Urban Drainage Systems
- PAN 68 Design Statements
- PAN 75 Planning for Transport
- PAN 79 Water and Drainage.

LOCAL POLICY AND GUIDANCE

TAYPlan Strategic Development Plan 2016-2036

- 9 TAYPlan sets out a vision for how the region will be in 2032 and what must occur to bring about change to achieve this vision. The vision for the area as set out in the plan states that:

“By 2032 the TAYplan region will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice where more people choose to live, work, study and visit, and where businesses choose to invest and create jobs”

- 10 The following sections of the TAYplan 2016 are of particular importance in the assessment of this application:

- Policy 1 – Locational Priorities
- Policy 2 – Shaping Better Quality Places
- Policy 4 – Homes
- Policy 6 – Developer Contributions
- Policy 8 – Green Networks
- Policy 9 – Managing TAYplans Assets.

Perth and Kinross Local Development Plan 2019

- 11 The Local Development Plan 2 (LDP2) was adopted by Perth and Kinross Council on 29 November 2019. It is the most recent statement of Council policy and is augmented by Supplementary Guidance.

- 12 The 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.”

- 13 Under the LDP2, the following policies are of particular importance in the assessment of this application:

- Policy 1: Placemaking
- Policy 2: Design Statements
- Policy 4: Perth City Transport and Active Travel
- Policy 5: Infrastructure Contributions
- Policy 6: Settlement Boundaries
- Policy 14: Open Space Retention and Provision
- Policy 15: Public Access
- Policy 17: Residential Areas
- Policy 20: Affordable Housing
- Policy 23: Delivery of Development Sites
- Policy 24: Maintaining an Effective Housing Land Supply
- Policy 25: Housing Mix
- Policy 32: Embedding Low & Zero Carbon Generating Technologies in New Development

- Policy 34: Sustainable Heating & Cooling
- Policy 38: Environment and Conservation
- Policy 39: Landscape
- Policy 40: Forestry, Woodland and Trees
- Policy 41: Biodiversity
- Policy 42: Green Infrastructure
- Policy 50: Prime Agricultural Land
- Policy 51: Soils
- Policy 52: New Development and Flooding
- Policy 53: Water Environment and Drainage
- Policy 55: Nuisance from Artificial Light and Light Pollution
- Policy 56: Noise Pollution
- Policy 57: Air Quality
- Policy 58: Contaminated and Unstable Land
- Policy 60: Transport Standards and Accessibility Requirements.

OTHER POLICIES

- 14 The following supplementary guidance and documents are of particular importance in the assessment of this application:
- Placemaking Supplementary Guidance March 2020
 - Developer Contributions and Affordable Housing Supplementary Guidance April 2020
 - Flood Risk and Flood Risk Assessments Supplementary Guidance January 2021
 - Open Space Provision for New Developments Supplementary Guidance March 2021.

PLANNING SITE HISTORY

- 15 [21/00011/PAN](#) Proposal of Application Notice for residential development, access, landscaping, SUDs and associated works. Content of PoAN approved June 2021
- 16 [21/01941/SCRN](#) EIA Screening for residential development access, landscaping, SUDs and associated works. EIA Decision issued November 2021. EIA not required.

CONSULTATIONS

- 17 As part of the planning application process the following would be consulted:

External

- Scottish Environmental Protection Agency (SEPA)
- Scottish Water
- Transport Scotland
- Scottish Forestry
- Earn Community Council

Internal

- Environmental Health
- Planning and Housing Strategy
- Developer Negotiations Officer
- Community Greenspace
- Transport Planning
- Structures and Flooding
- Waste Services
- Biodiversity/Tree Officer.

KEY ISSUES AGAINST WHICH A FUTURE APPLICATION WILL BE ASSESSED

- 18 The key considerations against which the eventual application will be assessed include:
- a. Principle & Need
 - b. Visual Impact
 - c. Scale, Design and Layout
 - d. Relationship to Nearby Land Uses including cemetery and place of worship
 - e. Natural Heritage and Ecology
 - f. Landscape including open space
 - g. Water Resources and Soils
 - h. Flooding and Drainage
 - i. Air Quality
 - j. Noise
 - k. Transport Implications including access.

ADDITIONAL STATEMENTS WHICH WILL BE REQUIRED

- 19 The following supporting documents will need to be submitted with any planning application:
- Planning Statement
 - Design and Access Statement
 - Pre-Application Consultation (PAC) Report
 - Transport Assessment
 - Flood Risk and Drainage Assessment
 - Noise Impact Assessment
 - Air Quality Assessment
 - Landscape and Visual Impact Assessment
 - Tree Survey
 - Habitat Survey including Protected Species Survey
 - Sustainability Assessment.

CONCLUSION AND RECOMMENDATION

- 20 This report summarises the key issues which should be considered as part of the appraisal of any subsequent planning application which may be lodged in respect of this development and members are recommended to note these key issues and advise officers of any other issues which they consider should be included as part of the application and assessment.

Background Papers: None

Contact Officer: Steve Callan

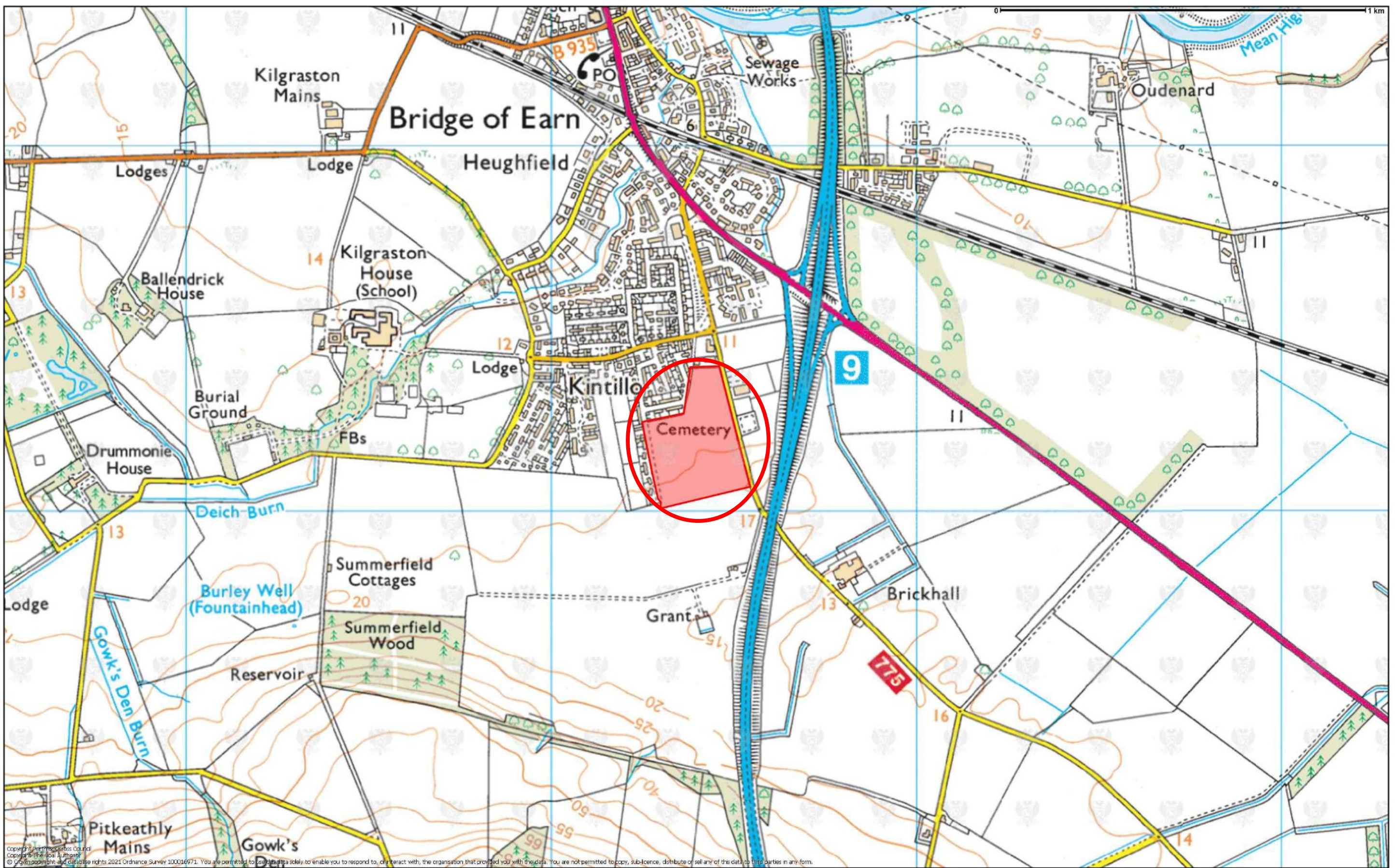
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DAVID LITTLEJOHN
HEAD OF PLANNING & DEVELOPMENT

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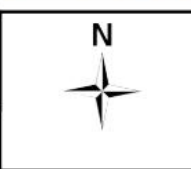
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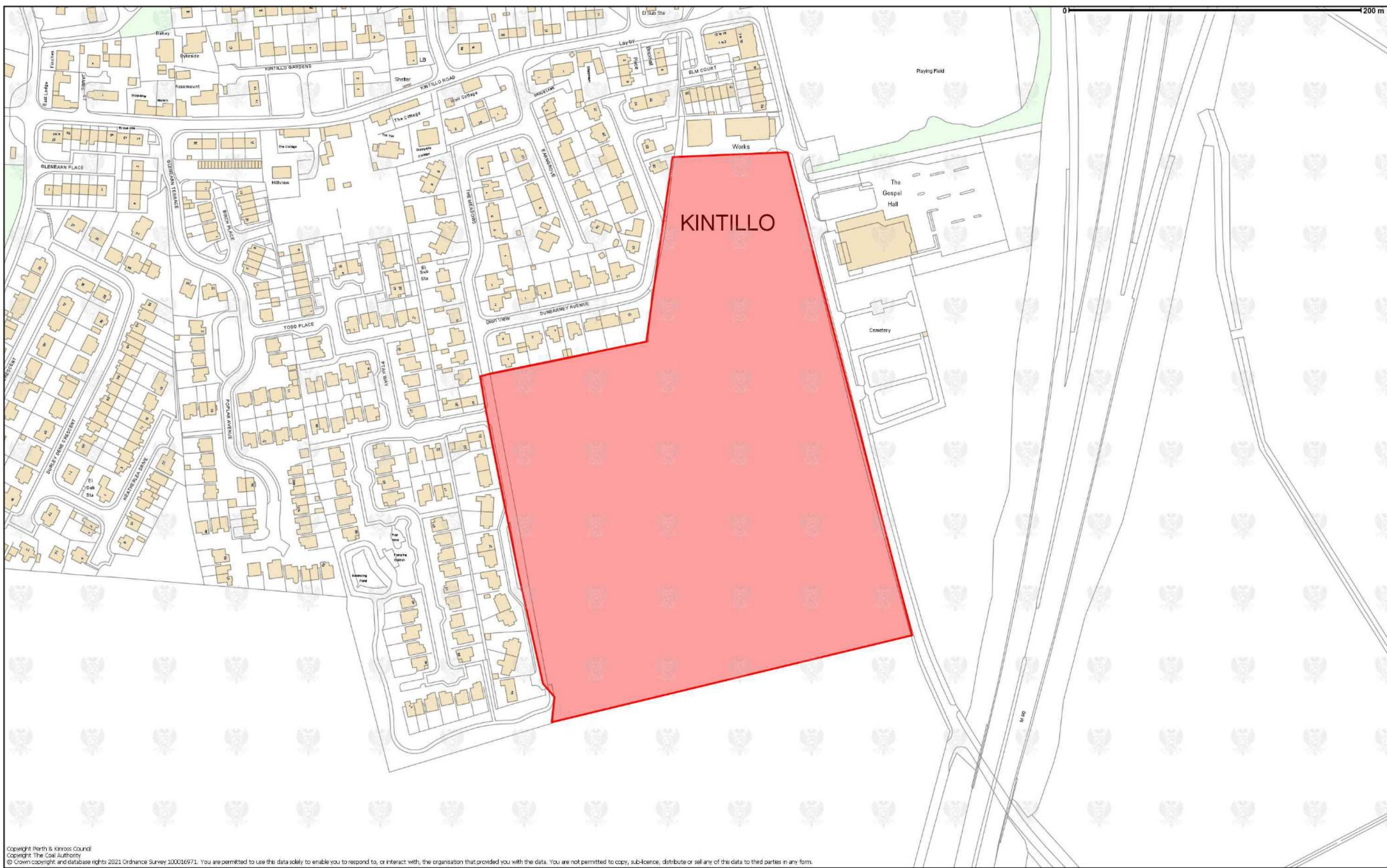
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21/00014/PAN
Residential development, access, landscaping, SUDS and associated works (part allocated as site H14) Land 150 Metres South West Of Kintillo Cemetery (h14) Bridge Of Earn





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 Residential development, access, landscaping, SUDS and associated works (part allocated as site H14) Land 150 Metres South West Of Kintillo Cemetery (h14) Bridge Of Earn



