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Council Building
The Atrium
137 Glover Street
Perth
PH2 0LQ

Wednesday, 07 September 2016

A Meeting of the **Development Management Committee** will be held in the **Gannochy Suite, Dewars Centre, Glover Street, Perth, PH2 0TH** on **Wednesday, 14 September 2016** at **10:00**.

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

BERNADETTE MALONE
Chief Executive

Those attending the meeting are requested to ensure that all mobile phones and other communication devices are in silent mode.

Members:

Councillor Tom Gray (Convener)
Councillor Bob Band (Vice-Convener)
Councillor Henry Anderson
Councillor Michael Barnacle
Councillor Ian Campbell
Councillor Dave Cuthbert
Councillor Ann Gaunt
Councillor Joe Giacobazzi
Councillor Callum Gillies
Councillor John Kellas
Councillor Alan Livingstone
Councillor Murray Lyle
Councillor Gordon Walker

Development Management Committee

Wednesday, 14 September 2016

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 MINUTE OF MEETING OF THE DEVELOPMENT MANAGEMENT COMMITTEE OF 10 AUGUST 2016 5 - 10**
- 4 DEPUTATIONS**
- 5 APPLICATIONS FOR DETERMINATION**
 - (1) APPLICATIONS PREVIOUSLY CONSIDERED**
 - (i) 15/01109/FLM - PERTH - ERECTION OF RESIDENTIAL UNITS, COMMERCIAL UNITS (CLASSES 1, 2, 3, AND 10), FORMATION OF ALLOTMENTS/OPEN SPACE, LANDSCAPING AND ASSOCIATED INFRASTRUCTURE WORKS ON LAND AT BERTHA PARK, PERTH 11 - 84**

Report of Handling by Development Quality Manager
(Recommendation - Approve)(copy herewith 16/386)
 - (2) MAJOR APPLICATIONS**
 - (i) 15/01512/FLM - KINROSS - ERECTION OF 300 DWELLINGHOUSES, FORMATION OF OPEN SPACE, LANDSCAPING AND ASSOCIATED INFRASTRUCTURE WORKS ON LAND NORTH WEST OF LATHRO FARM, KINROSS 85 - 126**

Report of Handling by Development Quality Manager
(Recommendation - Approve)(copy herewith 16/387)
 - (ii) 16/00696/FLM - PERTH - RENEWAL OF PERMISSION 09/02126/FLM (ERECTION OF A RETAIL SUPERSTORE (CLASS 127 - 164**

1) AND PETROL FILLING STATION WITH ASSOCIATED LANDSCAPE TREATMENT AND ENGINEERING WORKS) LAND SOUTH WEST OF DOBBIES GARDEN CENTRE, EAST HUNTINGTOWER, PERTH

Report of Handling by Development Quality Manager
(Recommendation - Approve)(copy herewith 16/388)

(3) LOCAL APPLICATIONS

- (i) **15/01972/FLL - LOGIERAIT - FORMATION OF MINE FOR THE EXTRACTION OF MINERALS, ERECTION OF ASSOCIATED SERVICE BUILDINGS, FORMATION OF TRANSFER SITE (INCLUDING PROCESSING OPERATIONS), ACCESS TRACK, HAUL ROAD AND BORROW PITS AND ASSOCIATED RESTORATION AT LAND AT DUNTANLICH, LOGIERAIT** **165 - 228**
Report of Handling by Development Quality Manager
(Recommendation - Approve)(copy herewith 16/389)
- (ii) **16/00996/FLL - BALADO - ERECTION OF 8 DWELLINGHOUSES AND ASSOCIATED WORKS ON LAND SOUTH EAST OF BEAUFIELD, BALADO** **229 - 250**
Report of Handling by Development Quality Manager
(Recommendation - Approve)(copy herewith 16/390)
- (iii) **16/01100/FLL - PITLOCHRY - ERECTION OF 12 FLATS ON LAND WEST OF ELM COURT, ATHOLL ROAD, PITLOCHRY** **251 - 266**
Report of Handling by Development Quality Manager
(Recommendation - Approve)(copy herewith 16/391)

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DEVELOPMENT MANAGEMENT COMMITTEE

Minute of Meeting of the Development Management Committee held in the Gannochy Suite, Dewars Centre, Perth on Wednesday 10 August 2016 at 10.00am.

Present: Councillors T Gray (Convener), B Band, (Vice-Convener), H Anderson, M Barnacle, I Campbell, D Cuthbert, A Gaunt, J Giacobazzi, C Gillies, J Kellas, A Livingstone, M Lyle and G Walker (up to and including Art. **** (2)(i)**).

In Attendance: M Barr, H Belford, N Brian, A Condliffe, C Stewart and J Thomson (all The Environment Service); C Elliott, L Gowans and H Rheinallt (all Corporate and Democratic Services).

Councillor T Gray, Convener, Presiding.

Prior to the commencement of business:

(i) **Valedictory**

Councillor Gray referred to the imminent retiral of Mr John Thomson, Principle Engineer, The Environment Service and thanked him for his thirty years of service to Perth and Kinross Council. Councillor Gray wished Mr John Thomson a happy retirement.

. **WELCOME AND APOLOGIES**

The Convener welcomed everyone to the meeting.

. **DECLARATIONS OF INTEREST**

Councillor G Walker declared a financial interest in Art. **** (2)(ii)** in terms of the Councillors' Code of Conduct.

. **MINUTE OF PREVIOUS MEETING**

The Minute of Meeting of the Development Management Committee of 13 July 2016 (Arts. ******) was submitted, approved as a correct record and authorised for signature.

. **DEPUTATIONS**

In terms of Standing Order 59, the Committee agreed to hear deputations in relation to the following planning applications.

Planning Application No.
16/00298/IPM
16/00863/IPL

Art. No.
**** (1)(i)**
**** (2)(i)**

APPLICATIONS FOR DETERMINATION

(1) Major Applications

- (i) **16/00298/IPM – ERROL – Variation of Condition 1 of permission 13/00394/IPM (Development of Roadside Service Facilities (in principle)) to extend the time period for the commencement of the development at the Horn Farm, Errol, Perth, PH2 7SR – Mr Farquharson**

Mr K Farquharson, applicant and Mr M Myles, agent for the applicant, addressed the Committee and, following their respective representations, withdrew to the public benches.

Resolved:

Grant, subject to the following terms, conditions and informatives, including an additional informative 2 as undernoted:

1. The Council as Planning Authority directs that application(s) for the Approval of Matters Specified in Conditions relating to planning approval 09/01277/IPM shall be submitted to, and approved by the Planning Authority before the commencement of development in the following phased manner:
 - The application for Phase 1, hereby defined as the Horn Café relocation and all associated infrastructure and landscaping of the Approval of Matters Specified in Conditions shall be made no later than the expiration of 7 years from the date of the original grant of outline planning permission, dated the 3rd March 2010.
 - The application for Phase 2 (defined as all remaining building development proposal elements not concerning the Horn café/restaurant and farm shop proposals) shall be made no later than the expiration of 7 years and 6 months from the date of the original grant of outline planning permission dated 3rd March 2010; or, if later, within 6 months from when an earlier approval for the same matters was refused or dismissed at appeal.
2. The development shall not commence until the following matters have been approved by the Planning Authority: the siting, design and external appearance of the development, the landscaping of the site, all means of enclosure, the car parking and means of access to the site.
3. The development hereby approved shall not commence until the drainage works have been provided to serve the development hereby permitted in accordance with details to be submitted to and approved by the Planning Authority in consultation with SEPA.

4. No development shall take place within the site until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant agreed by Perth and Kinross Heritage Trust. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with Perth and Kinross Heritage Trust.
5. The details to be submitted under Condition 2 above shall include a scheme of landscaping which shall, as a minimum, be 20 metres in depth around the boundary of the site or any variation to be approved by the Planning Authority.
6. All elements of the proposed development shall adhere to the following undernoted clauses:
 - The soundproofing of premises and the control of all amplified sound shall be such that no amplified sound is audible in any nearby residential property.
 - All plant or equipment (including any ventilation system) 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 30 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 NR curve chart.
 - All external lighting to be installed shall be sufficiently screened and aligned so as to ensure that there is no direct illumination of neighbouring land and that light spillage beyond the boundaries of the site is minimised.
 - An effective ventilation system commensurate with the nature and scale of cooking to be undertaken shall be installed, operated and maintained, within the commercial catering areas, such that cooking odours are not exhausted into or escape into any neighbouring dwellings.
7. All sketch layout and 3D images submitted in support of this and earlier submissions are purely illustrative only and are not approved.
8. All matters regarding access, car parking, road layout, design and specification (including street lighting and disposal of surface water) shall be in accordance with the standards required by the Council as Roads Authority.

9. Each phase of approved development shall ensure no landraising or the erection of solid boundaries within the 1 in 200 year floodplain identified on drawing number 16/00298/10.
10. The submission of supporting information and subsequent development of each phase shall be in full accordance with the recommendations contained within Perth and Kinross Council 'Developers Guidance Note on Flooding and Drainage' (June 2014); all to the satisfaction of the Council as Planning Authority.
11. Prior to the commencement of each phase of approved detailed development, a Construction Method Statement (CMS), a Site Waste Management Plan (SWMP), a Drainage Management Plan (DMP) and Environmental Management Plan (EMP) detailing pollution prevention and control measures will be submitted to and be approved in writing by the Planning Authority. Such details shall be submitted not less than two months prior to the agreed scheduled commencement date and shall incorporate detailed pollution avoidance and mitigation measures for all construction elements. Thereafter the development of that phase shall be fully undertaken in accordance with the agreed details.

Justification

The proposal is considered to part comply with the Development Plan and there are no other material considerations that would justify a departure there from.

Informatives

1. Applicants are advised that should their application for Approval of Matters specified be refused and/or their appeal against such refusal dismissed outwith the extended time limit of 3rd March 2017 and 3rd September 2017 respectively, they are entitled to submit a revised application for Approval of Matters specified within six months after the date of refusal of the earlier application or of the dismissal of an appeal against such refusal.
2. The applicant should investigate the potential for linking the facilities within the development to the existing core path network as part of the submission for Approval of Matters Specified in Conditions.

(2) Local Applications

(i) 16/00863/IPL – Perth – Erection of a dwellinghouse (in principle) at land to the south of Witchhill, Kinnoull Terrace, Perth – Report 16/340 - Mr Munro

Mr J Munro, applicant, addressed the Committee and following his representation, withdrew to the public benches.

Resolved:

Refuse, on the grounds that:

1. The proposal will adversely affect the density, character and visual amenity of the existing area by virtue of the physical limitations of the site to satisfactorily accommodate the development and associated requirements for access, parking, and turning and private amenity space. The proposal is therefore contrary to Policy RD1 and PM1B (b) and (d) of the Perth and Kinross Local Development Plan 2014 and Policy 2 of TAYPlan, which seeks to ensure development is compatible with the amenity and character of the area, considers and respects site topography and important views together with respecting an existing building line.
2. The prominent situation of the site and the associated density of the development in relation to adjacent residential properties would result in development that would have a detrimental impact on the character and appearance of the Kinnoull Conservation Area. The proposal is therefore contrary to Policy HE3 of the Perth and Kinross Local Development Plan 2014, Policy 3 of TAYPlan 2012 and salient guidance contained within Historic Environment Scotland Policy Statement June 2016, which all seek to ensure that the architectural and historic character of Conservation Areas will be preserved or enhanced, including protecting our existing cultural heritage from inappropriate development.
3. The proposal will have a detrimental impact on the setting of neighbouring listed buildings. The proposal is therefore contrary to Policy HE2 of the Perth and Kinross Local Development Plan 2014, Environment & Resource Policy 3 of TAYPlan 2012 and guidance contained in Historic Environment Scotland Policy Statement June 2016, which seeks to ensure that the setting of listed buildings are safeguarded and our cultural heritage is protected from inappropriate development.

Justification

The proposal is considered to be contrary to the Development Plan and there are no material considerations which justify approval of the application.

COUNCILLOR G WALKER, HAVING DECLARED AN INTEREST IN THE FOLLOWING ITEM, LEFT THE ROOM AND TOOK NO PART IN THE DISCUSSION OR DELIBERATION THEREFROM

(ii) **16/01127/FLL – ERROL – Extension to dwellinghouse at 29 Taybank Place, Errol, PH2 7PT – Report 16/341 – Mr Walker**

Resolved:

Grant, subject to the following terms, conditions and informatives:

1. The proposed development must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed on the planning consent.

Justification

The proposal is in accordance with the Development Plan and there are no other material considerations which would justify a departure there from.

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. No work shall be commenced until an application for building warrant has been submitted and approved.

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

Report recommending updated conditions for the Erection of residential units, commercial units (Classes 1, 2, 3 and 10), formation of allotments/open space, landscaping and associated infrastructure works on land at Bertha Park to the North West of Perth.

Ref. No: 15/01109/FLM
Ward No: 5 – Strathtay

Summary

The Development Management Committee resolved to approve this application in June 2016 subject to conditional control and the conclusion of a legal agreement.

Following the outcome of the June Committee the planning conditions associated with the Bertha Park phase 1 application have been reviewed by Springfield Properties Ltd and the Council's Road Infrastructure Manager who is promoting the A9/A85 junction improvement scheme.

Revision to the proposed conditions have been sought which would allow the removal of the economic mineral resource (required to be removed by policy ER3A) for use in the A9/A85 junction improvement scheme before negative suspensive conditions associated with the wider housing scheme are signed off. This would assist the programming and delivery of the road improvement scheme that has consent under application 15/00036/FLL approved by the Development Management Committee in March 2015.

As the legal agreement is still to be concluded and the decision notice yet to be released the Committee are invited to substitute the conditions set out below instead of the earlier conditions as set out in the earlier report of handling in Appendix 1.

BACKGROUND AND DESCRIPTION

- 1 In June 2016 the Development Management Committee resolved to approve the Bertha Park phase 1 application for the central phase of the Bertha Park Site (phase 1) subject to conditional control and the satisfactory conclusion of a legal agreement. It comprises circa 1061 houses and employment land encompassing various uses including community, retail, health services, food & drink, office, etc. As well as an area of phase 2 which will allow the extraction of economically viable minerals to ensure they are not sterilised. See Appendix 1.
- 2 Ongoing discussions and drafting of the legal agreement is taking place but it is still pending conclusion which means the decision notice for the Bertha Park Phase 1 application 15/01109/FLM is still to be released.

- 3 Following the outcome of the June Committee the planning conditions associated with the Bertha Park phase 1 application have been reviewed by Springfield Properties Ltd (agent for the development) and the Council's Road Infrastructure Manager who is promoting the A9/A85 junction improvement scheme. They have noted that revised conditional control on the Bertha Park Scheme could allow the removal of the economic mineral resource (required to be removed by policy ER3A) for use in the A9/A85 junction improvement scheme before negative suspensive conditions associated with the wider housing scheme are signed off. This would assist the programming and delivery of the road improvement scheme that has consent under application 15/00036/FLL approved by the Development Management Committee in March 2015.
- 4 As the decision notice has yet to be released for 15/01109/FLM there is scope to revise the conditions at this stage which would alleviate the need for an application to review under section 42 of the Planning Act.

PROPOSED REVISIONS TO THE CONDITIONS

- 5 To allow the discharge of conditions in a phased manner and differentiate between the removal of the economic mineral resource and the wider site it is suggested that the following paragraph could be inserted into negative suspensive conditions to allow for the necessary control and early extraction of the mineral resource:-
- 6 Apart from the extraction of the economic mineral resource or:
- 7 New conditions added (A) to differentiate between the removal of the mineral resource and the wider housing scheme.
- 8 For revised wording of the conditions see heading 'A Conditions and Reasons for Recommendation' with revisions in bold.

OPTIONS FOR THE COMMITTEE

Maintain The Current Set Of Conditions

- 9 The Committee has previously resolved to approve the application subject to of conditions and the conclusion of a legal agreement. The committee can maintain the conditions agreed under the earlier report of handling see Appendix 1. However a consequence of this would mean that the discharge of negative suspensive conditions could not be phased and all negative suspensive conditions relating to the whole development approved under application 15/01109/FLM would need to be dealt with. This would likely take longer to gather the necessary information for the whole site.

Substitute The Conditions As Set Out In This Report

- 10 If the committee agree to revise and substitute the conditions in line with the revised wording contained within this report then it will enable negative suspensive conditions to be dealt with in a phased manner. There would be added benefits as this would enable negative suspensive conditions associated with the mineral extraction to be dealt with in advance of the negative suspensive conditions for the wider Bertha Park Phase 1 site. This will allow for the early extraction of the mineral resource and assist with the programming of the construction A9/A85 junction improvement scheme.

CONCLUSION

- 11 The proposed phase 1 development was considered to comply with the over-riding thrust of the Development Plan if appropriate mitigation is secured by conditional control and legal agreement, see Appendix 1.
- 12 The proposed revised conditions recommended in this report would still secure the appropriate mitigation by conditional control but in a phased manner, thus the development would still comply with the over-riding thrust of the Development Plan. It is considered that substituting the revised conditions prior to the conclusion of the legal agreement and release of the decision notice associated with application 15/01109/FLM would present the preferred option as there would be added benefits associated with early extraction of minerals from Bertha Park and the programming of works associated with the A9/A85 junction improvement scheme.

RECOMMENDATION

- 13 It is recommended that Committee approve the revised conditions as set out below.

A Conditions and Reasons for Recommendation

- 1 The proposed development must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed on the planning permission.

Reason - To ensure that the development is carried out in accordance with the plans approved.

- 2 No development shall commence until a detailed delivery plan confirming the phased delivery of the site and construction works has been submitted and approved in writing by the Planning Authority. Once approved, the development shall proceed in accordance with the approved delivery plan, to the satisfaction of the Planning Authority.

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

- 3 Prior to the commencement of development the extent of the economic mineral resource to be won on site, shall be quantified to ensure it is not sterilised. Details of which shall be submitted to and approved in writing by the Planning Authority.

Reason: To ensure the economic mineral resource on the site is not sterilised.

- 4 Prior to the commencement of development a mineral working programme and phasing plan for the economic mineral resource to be won on site shall be submitted to and approved in writing by the Planning Authority. This shall detail the method and working direction of the mineral resource along with temporary restoration to be deployed before receiving built development.

Reason: To ensure the economic mineral resource on the site is not sterilised and to enable the Planning Authority to control the working programme to minimise its impact on rest of the Bertha Park development.

- 5 No buildings shall be constructed on the identified economic mineral resource until a detailed survey plans, including levels to Ordnance Datum, to show that the economic mineral resource associated with that working phase has been extracted is submitted to and approved in writing by the Planning Authority.

Reason: To ensure the economic mineral resource on the site is not sterilised and to enable the Planning Authority to control the working programme to minimise its impact on rest of the Bertha Park development.

- 6 The foul drainage shall be drained to the mains sewerage system the details of which shall be submitted to and approved in writing by the planning authority prior to its instillation and in consultation with Scottish Water, Scottish Environment Protection Agency and Scottish Natural Heritage. The agreed foul drainage shall thereafter be implemented to coincide with the occupation of the development.

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

- 7 Concurrent with the initiation of the development hereby approved and for the duration of construction, a temporary surface water treatment facility shall be implemented on site and maintained for the duration of the construction works. The temporary surface water treatment facility shall remain in place until the permanent surface water drainage scheme is implemented unless otherwise agreed in writing by the Planning Authority.

Reason: In the interests of best practise surface water management, bio-diversity, to avoid undue risks to public safety and flood risk.

- 8 Development shall not commence **apart from the extraction of the economic mineral resource** until a detailed and permanent sustainable urban drainage system (SUDS) has been submitted for the further written approval of the 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. For the avoidance of any doubt the discharge of any surface water drainage shall be limited to the greenfield runoff rates as detailed in section 12.5.26 of the Environmental Statement. Thereafter, all works shall be carried out in accordance with the agreed details and be operational prior to the bringing the development phase into use.

Reason: In the interests of best practise surface water management, bio-diversity, to avoid undue risks to public safety and flood risk.

- 9 Development shall not commence **apart from the extraction of the economic mineral resource** until the design of all new and existing culverts/bridges and associated features (such as screens) has been submitted to and approved in writing by the Planning Authority, in consultation with the Council's Flooding Team. Thereafter, all works shall be carried out in accordance with the agreed details and be operational prior to the bringing the development into use.

Reason: In the interests of best practise surface water management, bio-diversity, to avoid undue risks to public safety and flood risk.

- 10 Prior to commencement of any works **apart from the extraction of the economic mineral resource**, full details of the finalised design of the replacement pond and SUDS pond within phase 1 of the development will be submitted for the written approval of the planning authority, in consultation with SEPA. Thereafter, all work shall be carried out in accordance with the approved scheme. The finalised design will include details of how the SUDS and replacement pond will maintain hydrology, and how biodiversity from the old pond to the new pond will be translocated.

Reason: In the interests of best practise surface water management, bio-diversity, to avoid undue risks to public safety and flood risk.

- 11 For the avoidance of any doubt the domestic and non-domestic buildings to be erected shall comply with Silver Active from 2016 and Gold Active from 2020 as per the 'Building Standards Technical Handbook Section 7 – Sustainability'. The sustainability label shall be provided for the written approval of the Planning Authority prior to the occupation of the domestic or non-domestic building.

Reason: To ensure this development complies with the on-site carbon reductions required in Scottish Planning Policy and the Council's Policy EP1: Climate Change, Carbon Reduction and Sustainable Construction.

- 12 Prior to the commencement of the development **apart from the extraction of the economic mineral resource** details of the play park and sports pitches (equipment, specification) shall be submitted to the Planning Authority for written approval. Thereafter play parks and sports pitches shall be installed to accord with the approved details to coincide with the phasing of character areas which shall be agreed in writing with the Planning Authority.

Reason: To ensure the delivery of recreational facilities for the occupants of the development.

- 13 Prior to the commencement of development **apart from the extraction of the economic mineral resource** a woodland management plan for a minimum of twenty years, including long term objectives, management responsibilities and maintenance schedules for all woodland areas within the site shall be submitted to and approved in writing by the Planning Authority. Thereafter the woodland management plan shall be carried out as approved on commencement of the development hereby permitted unless otherwise approved in writing by the Planning Authority.

Reason: To ensure that the woodland areas are satisfactorily managed and maintained in the long term in the interests of the visual amenity of the area.

- 14 Prior to the commencement of the development **apart from the extraction of the economic mineral resource** details of the proposed landscaping, planting, screening, open space and allotments scheme shall be submitted to the Local Planning Authority for approval. Details of the schemes shall include:
- a) Existing and proposed finished ground levels relative to a fixed datum point.
 - b) Existing landscape features and vegetation to be retained.
 - c) Existing and proposed services including cables, pipelines and substations.
 - d) The location of new trees, shrubs, hedges, grassed areas and water features.
 - e) A schedule of plants to comprise species, plant sizes and proposed numbers and density.
 - f) The location, design and materials of all hard landscaping works including walls, fences, gates and any other means of enclosure.
 - g) An indication of existing trees, shrubs and hedges to be removed.
 - h) Details of areas of public open space.
 - i) Details of areas for allotments.
 - j) A programme for the completion and subsequent maintenance of the proposed landscaping, planting, screening, open space and allotments.

All soft and hard landscaping proposals shall be carried out in accordance with the approved scheme and shall be completed during the planting season immediately following the commencement of the development on that part of the site or such other date as may be agreed in writing with the Planning Authority.

Any planting which, within a period of 5 years from the completion of the development, in the opinion of the Planning Authority is dying, has been severely damaged or is becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted.

Reason: to ensure the implementation of satisfactory schemes of landscaping which will help to integrate the proposed development into the local landscape in the interests of the visual amenity of the area.

15 Prior to the commencement of development a detailed plan of public access across the site including phasing and implementation (existing, during construction & upon completion) shall be provided for the written approval of the Council as Planning Authority and show:

- a) All existing paths, tracks & rights of way.
- b) Any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or curtilage, in relation to proposed buildings or structures.
- c) All paths & tracks proposed for construction, for use by walkers, riders, cyclists, all-abilities users, etc.
- d) Any diversions of paths - temporary or permanent- proposed for the purposes of the development
- e) The detailed specification of the proposed paths and tracks, along with how they will be constructed to avoid impacts on trees.

Reason: In the interest of sustainable transportation.

16 No part of the approved development is permitted to be occupied until the A9/A85 Junction Improvement, generally as proposed by Perth and Kinross Council as part of its 'Perth Transport Futures Project' transport strategy to support the Local Development Plan, has been designed, approved and implemented to the satisfaction of the Planning Authority in consultation with Transport Scotland.

Reason: - To ensure that the scale of development does not exceed that assessed by the supporting Transport Assessment and to ensure that the scale of development is commensurate with the infrastructure required to support the development.

- 17 No more than 750 residential units are permitted to be occupied until the Cross Tay Link Road Improvement including the Tay Crossing, generally as proposed by Perth and Kinross Council as part of its 'Perth Transport Futures Project' transport strategy to support the Local Development Plan, have been designed, approved and contract let to the satisfaction of the Planning Authority in consultation with Transport Scotland.

Reason: - To ensure that the scale of development does not exceed that assessed by the supporting Transport Assessment and to ensure that the scale of development is commensurate with the infrastructure required to support the development.

- 18 No development shall commence **apart from the extraction of the economic mineral resource** until appropriate mitigation measures have been agreed to address the impact of the development at the Broxden Roundabout on the A9 trunk road. The nature of the mitigation shall either be physical improvements to these junctions in the form of traffic signals and widening of approaches or a financial contribution in lieu of the said physical works. The details of the physical works or the level of financial contribution required shall be agreed in writing with the Planning Authority in consultation with Transport Scotland.

Reason: - To ensure that the scale of development does not exceed that assessed by the supporting Transport Assessment and to ensure that the scale of development is commensurate with the infrastructure required to support the development.

- 19 No development shall commence **apart from the extraction of the economic mineral resource** until a Construction Traffic Management Plan has been approved in writing by the Planning Authority in consultation with Transport Scotland. In particular the CTMP shall identify measures to control the use of any direct access onto the trunk road, including the existing priority access located on the northbound carriageway of the A9 north of Inveralmond Roundabout. Thereafter, all construction traffic associated with the development shall conform to the requirements of the agreed plan.

Reason: - To mitigate the adverse impact of development traffic on the safe and efficient operation of the trunk road.

- 20 No development **associated with the extraction of the economic mineral resource shall take place until** a Construction Traffic Management Plan has been approved in writing by the Planning Authority in consultation with Transport Scotland. In particular the CTMP shall identify measures to control the use of any direct access onto the trunk road, including the existing priority access located on the northbound carriageway of the A9 north of Inveralmond Roundabout. Thereafter, all construction traffic associated with the development shall conform to the requirements of the agreed plan.

Reason: - To mitigate the adverse impact of development traffic on the safe and efficient operation of the trunk road.

- 21 No development shall commence until a detailed specification for the emergency/secondary access arrangements to be put in place between the Inveralmond Bridge and Bertha Lodge along with implementation timescales has been submitted to and approved in writing by the Planning Authority. Thereafter the approved emergency/secondary access arrangements to accord with the agreed timescales shall be installed and thereafter maintained to the satisfaction of the Planning Authority.

Reason: to ensure that the development proposals will not have a significant detrimental impact on the operation of the local road network.

- 22 Prior to the completion of the development, all watercourses on the site as referred to in the FRA dated 18 June 2015) shall be inspected and cleared of any impediments likely to create any obstruction to the free flow of water within the development and for 300m (or length otherwise agreed with the Planning Authority) upstream and downstream of the development phase; an inspection report along with details of works undertaken shall be submitted to the Planning Authority for written approval in consultation with the Roads Authority.

Reason: In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality and in accordance with the adopted development plan.

- 23 The Finished Floor Level of all properties shall be a minimum of 600mm above the 200 year flood level including 20% for Climate Change.

Reason: To reduce flood risk.

- 24 The overland flood routes of the dam breach analysis shall be maintained as open space to prevent any future development of the land. A minimum of a 5m Maintenance strip either side of the watercourse must be provided along all watercourses as referred to in the FRA dated 18 June 2015) within the extents of the proposed development.

Reason: To allow suitable access to the watercourse for maintenance purposes and to reduce flood risk.

- 25 Prior to the commencement of development **apart from the extraction of the economic mineral resource** a Construction Environment Management Plan (CEMP), incorporating a Construction Method Statement (CMS), a Site Waste Management Plan (SWMP), a Drainage Management Plan (DMP) and Environmental Management Plan (EMP) detailing pollution prevention and control measures for all felling, construction and operation programmes will be submitted to and be approved in writing by the Planning Authority, in consultation with Scottish Environment Protection Agency and Scottish Natural

Heritage. Such details shall be submitted not less than two months prior to the agreed scheduled commencement date and shall incorporate detailed pollution avoidance and mitigation measures for all construction elements. Thereafter the development shall be fully undertaken in accordance with the agreed CEMP.

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

- 26 Prior to the commencement of the extraction of the economic mineral resource a Construction Environment Management Plan (CEMP), incorporating a Construction Method Statement (CMS), a Site Waste Management Plan (SWMP), a Drainage Management Plan (DMP) and Environmental Management Plan (EMP) detailing pollution prevention and control measures for all felling, construction and operation programmes will be submitted to and be approved in writing by the Planning Authority, in consultation with Scottish Environment Protection Agency and Scottish Natural Heritage. Such details shall be submitted not less than two months prior to the agreed scheduled commencement date and shall incorporate detailed pollution avoidance and mitigation measures for the extraction of the economic mineral resource. Thereafter the development shall be fully undertaken in accordance with the agreed CEMP.

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

- 27 Two months prior to the commencement of the development, **apart from the extraction of the economic mineral resource** an independent and suitably qualified ecologist shall be appointed as the 'Ecological Clerk of Works' (ECOW) for the site, by the developer and at the developer's expense. This appointment shall be subject to the prior written approval of the Planning Authority and detail the extent of inspections to be undertaken by the ECOW and how this relates to the delivery of the development. The ECOW shall oversee, on behalf of the Planning Authority, in consultation with Scottish Natural Heritage, the implementation of all ecology related planning conditions and how this relates to the development being constructed. The ECOW shall undertake a watching brief throughout the construction of the development and shall have the 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.

The ECOW shall have responsibility for the following:

- a) Monitoring compliance with the mitigation works related to the development as set out in the Construction Environment Management Plan.
- b) Advising the developer on adequate protection of nature conservation interest on the site, including altering construction practices if existing practices are having an adverse impact on the natural heritage of the site.

- c) If any protected species are found on site, the Ecological Clerk of Works will ensure that work is suspended at that location and that a protected species protection plan is implemented.

The ECOW is required to notify the Planning Authority:

- d) If there has been a requirement to stop or alter works in relation to this condition.
- e) They are required to submit a report on their inspection for the review of the Planning Authority in consultation with Scottish Environment Protection Agency and Scottish Natural Heritage during construction operations.
- f) They will have the power to amend the Construction Method Statement, where required, with any amendments and measures to mitigate submitted to the Planning Authority.

Reason: In order to ensure that the appointed ECOW is suitability qualified and has a suitable job description and powers.

- 28 Two months prior to the commencement of the extraction of the economic mineral resource, an independent and suitably qualified ecologist shall be appointed as the 'Ecological Clerk of Works' (ECOW) for the extraction of the economic mineral resource area, by the developer and at the developer's expense. This appointment shall be subject to the prior written approval of the Planning Authority and detail the extent of inspections to be undertaken by the ECOW and how this relates to the delivery of the development. The ECOW shall oversee, on behalf of the Planning Authority, in consultation with Scottish Natural Heritage, the implementation of all ecology related planning conditions and how this relates to extraction of the economic mineral resource area. The ECOW shall undertake a watching brief throughout the extraction of the economic mineral resource area and shall have the 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.

The ECOW shall have responsibility for the following:

- a) Monitoring compliance with the mitigation works related to the development as set out in the Construction Environment Management Plan.
- b) Advising the developer on adequate protection of nature conservation interest on the site, including altering construction practices if existing practices are having an adverse impact on the natural heritage of the site.
- c) If any protected species are found on site, the Ecological Clerk of Works will ensure that work is suspended at that location and that a protected species protection plan is implemented.

The ECOW is required to notify the Planning Authority:

- d) If there has been a requirement to stop or alter works in relation to this condition.
- e) They are required to submit a report on their inspection for the review of the Planning Authority in consultation with Scottish Environment Protection Agency and Scottish Natural Heritage during construction operations.
- f) They will have the power to amend the Construction Method Statement, where required, with any amendments and measures to mitigate submitted to the Planning Authority.

Reason: In order to ensure that the appointed ECOW is suitability qualified and has a suitable job description and powers.

- 29 No development shall take place **apart from the extraction of the economic mineral resource until** details of checking surveys for protected species or the nests of any breeding birds on the site has been submitted to and approved in writing by the Planning Authority, in consultation with SNH. The surveys shall be undertaken by a qualified ecologist, in accordance with the approved specification, in the last 6 months preceding site preparation and construction work commencing. A programme of any mitigation measures required as a consequence of the survey results, and a timetable for any such mitigation measures shall have been submitted to and approved in writing by the Planning Authority prior to any works associated with the development taking place. The programme of mitigation work shall be implemented as approved under the supervision of a qualified ecologist all to the satisfaction of the Planning Authority.

Reason: In the interests of protecting the natural heritage, to minimise the environmental impact of construction and operational activities resulting from the proposed development.

- 30 No development associated with the extraction of the economic mineral resource shall take place until details of checking surveys for protected species or the nests of any breeding birds on the site has been submitted to and approved in writing by the Planning Authority, in consultation with SNH. The surveys shall be undertaken by a qualified ecologist, in accordance with the approved specification, in the last 6 months preceding site preparation and construction work commencing. A programme of any mitigation measures required as a consequence of the survey results, and a timetable for any such mitigation measures shall have been submitted to and approved in writing by the Planning Authority prior to any works associated with the development taking place. The programme of mitigation work shall be implemented as approved under the supervision of a qualified ecologist all to the satisfaction of the Planning Authority.

Reason: In the interests of protecting the natural heritage, to minimise the environmental impact of construction and operational activities resulting from the proposed development.

- 31 No development shall take place apart from the extraction of the economic mineral resource, including demolition, ground works and vegetation clearance, until a biodiversity monitoring strategy has been submitted to, and approved in writing by, the local planning authority. The purpose of the strategy shall be to monitor the abundance and distribution of protected species over the period of the development. The content of the Strategy shall include the following.
- a) Aims and objectives of monitoring to match the stated purpose.
 - b) Identification of adequate baseline conditions prior to the start of development.
 - c) Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged.
 - d) Methods for data gathering and analysis.
 - e) Location of monitoring.
 - f) Timing and duration of monitoring.
 - g) Responsible persons and lines of communication.
 - h) Review, and where appropriate, publication of results and outcomes.

A report describing the results of monitoring shall be submitted to the local planning authority at intervals identified in the strategy. The report shall also set out (where the results from monitoring show that conservation aims and objectives are not being met) how contingencies and/or remedial action will be identified, agreed with the local planning authority, and then implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The monitoring strategy will be implemented in accordance with the approved details.

Reason: In the interests of protecting the natural heritage, to minimise the environmental impact of construction and operational activities resulting from the proposed development.

- 32 No development associated with the extraction of the economic mineral resource shall take place, including demolition, ground works and vegetation clearance, until a biodiversity monitoring strategy has been submitted to, and approved in writing by, the local planning authority. The purpose of the strategy shall be to monitor the abundance and distribution of protected species over the period of the development. The content of the Strategy shall include the following.
- a) Aims and objectives of monitoring to match the stated purpose.
 - b) Identification of adequate baseline conditions prior to the start of development.
 - c) Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged.
 - d) Methods for data gathering and analysis.

- e) Location of monitoring.
- f) Timing and duration of monitoring.
- g) Responsible persons and lines of communication.
- h) Review, and where appropriate, publication of results and outcomes.

A report describing the results of monitoring shall be submitted to the local planning authority at intervals identified in the strategy. The report shall also set out (where the results from monitoring show that conservation aims and objectives are not being met) how contingencies and/or remedial action will be identified, agreed with the local planning authority, and then implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The monitoring strategy will be implemented in accordance with the approved details.

Reason: In the interests of protecting the natural heritage, to minimise the environmental impact of construction and operational activities resulting from the proposed development.

- 33 No development apart from the extraction of the economic mineral resource shall take place until the trees to be retained as identified in the submitted surveys have been protected by suitable fencing in accordance with BS5837 2012 (Trees in Relation to Construction). The details of the protective fencing and its location shall be first submitted to and agreed in writing by the Planning Authority. No materials, supplies, plant, machinery, soil heaps, changes in ground levels or construction activities shall be permitted within the protected areas without the written consent of the Planning Authority and no fire shall be lit in the position where the flames could extend to within 5 metres of foliage, branches or trunks.

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

- 34 No development shall commence **apart from the extraction of the economic mineral resource** until a detailed specification and planting scheme for the structural landscaping works between Phase 1 and 2 and Phase 1 and 3 along with implementation timescales has been submitted to and approved in writing by the Planning Authority. Thereafter the approved structural landscaping works between Phase 1 and 2 and Phase 1 and 3 shall be installed to accord with the agreed timescales and thereafter maintained to the satisfaction of the Planning Authority.

Reason: In order to ensure a responsive and robust landscape framework is created between the phases of the site.

- 35 No works in connection with the development hereby approved apart from the extraction of the economic mineral resource shall take place until such time as

a mechanism has been agreed and concluded to the satisfaction of the Planning Authority to ensure that the structural landscaping works between Phase 1 and 2 and Phase 1 and 3 have been completed in full.

Reason: to ensure the completion of the agreed structural landscaping scheme at an early stage in the interests of the visual amenity of the area and to provide a buffer between the mineral extraction and Phase 1 of the MasterPlan.

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

Reason: To safeguard any archaeological interest of the site.

- 37 No development associated with the extraction of the economic mineral resource shall take place until the developer has secured the implementation of a programme of archaeological works for the economic mineral resource extraction area in accordance with a Written Scheme of Investigation which has been submitted by the applicant, and approved by the Planning Authority in consultation with Perth and Kinross Heritage Trust. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in consultation with Perth and Kinross Heritage Trust.

Reason: To safeguard any archaeological interest of the site.

- 38 Prior to the commencement of the development apart from the extraction of the economic mineral resource, a site specific plan, detailing bin storage areas, kerbside collection locations and recycling facilities shall be submitted to and approved in writing by the Planning Authority and thereafter undertaken in accordance with the approved details. All domestic properties require an appropriate storage area for a minimum of 3 x 240 litre bins (1 for general waste, 1 for garden & food waste and 1 for dry mixed recyclates/paper) and suitable access/surface to wheel the bins from the storage area to the kerbside where they must be presented for collection.

Bin Dimensions

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

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

- 39 Prior to the commencement of development **apart from the extraction of the economic mineral resource**, a strategy to ensure noise levels are reasonable internally utilizing dwelling layouts and appropriate double glazing with trickle vents shall be submitted to the satisfaction of the planning authority and thereafter implemented. The strategy shall focus on the relationship of dwellings on either side of the Cross Tay Link Road (CTLR) within the site and to the sites southern boundary beside the Inveralmond Industrial Estate.

Reason: To prevent disturbance from noise.

- 40 For any commercial kitchen, an effective ventilation system commensurate with the nature and scale of cooking to be undertaken shall be installed, operated and maintained, within the commercial areas, such that cooking odours are not exhausted into or escape into any neighbouring dwellings.

Reason: To prevent disturbance from noise and odour.

- 41 All plant or equipment including any ventilation system associated with operation of the commercial areas 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 premises, with all windows slightly open, when measured and/ or calculated and plotted on a rating curve chart.

Reason: To prevent disturbance from noise.

- 42 Commercial and Industrial deliveries shall be limited to Monday to Sunday 07.00 to 19.00

Reason: To prevent disturbance from noise.

- 43 Noise from any air source heat pump or other external residential plant 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 premises, with all windows slightly open, when measured and/ or calculated and plotted on a rating curve chart.

Reason: To prevent disturbance from noise.

- 44 For commercial and industrial areas all external lighting to be installed shall be sufficiently screened and aligned so as to ensure that there is no direct

illumination of neighbouring land and that light spillage beyond the boundaries of the site is minimised.

Reason: To prevent disturbance from lighting.

45 Prior to the commencement of development **apart from the extraction of the economic mineral resource**, an evaluation for the potential of the site to be affected by contamination by a previous use should be undertaken and as a minimum, a Preliminary Risk Assessment (Phase 1 Desk Study) will be submitted for consideration by the Council as Planning Authority. If after the preliminary risk assessment identifies the need for further assessment, an intrusive investigation should be undertaken to identify;

- a) The nature, extent and type(s) of contamination on the site.
- b) Measures to treat/remove contamination to ensure the site is fit for the use proposed.
- c) Measures to deal with contamination during construction works.
- d) Condition of the site on completion of decontamination measures.

Reason: To ensure the development is ready to receive development, to protect future users of the site and to protect the amenity of the environment.

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

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

47 Prior to the commencement of development **apart from the extraction of the economic mineral resource** a Feasibility Study shall be submitted in writing for the approval of the Planning Authority to assess the technical feasibility and financial viability of heat network/district heating for this site, identifying any available sources of heat (either within the site or offsite) and other factors such as where land will be safeguarded for future district heating infrastructure. The accompanying Design and Access Statement or other document as agreed by the Council should show/demonstrate how the findings of the feasibility study has been incorporated into the finalised design and layout of the proposal.

Reason: To identify future district heating opportunities for the development.

B JUSTIFICATION

14 The proposal is considered to comply with the Development Plan and there are no other material considerations that would justify a departure therefrom.

C PROCEDURAL NOTES

16 Consent shall not to be issued until a Section 75 Agreement relating to planning contributions set out below has been completed and signed to reflect the current planning reference 15/01109/FLM. The legal agreement should be concluded and completed within 4 months of the date of any Committee approval. Failure to conclude a legal agreement within 4 months will result in the planning application being re-assessed through failing to comply with the associated developer contributions policy and will be ultimately recommended for refusal under delegated powers.

- A Delivery Plan.
- Servicing of Secondary School land.
- Delivery of Primary School(s).
- Transport and Transport Infrastructure.
- Delivery of Park and Ride site.
- Delivery of Public Transport.
- Delivery of Serviced Employment Land.
- Delivery of Affordable Housing.
- Delivery of Open Space, paths and associated maintenance.
- Delivery of Community Facilities and Healthcare.
- Contribution towards a Community Fund.
- Minerals.

D INFORMATIVES

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
- 2 Under Section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the Planning Authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.
- 4 This development will require the 'Display of notice while development is carried out', under Section 27C (1) of the Town and Country Planning Act

1997, as amended, and Regulation 38 of the Development Management Procedure (Scotland) Regulations 2008. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. According to Regulation 38 the notice must be:

- Displayed in a prominent place at or in the vicinity of the site of the development.
 - Readily visible to the public.
 - Printed on durable material.
- 5 The applicant is advised that to enable some of the negative suspensive conditions to be fulfilled works which are operational development may have to be undertaken out with the application site. These works themselves may require the submission of a planning application.
 - 6 The developer is advised to contact Mr David Strachan, Archaeologist, Perth and Kinross Heritage Trust to discuss terms of reference for work required Tel 01738 477080.
 - 7 The applicants are advised that they must apply to the Roads Authority, for construction consent to form a new street. Please contact The Construction and Maintenance Manager, The Environment Service, Perth and Kinross Council, The Atrium, Glover Street, Perth.
 - 8 The applicant is advised that in terms of Sections 21 of the Roads (Scotland) Act 1984 they must obtain from the Council as Roads Authority consent to construct a new road prior to the commencement of roadworks. Advice on the disposal of surface water must be sought at the initial stages of design from the Roads Authority, Scottish Water and the Scottish Environmental Protection Agency.
 - 9 Please consult the Street Naming and Numbering Officer, The Environment Service, Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth PH1 5GD.
 - 10 The applicant is advised that the granting of planning consent does not guarantee a connection to Scottish Water's assets. The applicant must make a separate application to Scottish Water Planning & Development Services team for permission to connect to the public wastewater system and/or water network and all their requirements must be fully adhered to.
 - 11 No work shall be commenced until an application for building warrant has been submitted and approved.
 - 12 Ecologists shall be employed to undertake protected species surveys and provide advice and guidance where work is due to be undertaken close to sensitive areas, such as woodland, hedgerows and watercourses and waterbodies as agreed with planning authority.

- 13 Where works are within 50m of trees, woodland, hedgerows or waterbodies the ecologist shall undertake protected species surveys and identify any potential impacts, where appropriate protective fencing shall be erected prior to work commencing in such areas to the satisfaction of the planning authority.
- 14 Where protected species have been identified the ecologist shall provide guidance and advice to site staff on how to avoid disturbance of protected species.
- 15 Monitoring of the ecological interests identified on the site shall be undertaken by the ecologist where protected species have been identified and annual reports as described in BS42020:2013 shall be submitted to the planning authority to inform changes to abundance or locations of protected species.
- 16 The development shall be in accordance with the Council's Affordable Housing Policy approved in April 2016 which requires a 25% allocation of affordable units within the development all to the satisfaction of the Council as Planning Authority. To comply with the Council's approved policy on affordable housing.

Background Papers: None associated with this updated report.
 Contact Officer: John Russell – Ext 75346
 Date: 24 August 2016

**NICK BRIAN
 DEVELOPMENT QUALITY MANAGER**

<p>If you or someone you know would like a copy of this document in another language or format, (on occasion, only a summary of the document will be provided in translation), this can be arranged by contacting the Customer Service Centre on 01738 475000.</p>
<p>You can also send us a text message on 07824 498145.</p>
<p>All Council Services can offer a telephone translation facility.</p>

Perth and Kinross Council
Development Management Committee – 8 June 2016
Report of Handling by Development Quality Manager

**Erection of residential units, commercial units (Classes 1, 2, 3 and 10),
formation of allotments/open space, landscaping and associated
infrastructure works on land at Bertha Park to the North West of Perth**

Ref. No: 15/01109/FLM
Ward No: 5 – Strathtay

Summary

This report recommends approval of this detailed application for residential development with commercial units, formation of allotments/open space, landscaping and associated infrastructure works on land at Bertha Park.

The development is considered to comply with the Strategic Development Plan TAYplan and the Perth and Kinross Local Development Plan 2014. These documents both see the Bertha Park as part of Perth's expansion to the north west. It is a strategic site and a key element in delivering the land requirement for the Perth Core Area.

Additionally the proposal complies with the Council's overarching economic, social and environmental objectives contained within the Community Plan, Corporate Plan, City Plan and the Economic Development Strategy. The application is recommended for approval, subject to conditional control and the satisfactory conclusion of a planning obligation.

BACKGROUND AND DESCRIPTION

- 1 The Bertha Park site is located to the north west of Perth covering a site area of 333 hectares consisting of agricultural land and woodland.
- 2 The site is located within the lowland river corridor landscape character unit. The developable land is elevated above the River Almond and contained by Bertha Wood and Bertha Loch to the north. The A9, the Perth to Inverness Railway line and the River Tay are to the east. Inveralmond Industrial Estate is to the south. The Gellyburn watercourse and the village of Almondbank are located to the west.
- 3 An in-principle application for the whole of the Bertha Park site was reported to Development Management Committee on the 11 May 2016 (Report 16/96 refers). The Report of Handling recommended approval subject to conditions and the satisfactory conclusion of a legal agreement which was endorsed by committee. The principal components of that application consisted of:-
 - Residential properties: 3000 homes comprising a range and choice of homes including affordable housing. A series of Character Areas ensuring a sense of identity and variety through the development are incorporated into the Masterplan.

- Employment land: 25ha of employment land. Employment will comprise a number of different uses associated with a new community. This includes Class 2 (Finance & Professional Services), Class 4 (Offices), Class 6 (Storage & Distribution) (Class 10) Retirement housing/care home and Park & Ride.
 - Village Core incorporating a range of uses including retailing, offices, places to eat and drink, medical facilities, leisure and community facilities.
 - Access to the site will be from the new Cross Tay Link Road (CTLR) linking to the new River Almond bridge crossing. The CTLR A9/A85 Crieff Road Junction and link into Bertha Park now has planning consent and will be delivered by Perth & Kinross Council, application 15/00036/FLL refers. Until such time as the link to the River Tay crossing and A9 alignment are completed, an emergency access will be provided via Ruthvenfield Road and the existing bridge over the River Almond.
 - New Park & Ride and compatible employment land associated with CTLR/A9 (T) realignment. (Note: CTLR/A9(T) realignment will be subject to a separate planning application by Perth and Kinross Council).
 - New secondary school provision (Phase 1) and a primary school; (Note: secondary school and potential primary school will be subject to separate detailed planning applications but area of land for school provision incorporated into masterplan).
 - Areas of open space, new woodland and landscaping including new water features and SUDs. Existing woodlands will be retained and managed appropriately.
 - Network of paths and cycle routes providing good active travel links to Perth and Almondbank.
- 4 This is the detailed application for the central phase of the Bertha Park Site (phase 1). It comprises circa 1061 houses and employment land encompassing various uses including community, retail, health services, food & drink, office, etc. It also includes an area of phase 2 which will allow the extraction of economically viable minerals to ensure they are not sterilised.
- 5 Phase 1 is envisioned to be delivered between 2017 and 2027. Springfield's vision for Bertha Park is to create a countryside community with 3000 homes and all the supporting infrastructure, facilities and amenities demanded by modern life. This detailed application is the first piece in the jigsaw and illustrates the design principles employed by Springfield in meeting their vision.

ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

- 6 Directive 2011/92/EU requires the 'competent authority' (and in this case Perth and Kinross Council) when giving a planning consent for particular large scale projects to do so in the knowledge of any likely significant effects on the

environment. The Directive therefore sets out a procedure that must be followed for certain types of project before 'development consent' can be given.

- 7 This procedure, known as Environmental Impact Assessment (EIA), is a means of drawing together, in a systematic way, an assessment of a project's likely significant environmental effects. This helps to ensure that the importance of the predicted effects, and the scope for reducing any adverse effects, are properly understood by the public and the relevant competent authority before it makes its decision.
- 8 An Environmental Statement (ES) has been submitted in support of the application and is available in three volumes:
 - Volume 1 - Environmental Statement
 - Volume 2 – Appendices
 - Volume 3 - Non-Technical Summary
- 9 Supplementary Environmental Information (SEI) was submitted in March 2016 and includes further environmental information on how the scheme relates to Air Quality, Noise and Vibration, Nature Conservation and Ecology as well as ground conditions, drainage and flood risk.
- 10 This Supplementary Environmental Information (SEI) was subjected to further advertisement and consultation.
- 11 Part II, Schedule 4 of the Environmental Impact Assessment (Scotland) Regulations 2011 outlines the information required to be included in any EIA. In this case the information within the Environmental Statement is considered to meet the requirements of the regulations.

FURTHER SUPPORTING MATERIAL PROVIDED BY THE APPLICANT

- 12 In addition to the Environmental Statement, the applicant has also submitted the following documents in support of the application.
 - Pre-application Consultation Report
 - MasterPlan
 - Planning Statement
 - Design and Access Statement
 - Sustainability Statement

NATIONAL POLICY AND GUIDANCE

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

The Scottish Planning Policy 2014

- 14 The Scottish Planning Policy (SPP) was published on 23 June 2014. It sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:
- The preparation of development plans
 - The design of development, from initial concept through to delivery
 - The determination of planning applications and appeals.
- 15 Of relevance to this application are;
- Paragraphs 24 – 35: Sustainability
 - Paragraphs 36 – 57: Placemaking
- 16 A successful Sustainable Place
- Paragraphs 126 – 131 Affordable Housing
 - Paragraphs 135 – 151 Valuing the Historic Environment
- 17 A Natural, Resilient Place
- Paragraphs 219 – 233 Maximising the Benefits of Green Infrastructure
 - Paragraphs 254 – 268 Managing Flood Risk & Drainage
- 18 A Connected Place
- Paragraphs 286 – 291 Promoting Sustainable Transport and Active Travel

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

- PAN 2/2010 Affordable Housing and Housing Land Audits
- PAN 1/2011 Planning and Noise
- PAN 40 Development Management
- PAN 51 Planning, Environmental Protection and Regulation
- PAN 58 Environmental Impact Assessment
- PAN 60 Planning for Natural Heritage
- PAN 61 Planning and Sustainable Urban Drainage Systems
- PAN 63 Waste Management Planning
- PAN 65 Planning and Open Space
- PAN 67 Housing Quality
- PAN 68 Design Statements
- PAN 69 Planning & Building Standards Advice on Flooding
- PAN 75 Planning for Transport
- PAN 79 Water and Drainage
- PAN 83 Masterplanning

Designing Places 2001

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

Designing Streets 2010

21 Designing Streets is the first policy statement in Scotland for street design and marks a change in the emphasis of guidance on street design towards place-making and away from a system focused upon the dominance of motor vehicles. It has been created to support the Scottish Government's place-making agenda and is intended to sit alongside the 2001 planning policy document Designing Places, which sets out Government aspirations for design and the role of the planning system in delivering these.

National Roads Development Guide 2014

- 22 This document supports Designing Streets and expands on its principles and is considered to be the technical advice that should be followed in designing and approving of all streets including parking provision.
- 23 The following documents from Historic Environment Scotland (HES) are also of importance in the determination of the application given the historic significance of sites within and surrounding the site:-
- Scottish Historic Environment Policy July 2009 (SHEP)
 - Managing Change in the Historic Environment Guidance Series

DEVELOPMENT PLAN

- 24 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2012-2032 and the Perth and Kinross Local Development Plan 2014.

TAYplan Strategic Development Plan 2012 – 2032 - Approved June 2012

- 25 The overall vision of the Tay Plan states:
“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 and visit and where businesses choose to invest and create jobs.”
- 26 West and North West Perth are identified as a Strategic Development Area in the proposed plan, including the site relating to this application.
- 27 The principle relevant policies are, in summary:

Policy 1: Location Priorities

- 28 Seeks to focus the majority of development in the region’s principal settlements. Perth Core Area is identified as a Tier 1 Settlement with the potential to accommodate the majority of the region’s additional development over the plan period and make a major contribution to the region’s economy.

Policy 2: Shaping better quality places

- 29 Seeks to ensure that climate change resilience is built into the natural and built environment, integrate new development with existing community infrastructure, ensure the integration of transport and land uses, ensure that waste management solutions are incorporated into development and ensure that high resource efficiency and low/zero carbon energy generation technologies are incorporated with development to reduce carbon emissions and energy consumption.

Policy 3: Managing TAYplan's Assets

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

Policy 4: Strategic Development Areas

- 31 Confirms that local development plans should identify specific sites for the Strategic Development Areas and allocate land uses set out in the Tayplan. This includes a strategic development area to the west/ north west of Perth for 4000+ homes and 50ha of employment land.

Policy 6: Energy and Waste/Resource Management Infrastructure

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

Policy 8 – Delivering the Strategic Development Plan

- 33 States, *“To ensure that quality is designed-in to development and places, developer contributions shall be sought for new development to mitigate any adverse impact on infrastructure, services and amenities brought about by development including contributions towards schools, affordable housing, transport infrastructure and facilities (including road, rail, walking, cycling and public transport) and other community facilities in accordance with the Scottish Government Circular 1/2010”.*

Perth and Kinross Local Development Plan 2014

- 34 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. It is the most recent statement of Council policy and is augmented by Supplementary Guidance.

- 35 The LDP sets out a vision statement for the area and states that:

“Our vision is of a Perth and Kinross which is dynamic, attractive and effective which protects its assets whilst welcoming population and economic growth.”

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

Policy PM1A - Placemaking

- 37 Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place. All development should be planned and designed with reference to climate change mitigation and adaptation.

Policy PM1B - Placemaking

- 38 All proposals should meet all eight of the placemaking criteria.

Policy PM1C - Placemaking

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

Policy PM2 - Design Statements

- 40 Design Statements should normally accompany a planning application if the development comprises 5 or more dwellings, is a non-residential use which exceeds 0.5 ha or if the development affects the character or appearance of a Conservation Area, Historic Garden, Designed Landscape or the setting of a Listed Building or Scheduled Monument.

Policy PM3 - Infrastructure Contributions

- 41 Where new developments (either alone or cumulatively) exacerbate a current or generate a need for additional infrastructure provision or community facilities, planning permission will only be granted where contributions which are reasonably related to the scale and nature of the proposed development are secured.

Policy ED1A - Employment and Mixed Use Areas

- 42 Areas identified for employment uses should be retained for such uses and any proposed development must be compatible with surrounding land uses and all six of the policy criteria, in particular retailing is not generally acceptable unless ancillary to the main use.

Policy RD1 - Residential Areas

- 43 In identified areas, residential amenity will be protected and, where possible, improved. Small areas of private and public open space will be retained where of recreational or amenity value. Changes of use away from ancillary uses such as local shops will be resisted unless supported by market evidence that the existing use is non-viable. Proposals will be encouraged where they satisfy the criteria set out and are compatible with the amenity and character of an area.

Policy RD4 - Affordable Housing

- 44 Residential development consisting of 5 or more units should include provision of an affordable housing contribution amounting to 25% of the total number of units. Off-site provision or a commuted sum is acceptable as an alternative in appropriate circumstances.

Policy RD6 - Particular Needs Housing Accommodation

- 45 Support will be given to proposals for particular needs housing and accommodation for the frail, elderly or those with special needs where they are appropriately located and where they have minimum impact on the environment. Proposals for Houses of Multiple Occupation will be supported provided a need can be demonstrated and the residential amenity of an area is not affected.

Policy TA1A - Transport Standards and Accessibility Requirements

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

Policy TA1B - Transport Standards and Accessibility Requirements

- 47 Development proposals that involve significant travel generation should be well served by all modes of transport (in particular walking, cycling and public transport), provide safe access and appropriate car parking. Supplementary Guidance will set out when a travel plan and transport assessment is required.

Policy CF1B - Open Space Retention and Provision

- 48 Appropriate areas of informal and formal open space should be provided as an integral part of any new development where existing provision is not adequate. Where there is an adequate supply of open space a financial contribution towards improved open space may be acceptable. Opportunities should be to create, improve and avoid the fragmentation of green networks.

Policy CF2 - Public Access

- 49 Developments will not be allowed if they have an adverse impact on any core path, disused railway line, asserted right of way or other well used route, unless impacts are addressed and suitable alternative provision is made.

Policy CF3 - Social and Community Facilities

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

Policy HE1A - Scheduled Monuments and Non Designated Archaeology

- 51 There is a presumption against development which would have an adverse effect on the integrity of a Scheduled Monument and its setting, unless there are exceptional circumstances.

Policy HE1B - Scheduled Monuments and Non Designated Archaeology

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

Policy HE2 - Listed Buildings

- 53 There is a presumption in favour of the retention and sympathetic restoration, correct maintenance and sensitive management of listed buildings to enable them to remain in active use. The layout, design, materials, scale, siting and use of any development which will affect a listed building or its setting should be appropriate to the building's character, appearance and setting.

Policy HE4 - Gardens and Designed Landscapes

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

Policy NE1A - International Nature Conservation Sites

- 55 Development which could have a significant effect on a site designated or proposed as a Special Area of Conservation, Special Protection Area or Ramsar site will only be permitted where an Appropriate Assessment shows that the integrity of the site will not be adversely affected, there are no alternative solutions and there are imperative reasons of overriding public interest.

Policy NE1B - National Designations

- 56 Development which would affect a National Park, National Scenic Area, Site of Special Scientific Interest or National Nature Reserve will only be permitted where the integrity of the area or the qualities for which it has been designated are not adversely affected or any adverse impacts are clearly outweighed by benefits of national importance.

Policy NE2A - Forestry, Woodland and Trees

- 57 Support will be given to proposals which meet the six criteria in particular where forests, woodland and trees are protected, where woodland areas are expanded and where new areas of woodland are delivered, securing establishment in advance of major development where practicable.

Policy NE2B - Forestry, Woodland and Trees

- 58 Where there are existing trees on a development site, any application should be accompanied by a tree survey. There is a presumption in favour of protecting woodland resources. In exceptional circumstances where the loss of

individual trees or woodland cover is unavoidable, mitigation measures will be required.

Policy NE3 - Biodiversity

- 59 All wildlife and wildlife habitats, whether formally designated or not should be protected and enhanced in accordance with the criteria set out. Planning permission will not be granted for development likely to have an adverse effect on protected species.

Policy NE4 - Green Infrastructure

- 60 Development should contribute to the creation, protection, enhancement and management of green infrastructure, in accordance with the criteria set out.

Policy ER3A - Minerals and Other Extractive Activities

- 61 Development which would sterilise important economically workable mineral deposits will not be allowed unless there is an overriding need for the development and prior extraction of the mineral cannot reasonably be undertaken; or extraction of the mineral is unlikely to be practicable or environmentally acceptable.

Policy ER4A - Minerals and Other Extractive Activities

- 62 Favourable consideration will be given to proposals for the extraction of minerals where they are in accordance with the criteria set out and where they do not have an adverse effect on local communities and the environment.

Policy ER6 - Managing Future Landscape Change to Conserve and Enhance the Diversity and Quality of the Areas Landscapes

- 63 Development proposals will be supported where they do not conflict with the aim of maintaining and enhancing the landscape qualities of Perth and Kinross and they meet the tests set out in the 7 criteria.

Policy EP1 - Climate Change, Carbon Reduction and Sustainable Construction

- 64 Sustainable design and construction will be integral to new development within Perth and Kinross. Proposals for new buildings must be capable of meeting one of the standards set out in the table.

Policy EP2 - New Development and Flooding

- 65 There is a general presumption against proposals for built development or land raising on a functional flood plain and in areas where there is a significant probability of flooding from any source, or where the proposal would increase the probability of flooding elsewhere. Built development should avoid areas at

significant risk from landslip, coastal erosion and storm surges. Development should comply with the criteria set out in the policy.

Policy EP3A - Water, Environment and Drainage

- 66 Proposals which do not accord with the Scotland River Basin Management Plan and any relevant associated Area Management Plans will be refused unless they are considered to be of significant specified benefit to society and / or the wider environment.

Policy EP3B - Water, Environment and Drainage

- 67 Foul drainage from all developments within and close to settlement envelopes that have public sewerage systems will require connection to the public sewer. A private system will only be considered as a temporary measure or where there is little or no public sewerage system and it does not have an adverse effect on the natural and built environment, surrounding uses and the amenity of the area.

Policy EP3C - Water, Environment and Drainage

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

Policy EP3D - Water, Environment and Drainage

- 69 Development over an existing culvert or the culverting of watercourses as part of a new development will not be supported unless there is no practical alternative. Existing culverts should be opened and redundant water engineering features removed whenever possible.

Policy EP8 - Noise Pollution

- 70 There is a presumption against the siting of proposals which will generate high levels of noise in the locality of noise sensitive uses, and the location of noise sensitive uses near to sources of noise generation.

Policy EP11 - Air Quality Management Areas

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

Policy EP12 - Contaminated Land

- 72 The creation of new contamination will be prevented. Consideration will be given to proposals for the development of contaminated land where it can be demonstrated that remediation measures will ensure the site / land is suitable for the proposed use.

Policy EP15 - Development within the River Tay Catchment Area

- 73 Nature conservation in the River Tay Catchment Area will be protected and enhanced.

OTHER POLICIES

Perth & Kinross Community Plan (2006 – 2020)

- 74 Key aim - Create a vibrant and successful area through:
- A thriving economy including successful tourism and cultural sectors.
 - A positive image locally, nationally and internationally.
 - Improved infrastructure and transport links.
 - A sustainable natural and built environment.

Perth & Kinross Corporate Plan 2013-2018

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

Perth and Kinross Local Transport Strategy

- 76 The Local Transport Strategy (LTS) for Perth & Kinross is located within 'Shaping Perth's Transport Future – A Transport Strategy for Perth and the wider region' (2010). The LTS sets out the Council's transport vision.

The Perth City Plan 2015 – 2035

- 77 This plan produced by the City Development Board sets out the long-term vision for Perth as one of Europe's great small cities. It sets out a framework for investment in strategic infrastructure, along with a 5 year delivery plan for economic development and placemaking.

SITE HISTORY

- 78 14/00001/PAN Proposed housing development, proposed public consultation activity agreed 10 February 2014.
- 79 14/01318/SCRN Residential development 4 August 2014. EIA screening request withdrawn.
- 80 14/01767/SCOP Bertha Park Housing development, content of environmental statement scoped on the 24 November 2014.

- 81 15/00036/FLL Alignment of the southern section of the CTRL the A9/A85 Crieff Road junction improvements, application approved by Development Management Committee, March 2015.
- 82 15/01079/SCRN Erection of primary and secondary school, associated road infrastructure and landscaping. EIA Screened on the 15 July 2015, not required.
- 83 15/01112/IPM Residential development with community facilities, employment land, open space, landscaping and associated infrastructure (in principle) on land at Bertha Park to the North West of Perth, approved at Development Management Committee May 2016 and now awaiting legal agreement to be concluded.

CONSULTATIONS

EXTERNAL

The Scottish Government: Historic Environment Scotland

- 84 Confirm that their remit on this application relates to scheduled monuments and their setting, category A listed buildings and their setting and gardens and designed landscapes and their respective inventories.
- 85 They advise that no significant effects occur at Scone Palace or Huntingtower Castle and note that there are no other significant effects on sites within their statutory remit.
- 86 Overall they agree with the findings of the Environmental Statement and offer no objection to the detailed application.

The Scottish Government: Transport Scotland (Environmental Statement)

- 87 Access to the development is predicated on the delivery of the Council's proposed infrastructure package identified under 'Perth Transport Futures Project'. The nearest trunk roads to the site are the A9(T), which is located immediately to the east of the site, and the A85(T) to the south which will provide access to the site through a newly constructed junction.
- 88 Phase 1 of the project will be taken from two new roundabouts on the first section of the Cross Tay Link Road (CTRL), which leads directly from the A9/A85 Crieff Road Interchange improvement. Subsequent phases of development will rely on the completion of the CTRL, which includes the formation of a new junction on the A9 to the north of Inveralmond.
- 89 The CTRL will not be part of the Trunk Road Network. Therefore Transport Scotland offer no comment on the actual access points to the site as they form part of the local road network.

- 90 Transport Scotland has previously been consulted on these infrastructure proposals, including the Environmental Assessment for the A9/A85 Junction, which has been designed specifically to accommodate the Local Development Plan proposals. On that basis the overall environmental effects of both development and infrastructure proposals in west Perth have already been considered in terms of the trunk road impacts and found to be acceptable.
- 91 In conclusion, they are satisfied with the submitted ES and no objection to the proposed development in terms of environmental impacts is offered.

The Scottish Government, Transport Scotland (Planning Consultation)

- 92 No objection. Recommend a series of mechanisms being put in place to ensure there is no adverse impact in the wider road network.

Luncarty, Redgorton and Moneydie Community Council

- 93 Raise concern as to the emergency access into Bertha Park via Inveralmond will be controlled along with the potential for construction traffic to access/egress onto the A9. The community council seek clarification on the extent of mineral to be extracted and whether this is to be retained for use on site. They question the generation of jobs associated with the development and the relationship of the delivery of employment land and note that no significant Class 4, Class 5 and Class 6 will be available until 2025. They also raise the potential cumulative impact on the Green Belt from Bertha Park, the CTRLR, the zoned Luncarty site H27 and sites that have been identified by third parties under the Strategic and Policy Team's new call for sites. They raise concern that some of the Bertha Park development zones have potential to flood and that flooding events at the Almond/A9 bridge underpass has implications for pedestrian and cycling access into Perth City as this may result in crossing the A9 during such events. Raise concern that the underpass at the Bertha Park Village core will not be in keeping with the village feel of the development and note that these areas can become undesirable. They also question the alignment of the southern section of the CTRLR the A9/A85 Crieff Road junction improvements that already has consent under application 15/00036/FLL.

Scottish Water

- 94 No response received.

Scottish Environment Protection Agency (SEPA)

- 95 No objection to the detailed application if conditional control is applied to deal with drainage including SUDS, ecology, pollution prevention and environmental management as well as waste.

Scottish Natural Heritage (SNH)

- 96 There are no likely significant effects upon the River Tay SAC. Conditional control can be applied to allow the development to proceed without committing

offences against protected species. They provide comments on the provision of green infrastructure and advice on where and how they believe it could be improved, including the use of buffer strips. Presently they consider as submitted the proposal does not adequately protect and mitigate impacts on ancient semi-natural woodland or provide sufficient information on proposed woodland.

National Grid Plant Protection Team

97 No response received.

Methven Community Council

98 No response received.

Tay Salmon Fisheries Board

99 No response received.

R S P B

100 No response received.

Forestry Commission Scotland

101 No response received.

Sport Scotland

102 No objection. Note that the detailed application for the school will progress under a separate planning application. They encourage reference and adherence to Sport Scotland's design guidance for schools.

Perth and Kinross Area Archaeologist

103 Recommend conditional control. From the desk based assessment, walkover survey and evaluation, a suite of archaeological features have been recorded. These range from features representing prehistoric occupation of the area to sites associated with post-medieval agricultural landuse.

104 Where known features and areas of potential cannot be preserved in situ, archaeological mitigation will be required and a detailed programme of archaeological works will need to be refined in discussion with Perth and Kinross Heritage Trust.

INTERNAL

Environmental Health

105 No objection but recommend conditions are included on any given consent.

Transport Planning

- 106 No objection subject to conditional control and securing public transport provision by legal agreement.

Affordable Housing Officer

- 107 No objection. The Affordable Housing Policy applies and a condition to reflect this should be attached to any planning application granted.

Contributions Officer

- 108 No objection. Affordable Housing, Education and Transport Contributions are required in accordance with Supplementary guidance. Due to the scale of this proposal the contributions will be determined through discussions with the applicant.

Community Greenspace - Access Officers

- 109 No objection. Paths for cyclists and pedestrians should be a minimum width of 2.5 m and ideally will be within a wider green corridor. These provide key connections both within the site and linking to the site so should be created at a standard suitable for cyclists and pedestrians and should be surfaced – not mown grass tracks as labelled which will prove difficult to maintain in the long term. Recommend that an updated colour coded plan is submitted of the path according to their function.

Public Space Management

- 110 No objection. Public spaces as indicated are generally large enough to provide for useful functions and maintenance which is welcome. They note that the community would need to take on management and maintenance of community facilities.
- 111 More detail is required on the layout particularly of key open spaces such as the parks, pitches & play areas and areas which may be more challenging to maintain, such as the 'terraced' area near the roundabout shown on the east village plan. Play areas should be labelled as either equipped play areas or unequipped areas for informal play, ball games etc. PKC Play Area Standards should be secured.
- 112 Within the major park area play areas, sports pitch with associated changing and parking, and concrete skate park should sit comfortably within landscaped parkland. The sport pitch requirement within the park area is likely to be two full sized grass pitches with associated changing, parking and access paths. The formal sport and play facilities should not exceed approximately 60% of the landscaped park area. The current layout provides no detail on the park and associated facilities, pitches are currently shown near the school only.

- 113 The woodlands create a useful framework for the development; no detail is given in relation to new planting around residential areas or key open spaces. Native trees should be planted far enough away from gardens and paths to avoid future complaints when trees mature.
- 114 The landscape management plan provides some detail on the principles to be applied and includes species lists. The Tree & Woodland Office advises replacement of some species but acknowledges that the arboricultural report (appendix 10.8) is an accurate description of the tree and woodland cover within and surrounding the site and the broad brush recommendations are appropriate. It is recommended that a more detailed 20-year woodland management plan is produced for all the woodland areas with timescales for implementation.
- 115 The building stand-off distance is a welcome addition to the root protection area. The stand-off distance provides a more robust long term protection for woodland edge trees as well as reducing the risk to people and property.

Bio-diversity Officer

- 116 No objection. The development provides good wildlife corridors and linked habitats that will benefit biodiversity.
- 117 A series of biodiversity conditions are recommended.

Community Waste Advisor

- 118 No objection subject to conditional control.

Flood Prevention Officer

- 119 Following clarification through the provision of Supplementary Environmental Information conditional control is recommended.

Strategy and Policy

- 120 No objection. Bertha Park is allocated in the LDP for 3,000+ houses and in excess of 25ha employment land. As such it forms an important component of the Council's housing and employment land supply
- 121 The LDP indicates that the first phase of development is not to be more than 750 homes and the secondary school and this is not to commence until the first phase of the CTRL linking the site to the A9/A85 junction has been provided. Strategy and Policy are aware that the applicants have been in discussions with the Roads Infrastructure Team on the CTRL issue but the proposed first phase of 1061 houses is significantly in excess of the LDP requirement and no justification appears to have been given as to why this higher number of houses should be allowed in the first phase. There needs to be further discussion on the phasing and bringing forward of employment land in conjunction with the housing development.

REPRESENTATIONS

122 Two letters of representation have been received that raise the following issues:-

- Raise concern as to the emergency access into Bertha Park via Inveralmond will be controlled along with the potential for construction traffic to access/egress onto the A9.
- clarification sought on the extent of mineral to be extracted.
- question the generation of jobs associated with the development and the relationship of the delivery of employment land and note that no significant Class 4, Class 5 and Class 6 will be available until 2025.
- Concern with the potential cumulative impact on the Green Belt from Bertha Park, the CTRLR, the zoned Luncarty site H27 and sites that have been identified by third parties under the Strategic and Policy Team's new call for sites.
- Concern that some of the Bertha Park development zones have potential to flood and that flooding events at the Almond/A9 bridge underpass has implications for pedestrian and cycling access into Perth City as this may result in crossing the A9 during such events.
- concern that the underpass at the Bertha Park Village core will not be in keeping with the village feel of the development and note that these areas can become undesirable.
- The alignment of the southern section of the CTRLR the A9/A85 Crieff Road junction improvements is also questioned, however, this already has consent under application 15/00036/FLL.
- Impact on woodland resource.
- Impact on bio-diversity resource.
- Developments relationship with the loch edge.
- Comments on connectivity to the path network.

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

ADDITIONAL STATEMENTS

Environment Statement	Submitted
Screening Opinion	Scoping undertaken
Environmental Impact Assessment	Required
Appropriate Assessment	Not required
Design Statement / Design and Access Statement	Submitted
Reports on Impact or Potential Impact	Submitted

APPRAISAL

Policy Appraisal

123 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) requires the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The determining issues here are whether the proposals comply with Development Plan policy or if there are other material considerations, which justify a departure from policy.

Principle

124 The principle of the development has already been assessed against the Tayplan and the Perth and Kinross Local Development Plan 2104 (PLDP) and considered acceptable subject to conditional control and the conclusion of a legal agreement as detailed in the report of handling for application 15/01112/IPM.

125 In light of this the delivery of this detailed application for phase 1 does not conflict with TAYplan Policy 1 (Location Priorities) or TAYplan Policy 4 (Strategic Development Areas).

126 The PLDP allocates the Bertha Park site for 3000 plus houses and 25 hectares of employment land under reference H7. There are a number of site specific developer requirements associated with the allocation, while they have already been reviewed in the assessment of this in-principle application as this application is a separate and detailed application it is prudent to review the site specific requirements and how they sit with Springfield's detailed submission for phase 1.

Ref	Location	Size	Number
H7	Berthapark	178 ha (est)	3,000+ In excess of 25 ha employment land
Site Specific Developer Requirements			
<ul style="list-style-type: none"> ⇒ A masterplan will be required for the comprehensive development of this site setting out the phased release of both the housing, community and employment land. ⇒ Flood Risk Assessment which should also investigate the risk of flooding from the Tay and Bertha Loch. ⇒ The open space which abuts the River Almond must be defined by a Flood Risk Assessment and protected in perpetuity as a flood storage area. ⇒ Construction Method Statement to be provided for all aspects of the development to protect the watercourse. Methodology should provide measures to protect the watercourse from the impact of pollution and sediment so as to ensure no adverse effects on the River Tay Special Area of Conservation. ⇒ Where the development of the site is within 30 metres of a watercourse an Otter survey should be undertaken and a species protection plan provided, if required so as to ensure no adverse effects on the River Tay Special Area of Conservation. ⇒ Development shall be phased with the delivery of the Cross Tay Link Road. The first phase of development (for not more than 750 homes and a secondary school) shall not commence until the first phase of the Cross Tay Link Road, linking the site to the A9/A85 junction, has been provided. 			

- ⇒ Facilities to enable the expansion area to be connected to Perth's bus network.
- ⇒ Network of paths and cycle routes providing good active travel links to Perth and Almondbank.
- ⇒ Green corridors in particular networks to link site with Perth and the wider countryside.
- ⇒ Protection and enhancement of biodiversity.
- ⇒ Integration of existing landscape framework into the development, the site and in particular the protection of ancient woodland so that it forms the backdrop to the development.
- ⇒ New secondary school with potential to provide an all-through school/campus.
- ⇒ Park and Ride site.
- ⇒ The extraction of any viable mineral resources prior to development.
- ⇒ Investigation of the provision of a district heating system and combined heat and power infrastructure utilising renewable resources.

SITE SPECIFIC REQUIREMENTS

127 These requirements will be assessed in turn.

A Masterplan will be required for the comprehensive development of this site setting out the phased release of both the housing, community and employment land.

128 A Masterplan for the Bertha Park site has been submitted as part of the in principle application, this sets out the principal components of the development and identifies 3 principal phases or cores of development at Bertha Park which are defined by the structural landscape components taking account of existing and proposed landscape components.

129 This application is for the first phase and is located centrally in the site. It will be accessed from the first roundabout on the CTRLR. To the east will be the new secondary school, potential business uses, eastern village core and higher density housing. To the west will be the high street, west village core, residential areas with associated landscape and open space. Note that the High Street and west village core will be subject to separate applications and will be progressed to accord with the delivery plan secured under the in-principle application.

130 It should be noted that this detailed application also includes part of the second phase area in the Masterplan however this is to allow extraction of minerals and proposed re-profiling.

131 The Masterplan has thoroughly analysed the sites assets and constraints while looking at its relationship with the City of Perth and the surrounding hinterland. As a consequence the master plan comprehensively sets out a vision and an identity for Bertha Park that is robust.

132 The high standard of work incorporated into the Masterplan has been translated into the Design Statement. The Design Statement has taken account of the landscape Masterplan Strategy and defined character areas within Phase 1 with development blocks within the Character Areas.

133 The character areas are as follows:-

- Loch Edge
- Wood Edge
- Pasture
- West village
- Meadows
- East Village
- Farmside

134 The west village core and the school site will be subject to separate applications.

135 The phased strategy sets out how these core phases of land are to be released and the provisional timescales. However, there are other key triggers associated with the delivery of off-site infrastructure and elements of the wider site as envisioned in the Masterplan that need to be taken into account in greater detail. These issues are to be secured by legal agreement for the wider site however it will also be necessary to secure a phasing or delivery plan using conditional control.

136 Some of the issues required to be covered in the phasing/delivery plan will be the scheme's relationship with the Cross Tay Link Road (discussed in greater detail below), the capacity of local schools including the proposed new secondary school at Bertha Park, the delivery of the Bertha village centre, the delivery of an underpass under the link road to connect the western section of Bertha Park, the delivery of business land as well as a Park and Ride, the removal of economically viable minerals, the formation of structural landscaping/green infrastructure between phases including paths as well as a subsidised public transport service at the developments outset.

Flood Risk Assessment which should also investigate the risk of flooding from the Tay and Bertha Loch.

137 PLDP policy EP2 confirms there will be a general presumption against proposals for built development or land raising on a functional flood plain and in areas where there is a significant probability of flooding from any source, or where the proposal would increase the probability of flooding elsewhere. In addition, built development should avoid areas at significant risk from landslip, coastal erosion and storm surges.

- 138 A flood risk assessment (FRA) has been undertaken and is included in the technical appendices of the applicant's ES with the findings of the FRA discussed in chapter 12.
- 139 No significant risk of flooding from the River Tay was predicted.
- 140 Flooding from the River Almond was predicted at the southern part of the site where the CTRL crosses the Almond. This is discussed in greater detail under the next site specific requirement which relates to open space and flood storage protection.
- 141 Flood flows along the Gelly Burn and the unnamed stream on the site would generally be confined in bank; however there would be limited shallow flooding along both watercourses.
- 142 Bertha Loch is located to the north of the development zones. It has two overflows, one to the south and the other to the east. A detailed assessment of the consequences of a dam breach of the Loch has been carried out and is incorporated into the Technical Appendix 12.2. Dam breach scenarios were modelled to determine peak flows and a number of mitigation measures are proposed. This includes improvements to the eastern dam through lowering its height, setting finished floor levels of properties along the flow pathway above the flood level, provision of a flood flow pathway to the eastern part of the site as well as monitoring of the dam.
- 143 There is no flood risk from the un-named artificial pond in the centre of the site, this is to be infilled and a new pond created immediately to the east as a semi-natural suds pond.
- 144 Overland flows have been considered in the assessment and mitigation can be secured by conditional control to ensure there is no adverse flood risk from overland flows.
- 145 Overall, the proposal is considered to comply with the site specific requirement and development plan policy EP2 if the flood mitigation measures in the Environmental Statement are secured by condition for this detailed first phase.

The open space which abuts the River Almond must be defined by a Flood Risk Assessment and protected in perpetuity as a flood storage area.

- 146 The flood risk assessment has identified the flood storage areas that abut the River Almond. These areas are incorporated into the masterplan as recreational areas, paths and openspace (apart from the infrastructure associated with the Cross Tay Link Road that already has approval). Any change away from these areas of open space or recreational use or land raising would require a planning application. In light of this, I am content that the flood storage areas are sufficiently protected to meet this site specific requirement.

Construction Method Statement to be provided for all aspects of the development to protect the watercourse. Methodology should provide measures to protect the watercourse from the impact of pollution and sediment so as to ensure no adverse effects on the River Tay Special Area of Conservation.

- 147 Tay plan policy 3 seeks the protection of key assets. The River Almond part of the River Tay SAC is such an asset. LDP policy NE1A also seeks to protect the interest of protected species within this watercourse.
- 148 The ES has considered the potential impact on the SAC and it recognises that construction phases of the development could affect the designated features of the River Tay SAC through the release of sediment and pollutants from working areas including areas where substrate will be removed for re-profiling of the terrain. In the absence of mitigation, there could be a temporary negative effect on the River Tay during construction. During the operational phase the development could affect the designated features of the SAC through nutrient enrichment from foul drainage as well surface water runoff due to the increased hard-standing areas. In addition, the proposed SUDS discharge into the River Almond may lead to nutrient enrichment in the SAC. Pollution from traffic may also affect it.
- 149 The ES recognises the need to control construction practices to ensure sediments and pollutants are not released into the environment. A full suite of control measures are discussed in chapter 12 of the ES and these measures can be incorporated into a Construction Method Statement/ Construction Environmental Management Plan through conditional control.
- 150 This detailed application for phase 1 proposes to connect into the public sewer. This will avoid impacts upon the River Tay SAC and the foul connection can be conditioned.
- 151 The drainage strategy for the development is the deployment of a Sustainable Urban Drainage System (SUDS). Within this SUD system, external drainage from buildings will receive one level of treatment and roads will receive two levels of treatment. SEPA confirm they are happy with the SUDS principles for phase 1 which consists of a combination of source control, swales, infiltration trenches and ponds. However full details of the finalised surface water management scheme are required and conditional control is required to secure this.
- 152 The current overall SEPA classification for the Tay and Almond locally is 'good'. Any deterioration from this level as a result of sediment or other pollutants, has the potential to reduce the suitability of the SAC for designated species, in particular lamprey. As a result, SNH note that when detailed discharge plans are brought forward, they must be assessed against the conservation objectives of the River Tay SAC with the locations of outfalls from SUDS infrastructure, along with their construction being prescribed to ensure

they are in suitable locations so they do not damage habitats associated with lamprey and fish.

Where the development of the site is within 30 metres of a watercourse an Otter survey should be undertaken and a species protection plan provided, if required so as to ensure no adverse effects on the River Tay Special Area of Conservation.

- 153 Survey work undertaken for the ES has identified the likely species present on and across the proposed development site. SNH note that it will be necessary for repeat or more detailed surveys to be made in the period immediately prior to work taking place and if necessary species protection plans prepared with any disturbance licences sought from SNH.
- 154 The need for updated survey work and species protection plans due to the longevity of the site build-out can be secured through conditional control. It is considered this would achieve compliance with Local Plan Policy NE3 – Biodiversity and EP25 Development within the Tay Catchments.

Development shall be phased with the delivery of the Cross Tay Link Road. The first phase of development (for not more than 750 homes and a secondary school) shall not commence until the first phase of the Cross Tay Link Road, linking the site to the A9/A85 junction, has been provided.

- 155 As part of the site mobilisation and preliminary construction works the developer proposes that construction traffic will access the site via the existing priority junction on the A9(T), located to the north of the Inveralmond Roundabout. Consultation with Transport Scotland confirms that a Construction Traffic Management Plan to identify measures to control the use of any direct access onto the trunk road, including the existing priority access located on the northbound carriageway of the A9 north of Inveralmond Roundabout is required.
- 156 Upon completion of the CTRLR construction vehicle access will be provided via the first phase of the CTRLR to enable the main house building works to commence. It is particularly important to ensure that no residential unit be occupied until the A9/A85 Junction as proposed by Perth and Kinross Council as part of its 'Perth Transport Futures Project' transport strategy has been implemented. Additionally no more than 750 residential units are permitted to be occupied until the Cross Tay Link Road Improvement including the Tay Crossing, generally as proposed by Perth and Kinross Council as part of its 'Perth Transport Futures Project' transport strategy has been designed, approved and contract let.
- 157 Transport Scotland highlight that the proposed development will have an impact on the A9 Trunk Road. They note that mitigation is required and this shall either be physical improvements to junctions in the form of traffic signals and widening of approaches or a financial contribution in lieu of the said physical works. Transport Scotland require a negative suspensive condition,

also known as a 'Grampian' condition, to ensure this matter is appropriately controlled or another appropriate mechanism.

- 158 Members should note that PKC Transport Planning in partnership with Transport Scotland have commissioned work on the potential solutions for the Broxden and Inveralmond Roundabout. This work is advanced and should clarify how the strategic sites relate to these Trunk Road Network junctions. This work will inform future discussions between parties to provide certainty on how the Trunk Road issues at these junctions can be potentially resolved.

Facilities to enable the expansion area to be connected to Perth's bus network.

- 159 Public transport is required at an early stage to promote sustainable transport modes of travel. A funding mechanism to provide for a new public transport service during the build out of the development is required. This should be secured by legal agreement.

Network of paths and cycle routes providing good active travel links to Perth and Almondbank.

- 160 The Transport Assessment also assesses the proposed walking and cycling provision within the site with good potential for these modes to provide meaningful levels of trips.
- 161 Bertha Park is located adjacent to a network of existing core paths and cycle routes. The long-term Masterplan integrates with these paths to provide an off-road traffic free route to the centre of Perth. It also provides additional amenity routes within the existing woodland and aims to reinstate some of the historic routes. The retention of public access across the site during the build out of the development along with the phased implementation/delivery of access routes if controlled by conditions will comply with the site specific requirement and the active travel criterion incorporated into Local Plan Policy TA1B and CF2.

Green corridors in particular networks to link site with Perth and the wider countryside.

- 162 Green Corridors and networks of phase 1 are delineated and create a multi-functional landscape that serves habitat, visual amenity, drainage, play and path networks. Implementation/delivery and how this relates to the phasing of the development will be particularly important and requires to be integrated into the delivery plan.

Protection and enhancement of biodiversity.

- 163 The woodlands and existing watercourses have significant habitat value. The detailed phase 1 application retains, enhances and expands these habitats, through the establishment of an extensive green network within the masterplan. This will enhance biodiversity by connecting habitats, reducing fragmentation or isolation of protected species/wildlife.

- 164 The Bio-diversity officer notes that there are opportunities to further enhance biodiversity that can be incorporated into the detailed phases of development.
- 165 I have already taken account of SNH comments regarding the River Tay SAC (above) however, they have also note that the survey work undertaken to support the Environmental Statement has identified the likely species present on and across the proposed development site. However, it will be necessary for repeat or more detailed surveys to be made in the period immediately prior to work taking place and if necessary species protection plans prepared to support detailed planning applications and any disturbance licences sought from SNH.
- 166 SNH consider that a wider expanse of natural habitat between the loch and the loch edge housing area would better conserve the loch-side landscape character and create a habitat buffer. This is noted, however, this has to be balanced against wider design parameters and other local plan policies. In this case I do not consider that the offset constitutes a reason for refusal and I am satisfied with the high quality of design in this area. Landscaping will be conditioned and suitable boundary treatment that can be employed at the gardens that face onto the loch.
- 167 SEPA required further information on Groundwater Dependent Terrestrial Ecosystems (GWTDE) and works to the unnamed artificial pond. This has been provided in the SEI and following further clarification SEPA have recommended conditional control to allow the unnamed pond to be relocated to the SUDS pond location, thereby creating a double pond arrangement.
- 168 The Environmental Statement helpfully highlights a series of measures at Table15.3 Nature Conservation and Ecology Mitigation. I note that these can be incorporated into and secured by conditional control where required to protect and enhance biodiversity interests associated with this phase 1 detailed application.

Integration of existing landscape framework into the development, the site and in particular the protection of ancient woodland so that it forms the backdrop to the development.

- 169 SNH has concerns about the potential impact on how elements of the scheme relate to the ancient woodland in their consultation response. However these areas mainly fall out with this detailed phase 1 application. I note that the consultation from the Greenspace Team, which incorporates comments from the Tree Officer, confirms that the building stand-off distance from woodland is a welcome addition to the root protection area as the stand-off distance provides a more robust long term protection for woodland edge trees and reduces risk to people and property.
- 170 The Masterplan includes a number of core principles associated with woodland, parkland, water and wetlands. Clarification is required on how path network can be integrated into ancient woodland, in terms of construction and micro-siting to avoid loss of trees but this can be secured by condition. Overall

the approach complies with the site specific requirement as well as local plan policy ER6.

New secondary school with potential to provide an all-through school/campus.

- 171 The masterplan allocates land for educational facilities and this detailed application takes account of the land that has been secured for education. It should be noted that the development of the educational facilities will be subject to a separate planning application.

Park and Ride site.

- 172 This site specific requirement is not applicable to this detailed phase 1 application. However it should be noted that the masterplan associated with the in-principle applications allocates land for a park and ride which will be secured via a legal agreement.

The extraction of any viable mineral resources prior to development.

- 173 The proposed development requires the removal of minerals from the site to form the required finished ground levels. Ground Investigation work was partially undertaken for the site but the full potential of the mineral resource was not originally provided.
- 174 Policy ER3A - Minerals and Other Extractive Activities confirms that the development which would sterilise important economically workable mineral deposits will not be allowed unless there is an overriding need for the development and prior extraction of the mineral cannot reasonably be undertaken; or extraction of the mineral is unlikely to be practicable or environmentally acceptable.
- 175 The submission of SEI provides borehole logs from the ground investigation and an identified extraction area associated with the minerals is provided in phase 2. The extent of viable mineral resource extraction still needs to be fully quantified and the removal secured via conditional control.

Investigation of the provision of a district heating system and combined heat and power infrastructure utilising renewable resources.

- 176 Springfield's Sustainability Statement acknowledges that they are aware of proposals for a potential Biomass power plant to the south of Bertha Park adjacent to the Inveralmond Industrial Estate which would use wood fuel to generate electricity for 11,000 homes within the Perth area. A by-product of the electricity production would be heat in the form of hot water which can provide space heating and hot water to homes and businesses via a district heat main.
- 177 Springfield note that a planning application for the facility has not as yet been submitted but they are keen to investigate this further at the appropriate time as to how their proposals could fit into this and the proposed Perth CHP district

heating scheme. They note it is their intention to continue to investigate the application of this to buildings, particularly for apartments within the village core areas in order to optimise this potential. They are keen to continue to work with Perth & Kinross Council as to the feasibility of new renewable technologies and how this can be incorporated as the development progresses.

- 178 It is planning authority's understanding that the developer of the Biomass Power Plant is not intending to progress with an application. Having reviewed the extent of information submitted it is the Planning Authority's view that the site specific requirement has not been satisfactorily addressed.
- 179 Notwithstanding this, it is likely that Perth and Kinross Council will take forward and investigate the potential for district heating systems with the developers of strategic sites to the north and west of Perth. Taking this into account I consider this matter can be secured through conditional control with the outcomes of the study incorporated into the development if the study confirms that instillation is viable.

Sustainability

- 180 Policy EP1 requires sustainable design and construction to be integral to new development within Perth and Kinross. Proposals for new buildings must be capable of meeting one of the standards set out in the table (Bronze, Silver, Gold or Platinum). Springfield through their Sustainability Statement and Sustainability Checklists confirm that they will build to the Silver Standard Efficiency Target (as a minimum) at the outset. Conditional control is required to achieve the sustainability requirements of Policy EP1

Cultural Heritage

- 181 Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 is applicable due to the potential impact the development may have on the adjacent listed buildings. This legislation requires the Council to have special regard to the desirability of preserving the building or its setting or any features of special architectural historic interest which it possesses.
- 182 Historic Environment Scotland (HES) has confirmed that they agree with the findings of the Environmental Statement and note that there will not be significant effects on the setting of Scone Palace or Huntingtower Castle.
- 183 The Council's Conservation Officer has offered no objection to the proposed development and I am satisfied that the proposed housing development would not have a significant effect on the setting of listed buildings.
- 184 I note that HES also confirm the development will not have a significant effect on other assets that fall within their remit (scheduled monuments and their setting, battlefields and historic garden and designed landscapes).
- 185 Consequently, it is not considered that the proposal would contravene policies HE1A or HE2 of the LDP.

- 186 A suite of archaeological features have been recorded from the desk based assessment as well as a walkover survey and evaluation. These range from features representing prehistoric occupation of the area to sites associated with post-medieval agricultural land use. Significantly, the evaluation revealed the prehistoric archaeological features tended to be located on higher, well-drained ground.
- 187 Where known features and areas of potential cannot be preserved in situ, archaeological mitigation will be required. The ES suggests a combination of strip, map and record (to include excavation and subsequent post-excavation analysis) and archaeological monitoring. The detail of this programme of archaeological works will need to be refined in discussion with Perth and Kinross Heritage Trust and this can be secured by condition, this would ensure compliance with policy HE1B.
- 188 The LDP through Policy HE4 - Gardens and Designed Landscapes, requires the integrity of sites included on the Inventory of Gardens and Designated Landscapes to be protected and enhanced. In this case the visibility between the site and the Battleby HGDL, Methven Castle HGDL as well as the Scone Palace HGDL is limited by topography and intervening woodland, there is no conflict with Policy HE4.

Waste Collection

- 189 The consultation response from the Council's Waste Services team seeks to ensure all properties have the required number and type of bins and adequate space within each property to accommodate the required bins. They also look for the road network to accommodate refuse vehicles to service the site. Conditional control and informatives can be applied to ensure the collection of waste will not be compromised.

Contaminated Land

- 190 A site investigation partially covering the proposed development site has been carried out. The area was identified as being largely agricultural, however the report highlighted an area of possible slurry as well as an area which has been used as a sheepfold.
- 191 Conditional control is required to ensure the development complies with local plan policy EP12.

Air Quality

- 192 The construction activities associated with the site are likely to result in dust and particulate matter being released. Wind blow from dried out exposures associated with cut and fill operations to extract the minerals from the site and to create development pads, are likely to be the main source of dust and particulates as well as construction vehicular movement distributing material within, to and off the site. Dust nuisance can be limited by deploying Best Practice Measures and this should be incorporated into the Construction

Environmental Management Plan (CEMP) to help reduce the impact of construction activities.

- 193 Perth and Kinross Council declared the whole of Perth and Kinross an Air Quality Management Area (AQMA) in May 2006 after a detailed assessment concluded that there would be areas of exceedances for NO₂ and PM₁₀ where relevant exposure occurred. A further assessment was completed in 2007 and confirmed the conclusions of the detailed assessment. It recommended that Perth and Kinross Council retain the city wide AQMA for NO₂ and PM₁₀. An associated Air Quality Action Plan (AQAP) has been produced which incorporates aims and measures to reduce levels of NO₂ and PM₁₀ around Perth to below the National Standard, as such any developments which increase levels of the pollutants would be in conflict with the AQAP.
- 194 In support of the application an Air Quality Assessment has been undertaken to take account of the potential impacts in terms of air quality on current and future receptors in the vicinity and surroundings of the proposed development in respect of current and predicted traffic levels.
- 195 The Environmental Health Section initially had concerns with Air Quality Assessment, the accuracy of the model, road emissions, wood burning stoves and the cumulative assessment undertaken. The submission of SEI and clarification from the consultants has addressed the initial concerns and Environmental Health concerns have been alleviated and they no longer have concerns associated with the detailed phase 1 application.

Noise

- 196 The planning system has an important role to play in preventing and limiting noise pollution. Although the planning system cannot tackle existing noise problems directly, it has the task of guiding development to the most suitable locations and regulating the layout and design of new development. The noise implications of development can be a material consideration in determining applications for planning permission.
- 197 Consultation with Environmental Health confirms that there are a number of noise issues arising from this development which have been discussed as part of this application in the Environmental Statement; they recommend the use of conditional control to protect residential amenity and neighbouring land uses to ensure the proposal complies with LDP Policy EP8 – Noise Pollution.

Light Pollution

- 198 Light is likely to be emitted from within the residential units, commercial enterprises; lighting for the streets will also be required. Consultation from Environmental Health has sought lighting to be aligned to ensure there is no adverse impact on adjoin landuses and this can be secured by conditional control.

Design and Layout

- 199 Through Designing Places (November 2001) Scottish Ministers have signalled the importance they attach to achieving improvements in the design and quality of new development, and bringing long-term benefits to the urban and rural environment. It should be noted that good design should be the aim of everyone in the planning and development process with it being important at all scales of development. Ill-conceived and poorly designed development is not in the public interest, as mistakes cannot be easily or cheaply rectified. An important outcome of the planning process is the quality of development on the ground.
- 200 Designing Streets, published by the Scottish Government, suggests that streets should be designed as social spaces, being well-connected at all levels. It aims to move away from vehicle dominated road layouts in favour of streets designed for people that achieve a sense of place, producing interesting and useable street layouts.
- 201 Permeability of places is a crucial component in good street design. Internal permeability is important, but any area should also be properly connected with adjacent street networks. A development with poor links to the surrounding area creates an enclave which encourages movement to and from it by car rather than by other mode. In this case there are a number of pedestrian and cycling links into the surrounding environs and the delivery of dwellings is controlled by condition to enable road connections into the wider transport network. I note concerns are expressed about the incorporation of an underpass to connect the east and west village character areas; however, I consider that this solution is acceptable.
- 202 When considering the layout of any new development, one of the most important issues to consider is creating the opportunity for natural surveillance. Buildings, spaces and pedestrian routes should be located to maximise natural observation from pedestrians and passing motorists. Active frontages should be encouraged wherever possible i.e. doors leading onto the street and windows overlooking all public areas. The proposed layout takes cognisance of Designing Streets and incorporates appropriate natural surveillance of open space and supervision of the main pedestrian routes in line with PAN 77 Designing Safer Places. In this case the Design Statement satisfactorily explains the developers approach in delivering the character areas associated with phase 1. The mixture of house types and the massing, scale, positioning within the plot and boundary definition are well thought out providing surveillance of the street, open spaces and paths. An appropriate density for each character area is achieved and the overall detailing of the buildings and palette of materials to be employed for each character area is well presented and provides clear definition to the character area.
- 203 Taking this into account the proposal is in line with Policy PM1A, Policy PM1B, Policy PM1C - Placemaking of the LDP as well as the Scottish Government's Designing Streets and Designing Safer Places.

Private Amenity Space

- 204 The extent in which private amenity space is used relates specifically to the dwelling's occupants. It is therefore particularly difficult to forecast the extent of garden ground required and ultimately overtime this will change with any new occupants. Nevertheless it is important to seek an outside area that can perform the minimum to be expected of a garden i.e. clothes drying, dustbin storage and sitting out. The private garden ground incorporated into this layout is considered to cater for the occupants' needs both present and future.

Overlooking

- 205 In this case I do not consider the proposed residential units will result in overlooking to neighbouring properties due to the separation distances between proposed and existing dwellings.

Overshadowing, loss of sunlight and daylight.

- 206 The Building Research Establishment (BRE) document 'Site Layout Planning for Daylight and Sunlight - a guide to good practice 1991' sets out guidelines on how to assess the potential impact. It should be noted that the standards are not mandatory and should be interpreted flexibly. Taking cognisance of the BRE document I consider a reasonable level of daylight and sunlight is maintained to neighbouring properties and the extent of overshadowing of amenity ground does not warrant refusal due to the orientation and distances between properties.

Developer Contributions

- 207 A legal agreement is required to secure infrastructure for Bertha Park, to ensure it complies with Policy PM3 Infrastructure Contributions.

Economic Impact

- 208 The socio-economic assessment within the Environmental Statement has determined that the project will have a positive effect in terms of job creation in the area during the construction period and once the proposed employment land is developed and operational.
- 209 The Environmental Statement estimates that between 60-180 construction jobs will be created during this phase of the development.
- 210 During the operational stage, the population increases are not expected to cause a significant negative impact. For this Phase 1 detailed application an estimated 2616 additional residents are expected, the design has incorporated new community facilities, associated public infrastructure and transport services to accommodate the rise in population. In addition, a beneficial effect is expected as a result of the increase in jobs and economic activity. Job opportunities will be provided from the leisure and community facilities, primary

and secondary schools and increased demand to council services (i.e. public transport, waste collections and maintenance of utilities etc).

- 211 The Masterplan involves the creation of 25 hectares of employment land for new jobs and businesses. It is estimated that around 300 jobs will be created as a result of Phase 1, with around a further 2,000 jobs created as a result of Phase 3. While this is consistent with Policy 3 (Managing TAYplan's Assets) supports employment land within principal settlements the phasing of employment land should be controlled in a manner that allows this to come forward when required, as discussed in the assessment of the in-principle application for Berth a Park. This can be looked at and secured in the delivery plan and via the Legal Agreement.
- 212 Taking the above into account, the proposal would make a significant contribution towards delivering the visions contained within Perth and Kinross Council's Community Plan and Corporate Plan and the City Plan.

Content and Adequacy of the Environmental Statement

- 213 The purpose of the EIA process is to examine the likely significant environmental effects from a proposed development having regard to the project and its nature, size or locality. Through the EIA process, a proper understanding of the interaction between the project and its location should be assessed to determine if the effects on the environment are likely to be significant and if there are associated mitigation measures which make this acceptable.
- 214 Part II, Schedule 4 of the Environmental Impact Assessment (Scotland) Regulations 2011 outlines the information required to be included in any EIA.
- 215 The content and the associated background information of the Environmental Statement are considered to meet the requirements of those regulations. In this case Council officers are satisfied with the findings of the Environmental Statement and how it relates to the detailed application for phase 1.

LEGAL AGREEMENTS

- 216 A legal agreement is required to secure infrastructure for Bertha Park. The following heads of terms are still being discussed between the parties associated with the earlier in-principle application. They are still of relevance to this detailed application:-

- A Delivery Plan.
- Servicing of Secondary School land.
- Delivery of Primary School(s).
- Transport and Transport Infrastructure.

- Delivery of Park and Ride site.
- Delivery of Public Transport.
- Delivery of Serviced Employment Land.
- Delivery of Affordable Housing.
- Delivery of Open Space, paths and associated maintenance.
- Delivery of Community Facilities and Healthcare.
- Contribution towards a Community Fund.
- Minerals.

DIRECTION BY SCOTTISH MINISTERS

217 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, regulations 30 – 32 there has 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

218 In conclusion, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, the phase 1 detailed application is part of the Strategic Development Area of West/North West Perth in TAYplan 2012 and an allocated site within the LDP, thus complies with the locational requirements of both development plans.

219 In the assessment of the in-principle application the submission of a high quality Masterplan successfully demonstrated Springfield's vision for Bertha Park. This detailed phase 1 application delivers the central phase of Bertha Park, the design statement and detailed plans further illustrates Springfield's vision for a high quality countryside community at Bertha Park with all the supporting infrastructure, facilities and amenities demanded by modern life.

220 The proposed phase 1 development is therefore considered to comply with the over-riding thrust of the development if appropriate mitigation is secured by conditional control and legal agreement.

RECOMMENDATION

Approve the application

A Conditions and Reasons for Recommendation

- 1 The proposed development must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed on the planning permission.

Reason - To ensure that the development is carried out in accordance with the plans approved.

- 2 No development shall commence until a detailed delivery plan confirming the phased delivery of the site and construction works has been submitted and approved in writing by the Planning Authority. Once approved, the development shall proceed in accordance with the approved delivery plan, to the satisfaction of the Planning Authority.

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

- 3 Prior to the commencement of development the extent of the economic mineral resource to be won on site, shall be quantified to ensure it is not sterilised. Details of which shall be submitted to and approved in writing by the Planning Authority.

Reason: To ensure the economic mineral resource on the site is not sterilised.

- 4 Prior to the commencement of development a mineral working programme and phasing plan for the economic mineral resource to be won on site shall be submitted to and approved in writing by the Planning Authority. This shall detail the method and working direction of the mineral resource along with temporary restoration to be deployed before receiving built development.

Reason: To ensure the economic mineral resource on the site is not sterilised and to enable the Planning Authority to control the working programme to minimise its impact on rest of the Bertha Park development.

- 5 No buildings shall be constructed on the identified economic mineral resource until a detailed survey plans, including levels to Ordnance Datum, to show that the economic mineral resource associated with that working phase has been extracted is submitted to and approved in writing by the Planning Authority.

Reason: To ensure the economic mineral resource on the site is not sterilised and to enable the Planning Authority to control the working programme to minimise its impact on rest of the Bertha Park development.

- 6 The foul drainage shall be drained to the mains sewerage system the details of which shall be submitted to and approved in writing by the planning authority prior to its instillation and in consultation with Scottish Water, Scottish Environment Protection Agency and Scottish Natural Heritage. The agreed foul drainage shall thereafter be implemented to coincide with the occupation of the development.

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

- 7 Concurrent with the initiation of the development hereby approved and for the duration of construction, a temporary surface water treatment facility shall be implemented on site and maintained for the duration of the construction works. The temporary surface water treatment facility shall remain in place until the permanent surface water drainage scheme is implemented unless otherwise agreed in writing by the Planning Authority.

Reason: In the interests of best practise surface water management, bio-diversity, to avoid undue risks to public safety and flood risk.

- 8 Development shall not commence until a detailed and permanent sustainable urban drainage system (SUDS) has been submitted for the further written approval of the 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. For the avoidance of any doubt the discharge of any surface water drainage shall be limited to the greenfield runoff rates as detailed in section 12.5.26 of the Environmental Statement. Thereafter, all works shall be carried out in accordance with the agreed details and be operational prior to the bringing the development phase into use.

Reason: In the interests of best practise surface water management, bio-diversity, to avoid undue risks to public safety and flood risk.

- 9 Development shall not commence until the design of all new and existing culverts/bridges and associated features (such as screens) has been submitted to and approved in writing by the Planning Authority, in consultation with the Council's Flooding Team. Thereafter, all works shall be carried out in accordance with the agreed details and be operational prior to the bringing the development into use.

Reason: In the interests of best practise surface water management, bio-diversity, to avoid undue risks to public safety and flood risk.

- 10 Prior to commencement of any works, full details of the finalised design of the replacement pond and SUDS pond within phase 1 of the development will be submitted for the written approval of the planning authority, in consultation with SEPA. Thereafter, all work shall be carried out in accordance with the approved scheme. The finalised design will include details of how the SUDS

and replacement pond will maintain hydrology, and how biodiversity from the old pond to the new pond will be translocated.

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

- 11 For the avoidance of any doubt the domestic and non-domestic buildings to be erected shall comply with Silver Active from 2016 and Gold Active from 2020 as per the 'Building Standards Technical Handbook Section 7 – Sustainability'. The sustainability label shall be provided for the written approval of the Planning Authority prior to the occupation of the domestic or non-domestic building.

Reason: To ensure this development complies with the on-site carbon reductions required in Scottish Planning Policy and the Council's Policy EP1: Climate Change, Carbon Reduction and Sustainable Construction.

- 12 Prior to the commencement of the development details of the play park (equipment, specification) shall be submitted to the Planning Authority for written approval. Thereafter play parks shall be installed to accord with the approved details to coincide with the phasing of character areas which shall be agreed in writing with the Planning Authority.

Reason: To ensure the delivery of recreational facilities for the occupants of the development.

- 13 Prior to the commencement of development a woodland management plan for a minimum of twenty years, including long term objectives, management responsibilities and maintenance schedules for all woodland areas within the site shall be submitted to and approved in writing by the Planning Authority. Thereafter the woodland management plan shall be carried out as approved on commencement of the development hereby permitted unless otherwise approved in writing by the Planning Authority.

Reason: To ensure that the woodland areas are satisfactorily managed and maintained in the long term in the interests of the visual amenity of the area.

- 14 Prior to the commencement of the development details of the proposed landscaping, planting, screening, open space and allotments scheme shall be submitted to the Local Planning Authority for approval. Details of the schemes shall include:

- a) Existing and proposed finished ground levels relative to a fixed datum point.
- b) Existing landscape features and vegetation to be retained.
- c) Existing and proposed services including cables, pipelines and substations.

- d) The location of new trees, shrubs, hedges, grassed areas and water features.
 - e) A schedule of plants to comprise species, plant sizes and proposed numbers and density.
 - f) The location, design and materials of all hard landscaping works including walls, fences, gates and any other means of enclosure.
 - g) An indication of existing trees, shrubs and hedges to be removed.
 - h) Details of areas of public open space.
 - i) Details of areas for allotments.
 - j) A programme for the completion and subsequent maintenance of the proposed landscaping, planting, screening, open space and allotments.
- 15 All soft and hard landscaping proposals shall be carried out in accordance with the approved scheme and shall be completed during the planting season immediately following the commencement of the development on that part of the site or such other date as may be agreed in writing with the Planning Authority.
- 16 Any planting which, within a period of 5 years from the completion of the development, in the opinion of the Planning Authority is dying, has been severely damaged or is becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted.
- Reason: to ensure the implementation of satisfactory schemes of landscaping which will help to integrate the proposed development into the local landscape in the interests of the visual amenity of the area.*
- 17 Prior to the commencement of development a detailed plan of public access across the site (existing, during construction & upon completion) shall be provided for the written approval of the Council as Planning Authority and show:
- a) All existing paths, tracks & rights of way.
 - b) Any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or curtilage, in relation to proposed buildings or structures.
 - c) All paths & tracks proposed for construction, for use by walkers, riders, cyclists, all-abilities users, etc.
 - d) Any diversions of paths - temporary or permanent- proposed for the purposes of the development

- e) The detailed specification of the proposed paths and tracks, along with how they will be constructed to avoid impacts on trees.

Reason: In the interest of sustainable transportation.

- 18 No part of the approved development is permitted to be occupied until the A9/A85 Junction Improvement, generally as proposed by Perth and Kinross Council as part of its 'Perth Transport Futures Project' transport strategy to support the Local Development Plan, has been designed, approved and implemented to the satisfaction of the Planning Authority in consultation with Transport Scotland.

Reason: To ensure that the scale of development does not exceed that assessed by the supporting Transport Assessment and to ensure that the scale of development is commensurate with the infrastructure required to support the development.

- 19 No more than 750 residential units are permitted to be occupied until the Cross Tay Link Road Improvement including the Tay Crossing, generally as proposed by Perth and Kinross Council as part of its 'Perth Transport Futures Project' transport strategy to support the Local Development Plan, have been designed, approved and contract let to the satisfaction of the Planning Authority in consultation with Transport Scotland.

Reason: To ensure that the scale of development does not exceed that assessed by the supporting Transport Assessment and to ensure that the scale of development is commensurate with the infrastructure required to support the development.

- 20 No development shall commence until appropriate mitigation measures have been agreed to address the impact of the development at the Broxden Roundabout on the A9 trunk road. The nature of the mitigation shall either be physical improvements to these junctions in the form of traffic signals and widening of approaches or a financial contribution in lieu of the said physical works. The details of the physical works or the level of financial contribution required shall be agreed in writing with the Planning Authority in consultation with Transport Scotland.

Reason: To ensure that the scale of development does not exceed that assessed by the supporting Transport Assessment and to ensure that the scale of development is commensurate with the infrastructure required to support the development.

- 21 No development shall commence until a Construction Traffic Management Plan has been approved in writing by the Planning Authority in consultation with Transport Scotland. In particular the CTMP shall identify measures to control the use of any direct access onto the trunk road, including the existing priority access located on the northbound carriageway of the A9 north of Inveralmond Roundabout. Thereafter, all construction traffic associated with the development shall conform to the requirements of the agreed plan.

Reason: To mitigate the adverse impact of development traffic on the safe and efficient operation of the trunk road.

- 22 No development shall commence until a detailed specification for the emergency access arrangements to be put in place between the Inveralmond Bridge and Bertha Lodge along with implementation timescales has been submitted to and approved in writing by the Planning Authority. Thereafter the approved emergency access arrangements to accord with the agreed timescales shall be installed and thereafter maintained to the satisfaction of the Planning Authority.

Reason: to ensure that the development proposals will not have a significant detrimental impact on the operation of the local road network.

- 23 Prior to the completion of the development, all watercourses on the site as referred to in the FRA dated 18 June 2015) shall be inspected and cleared of any impediments likely to create any obstruction to the free flow of water within the development and for 300m (or length otherwise agreed with the Planning Authority) upstream and downstream of the development phase; an inspection report along with details of works undertaken shall be submitted to the Planning Authority for written approval in consultation with the Roads Authority.

Reason: In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality and in accordance with the adopted development plan.

- 24 The Finished Floor Level of all properties shall be a minimum of 600mm above the 200 year flood level including 20% for Climate Change.

Reason: To reduce flood risk.

- 25 The overland flood routes of the dam breach analysis shall be maintained as open space to prevent any future development of the land, a minimum of a 5m Maintenance strip either side of the watercourse must be provided along all watercourses as referred to in the FRA dated 18 June 2015) within the extents of the proposed development.

Reason: To allow suitable access to the watercourse for maintenance purposes and to reduce floodrisk.

- 26 Prior to the commencement of development a Construction Environment Management Plan (CEMP), incorporating a Construction Method Statement (CMS), a Site Waste Management Plan (SWMP), a Drainage Management Plan (DMP) and Environmental Management Plan (EMP) detailing pollution prevention and control measures for all felling, construction and operation programmes will be submitted to and be approved in writing by the Planning Authority, in consultation with Scottish Environment Protection Agency and Scottish Natural Heritage. Such details shall be submitted not less than two months prior to the agreed scheduled commencement date and shall incorporate detailed pollution avoidance and mitigation measures for all

construction elements. Thereafter the development shall be fully undertaken in accordance with the agreed CEMP.

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

- 27 Two months prior to the commencement of the development, an independent and suitably qualified ecologist shall be appointed as the 'Ecological Clerk of Works' (ECOW) for the site, by the developer and at the developer's expense. This appointment shall be subject to the prior written approval of the Planning Authority and detail the extent of inspections to be undertaken by the ECOW and how this relates to the delivery of the development. The ECOW shall oversee, on behalf of the Planning Authority, in consultation with Scottish Natural Heritage, the implementation of all ecology related planning conditions and how this relates to the development being constructed. The ECOW shall undertake a watching brief throughout the construction of the development and shall have the 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.
- 28 The ECOW shall have responsibility for the following:
- a) Monitoring compliance with the mitigation works related to the development as set out in the Construction Environment Management Plan.
 - b) Advising the developer on adequate protection of nature conservation interest on the site, including altering construction practices if existing practices are having an adverse impact on the natural heritage of the site.
 - c) If any protected species are found on site, the Ecological Clerk of Works will ensure that work is suspended at that location and that a protected species protection plan is implemented.
- 29 The ECOW is required to notify the Planning Authority:-
- a) If there has been a requirement to stop or alter works in relation to this condition.
 - b) They are required to submit a report on their inspection for the review of the Planning Authority in consultation with Scottish Environment Protection Agency and Scottish Natural Heritage during construction operations.
 - c) They will have the power to amend the Construction Method Statement, where required, with any amendments and measures to mitigate submitted to the Planning Authority.

Reason: In order to ensure that the appointed ECOW is suitably qualified and has a suitable job description and powers.

- 30 No development shall take place until details of checking surveys for protected species or the nests of any breeding birds on the site has been submitted to and approved in writing by the Planning Authority, in consultation with SNH. The surveys shall be undertaken by a qualified ecologist, in accordance with the approved specification, in the last 6 months preceding site preparation and construction work commencing. A programme of any mitigation measures required as a consequence of the survey results, and a timetable for any such mitigation measures shall have been submitted to and approved in writing by the Planning Authority prior to any works associated with the development taking place. The programme of mitigation work shall be implemented as approved under the supervision of a qualified ecologist all to the satisfaction of the Planning Authority.

Reason: In the interests of protecting the natural heritage, to minimise the environmental impact of construction and operational activities resulting from the proposed development.

- 31 No development shall take place, including demolition, ground works and vegetation clearance, until a biodiversity monitoring strategy has been submitted to, and approved in writing by, the local planning authority. The purpose of the strategy shall be to monitor the abundance and distribution of protected species over the period of the development. The content of the Strategy shall include the following.
- a) Aims and objectives of monitoring to match the stated purpose.
 - b) Identification of adequate baseline conditions prior to the start of development.
 - c) Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged.
 - d) Methods for data gathering and analysis.
 - e) Location of monitoring.
 - f) Timing and duration of monitoring.
 - g) Responsible persons and lines of communication.
 - h) Review, and where appropriate, publication of results and outcomes.
- 32 A report describing the results of monitoring shall be submitted to the local planning authority at intervals identified in the strategy. The report shall also set out (where the results from monitoring show that conservation aims and objectives are not being met) how contingencies and/or remedial action will be identified, agreed with the local planning authority, and then implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

- 33 The monitoring strategy will be implemented in accordance with the approved details.

Reason: In the interests of protecting the natural heritage, to minimise the environmental impact of construction and operational activities resulting from the proposed development.

- 34 No development shall take place until the trees to be retained as identified in the submitted surveys have been protected by suitable fencing in accordance with BS5837 2012 (Trees in Relation to Construction). The details of the protective fencing and its location shall be first submitted to and agreed in writing by the Planning Authority. No materials, supplies, plant, machinery, soil heaps, changes in ground levels or construction activities shall be permitted within the protected areas without the written consent of the Planning Authority and no fire shall be lit in the position where the flames could extend to within 5 metres of foliage, branches or trunks.

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

- 35 No development shall commence until a detailed specification and planting scheme for the structural landscaping works between Phase 1 and 2 and Phase 1 and 3 along with implementation timescales has been submitted to and approved in writing by the Planning Authority. Thereafter the approved structural landscaping works between Phase 1 and 2 and Phase 1 and 3 shall be installed to accord with the agreed timescales and thereafter maintained to the satisfaction of the Planning Authority.

Reason: In order to ensure a responsive and robust landscape framework is created between the phases of the site.

- 36 No works in connection with the development hereby approved shall take place until such time as a mechanism has been agreed and concluded to the satisfaction of and the Planning Authority to ensure that the structural landscaping works between Phase 1 and 2 and Phase 1 and 3 have been completed in full.

Reason: to ensure the completion of the agreed structural landscaping scheme at an early stage in the interests of the visual amenity of the area and to provide a buffer between the mineral extraction and Phase 1 of the MasterPlan.

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

within the development site is undertaken to the satisfaction of the Planning Authority in agreement with Perth and Kinross Heritage Trust.

Reason: To safeguard any archaeological interest of the site.

- 38 Prior to the commencement of the development, a site specific plan, detailing bin storage areas, kerbside collection locations and recycling facilities shall be submitted to and approved in writing by the Planning Authority and thereafter undertaken in accordance with the approved details. All domestic properties require an appropriate storage area for a minimum of 3 x 240 litre bins (1 for general waste, 1 for garden & food waste and 1 for dry mixed recyclates/paper) and suitable access/surface to wheel the bins from the storage area to the kerbside where they must be presented for collection.

Bin Dimensions

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

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

- 39 Prior to the commencement of development, a strategy to ensure noise levels are reasonable internally utilizing dwelling layouts and appropriate double glazing with trickle vents shall be submitted to the satisfaction of the planning authority and thereafter implemented. The strategy shall focus on the relationship of dwellings on either side of the Cross Tay Link Road (CTLR) within the site and to the sites southern boundary beside the Inveralmond Industrial Estate.

Reason: To prevent disturbance from noise.

- 40 For any commercial kitchen, an effective ventilation system commensurate with the nature and scale of cooking to be undertaken shall be installed, operated and maintained, within the commercial areas, such that cooking odours are not exhausted into or escape into any neighbouring dwellings.

Reason: To prevent disturbance from noise and odour.

- 41 All plant or equipment including any ventilation system associated with operation of the commercial areas 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 premises, with all windows slightly open, when measured and/ or calculated and plotted on a rating curve chart.

Reason: To prevent disturbance from noise.

- 42 Commercial and Industrial deliveries shall be limited to Monday to Sunday 07.00 to 19.00

Reason: To prevent disturbance from noise.

- 43 Noise from any air source heat pump or other external residential plant 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 premises, with all windows slightly open, when measured and/ or calculated and plotted on a rating curve chart.

Reason: To prevent disturbance from noise.

- 44 For commercial and industrial areas all external lighting to be installed shall be sufficiently screened and aligned so as to ensure that there is no direct illumination of neighbouring land and that light spillage beyond the boundaries of the site is minimised.

Reason: To prevent disturbance from lighting.

- 45 Prior to the commencement of development, an evaluation for the potential of the site to be affected by contamination by a previous use should be undertaken and as a minimum, a Preliminary Risk Assessment (Phase 1 Desk Study) will be submitted for consideration by the Council as Planning Authority. If after the preliminary risk assessment identifies the need for further assessment, an intrusive investigation should be undertaken to identify;

- a) The nature, extent and type(s) of contamination on the site.
- b) Measures to treat/remove contamination to ensure the site is fit for the use proposed.
- c) Measures to deal with contamination during construction works.
- d) Condition of the site on completion of decontamination measures.

Reason: To ensure the development is ready to receive development, to protect future users of the site and to protect the amenity of the environment.

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

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

- 47 Prior to the commencement of development a Feasibility Study shall be submitted in writing for the approval of the Planning Authority to assess the technical feasibility and financial viability of heat network/district heating for this site, identifying any available sources of heat (either within the site or offsite) and other factors such as where land will be safeguarded for future district heating infrastructure. The accompanying Design and Access Statement or other document as agreed by the Council should show/demonstrate how the findings of the feasibility study has been incorporated into the finalised design and layout of the proposal.

Reason: To identify future district heating opportunities for the development.

- 48 The development shall be in accordance with the Council's Affordable Housing Policy approved in April 2016 which requires a 25% allocation of affordable units within the development all to the satisfaction of the Council as Planning Authority.

Reason: To comply with the Council's approved policy on affordable housing.

B JUSTIFICATION

The proposal is considered to comply with the Development Plan and there are no other material considerations that would justify a departure therefrom.

C PROCEDURAL NOTES

Consent shall not to be issued until a Section 75 Agreement relating to planning contributions set out below has been completed and signed to reflect the current planning reference 15/01109/FLM. The legal agreement should be concluded and completed within 4 months of the date of any Committee approval. Failure to conclude a legal agreement within 4 months will result in the planning application being re-assessed through failing to comply with the associated developer contributions policy and will be ultimately recommended for refusal under delegated powers.

- A Delivery Plan.
- Servicing of Secondary School land.
- Delivery of Primary School(s).
- Transport and Transport Infrastructure.
- Delivery of Park and Ride site.
- Delivery of Public Transport.
- Delivery of Serviced Employment Land.

- Delivery of Affordable Housing.
- Delivery of Open Space, paths and associated maintenance.
- Delivery of Community Facilities and Healthcare.
- Contribution towards a Community Fund.
- Minerals.

D INFORMATIVES

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
- 2 Under Section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the Planning Authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.
- 4 This development will require the 'Display of notice while development is carried out', under Section 27C (1) of the Town and Country Planning Act 1997, as amended, and Regulation 38 of the Development Management Procedure (Scotland) Regulations 2008. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. According to Regulation 38 the notice must be:
 - Displayed in a prominent place at or in the vicinity of the site of the development.
 - Readily visible to the public.
 - Printed on durable material.
- 5 The applicant is advised that to enable some of the negative suspensive conditions to be fulfilled works which are operational development may have to be undertaken out with the application site. These works themselves may require the submission of a planning application.

- 6 The developer is advised to contact Mr David Strachan, Archaeologist, Perth and Kinross Heritage Trust to discuss terms of reference for work required Tel 01738 477080.
- 7 The applicants are advised that they must apply to the Roads Authority, for construction consent to form a new street. Please contact The Construction and Maintenance Manager, The Environment Service, Perth and Kinross Council, The Atrium, Glover Street, Perth.
- 8 The applicant is advised that in terms of Sections 21 of the Roads (Scotland) Act 1984 they must obtain from the Council as Roads Authority consent to construct a new road prior to the commencement of roadworks. Advice on the disposal of surface water must be sought at the initial stages of design from the Roads Authority, Scottish Water and the Scottish Environmental Protection Agency.
- 9 Please consult the Street Naming and Numbering Officer, The Environment Service, Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth PH1 5GD
- 10 The applicant is advised that the granting of planning consent does not guarantee a connection to Scottish Water's assets. The applicant must make a separate application to Scottish Water Planning & Development Services team for permission to connect to the public wastewater system and/or water network and all their requirements must be fully adhered to.
- 11 No work shall be commenced until an application for building warrant has been submitted and approved.
- 12 Ecologists shall be employed to undertake protected species surveys and provide advice and guidance where work is due to be undertaken close to sensitive areas, such as woodland, hedgerows and watercourses and waterbodies as agreed with planning authority.
- 13 Where works are within 50m of trees, woodland, hedgerows or waterbodies the ecologist shall undertake protected species surveys and identify any potential impacts, where appropriate protective fencing shall be erected prior to work commencing in such areas to the satisfaction of the planning authority.
- 14 Where protected species have been identified the ecologist shall provide guidance and advice to site staff on how to avoid disturbance of protected species.
- 15 Monitoring of the ecological interests identified on the site shall be undertaken by the ecologist where protected species have been identified and annual reports as described in BS42020:2013 shall be submitted to the planning authority to inform changes to abundance or locations of protected species.

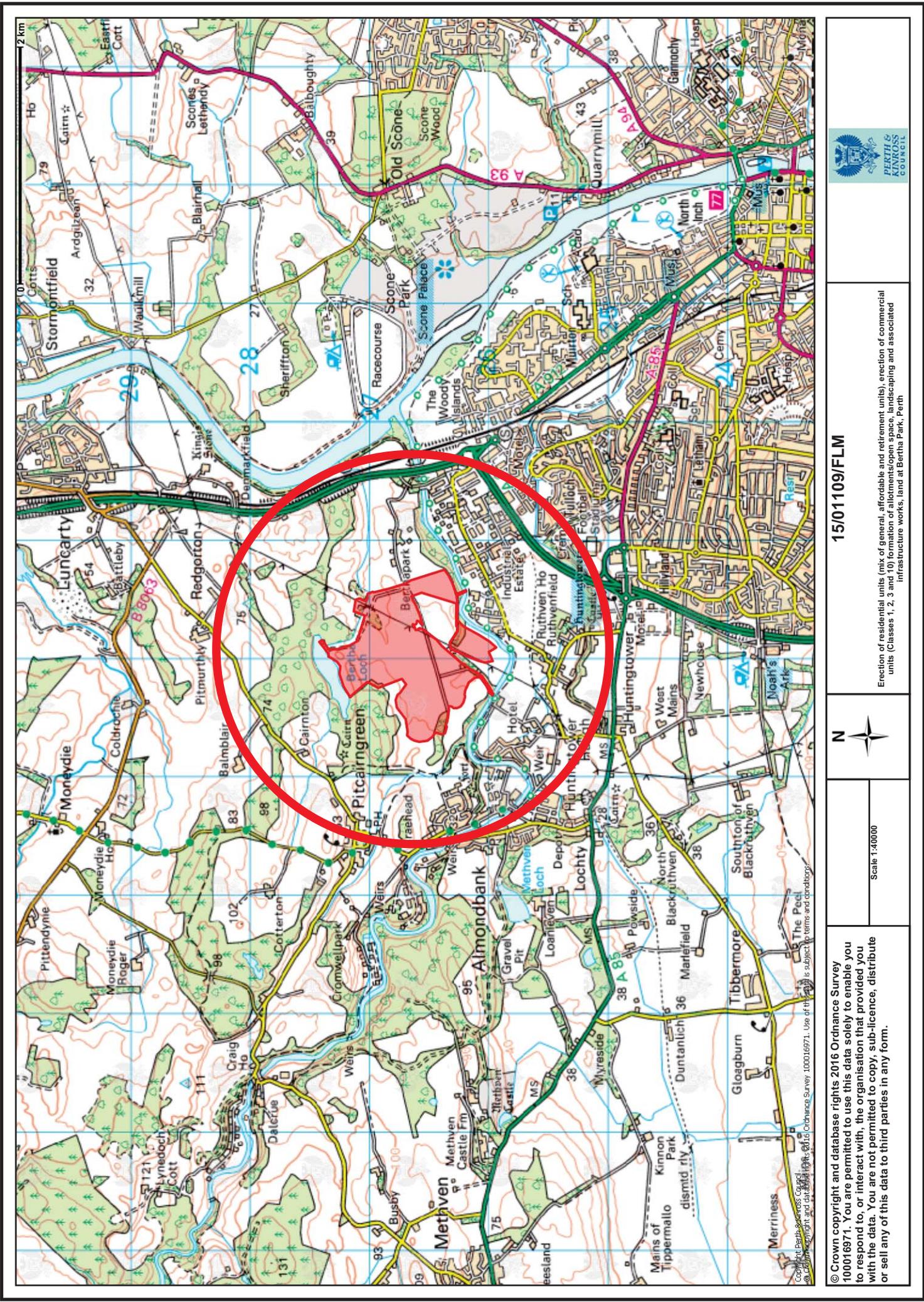
Background Papers: Two letters of representation
Contact Officer: John Russel – Ext 75346
Date: 25 May 2016

**NICK BRIAN
DEVELOPMENT QUALITY MANAGER**

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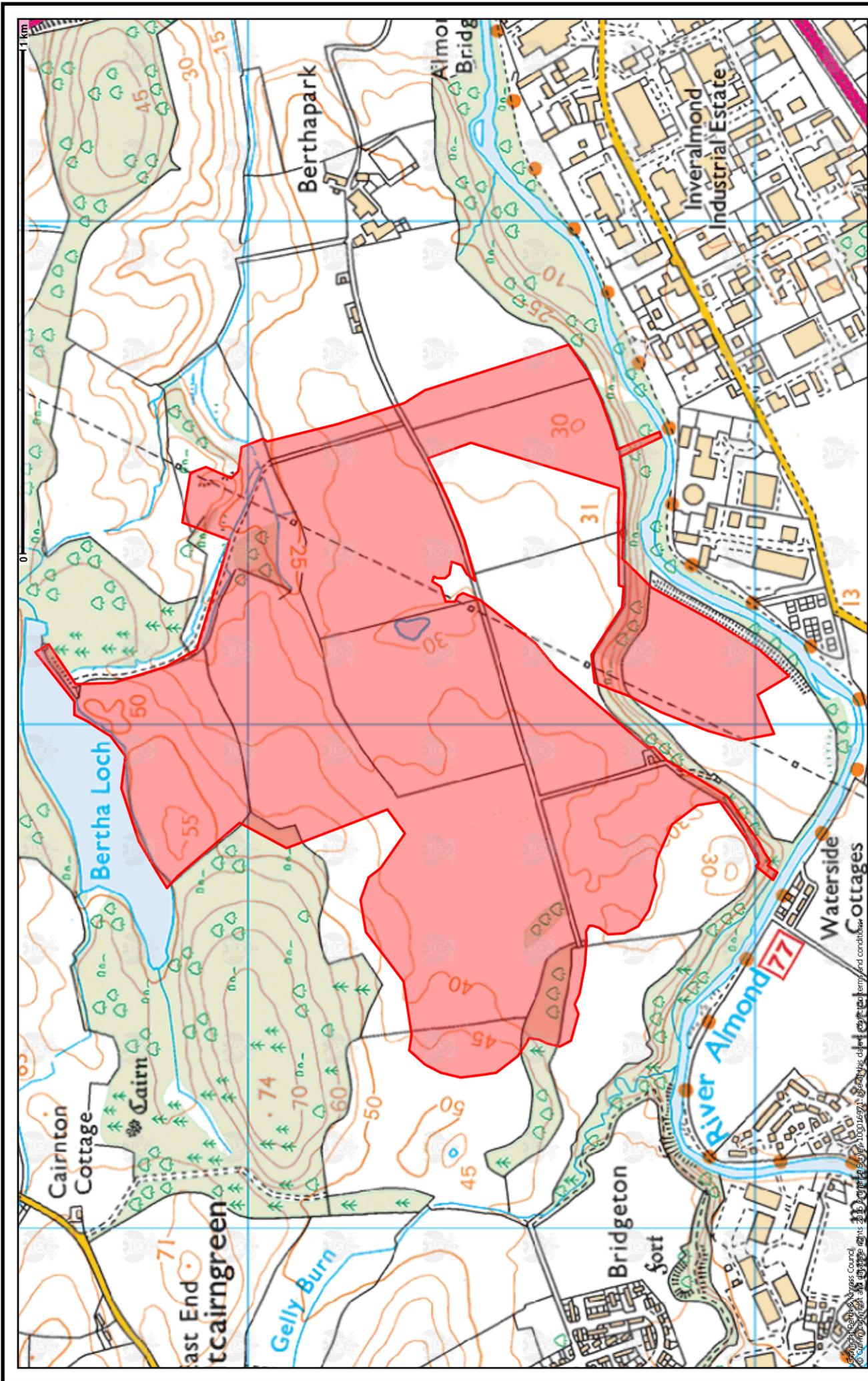
15/01109/FLM

Erection of residential units (mix of general, affordable and retirement units), erection of commercial units (Classes 1, 2, 3 and 10) formation of allotments/open space, landscaping and associated infrastructure works, land at Bortna Park, Perth



Scale 1:40000

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15/01109/FLM

Erection of residential units (mix of general, affordable and retirement units), erection of commercial units (Classes 1, 2, 3 and 10) formation of allotments/open space, landscaping and associated infrastructure works, land at Bertha Park, Perth



Scale 1:10000

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

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

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

Summary

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

BACKGROUND AND PROPOSAL

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

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

Environmental Impact Assessment (EIA)

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

Content and Adequacy of the Environmental Impact Assessment

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

PRE-APPLICATION PROCESS

- 11 The proposed development is classed as a Major development under class 9 of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. This requires pre-application consultation with the local community to be undertaken. The results of the community consultation have been submitted with the application as part of the Report on Community Consultation (PAC Report).
- 12 Two public consultation events were held at Loch Leven Community Campus in June and August 2014 to allow members of the public the opportunity to make comments on the proposal and contribute to the masterplan process. The second event was held to communicate the final Masterplan and seek further feedback of the public. In addition the applicant presented their proposal to both Kinross Community Council and Milnathort Community Council in August 2014.

NATIONAL POLICY AND GUIDANCE

- 13 The Scottish Government expresses its planning policies through the National Planning Framework 3, the Scottish Planning Policy (SPP) 2014 and Planning Advice Notes (PAN), Designing Places, Designing Streets and the National Roads Development Guide

The Scottish Planning Policy 2014

- 14 The Scottish Planning Policy (SPP) was published on 23 June 2014. It sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:

- The preparation of development plans.
- The design of development, from initial concept through to delivery.
- The determination of planning applications and appeals.

- 15 Of relevance to this application are;

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

- 16 A successful Sustainable Place

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

- 17 A Natural, Resilient Place.

- Paragraphs 219 – 233 Maximising the Benefits of Green Infrastructure
- Paragraphs 254 – 268 Managing Flood Risk & Drainage

- 18 A Connected Place

- Paragraphs 286 – 291 Promoting Sustainable Transport and Active Travel

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

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

- PAN 60 Planning for Natural Heritage
- PAN 61 Planning and Sustainable Urban Drainage Systems
- PAN 63 Waste Management Planning
- PAN 65 Planning and Open Space
- PAN 67 Housing Quality
- PAN 68 Design Statements
- PAN 69 Planning & Building Standards Advice on Flooding
- PAN 75 Planning for Transport
- PAN 79 Water and Drainage
- PAN 83 Masterplanning

Designing Places 2001

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

Designing Streets 2010

- 21 Designing Streets is the first policy statement in Scotland for street design and marks a change in the emphasis of guidance on street design towards place-making and away from a system focused upon the dominance of motor vehicles. It has been created to support the Scottish Government's place-making agenda and is intended to sit alongside the 2001 planning policy document Designing Places, which sets out Government aspirations for design and the role of the planning system in delivering these.

National Roads Development Guide 2014

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

DEVELOPMENT PLAN

- 23 The Development Plan for the area consists of the Approved TAYplan Strategic Development Plan June 2012 and the Perth and Kinross Local Development Plan February 2014.

TAYplan Strategic Development Plan (June 2012)

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

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

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

Policy 1 – Location Priorities

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

Policy 2 – Shaping better quality places

- 27 Seeks to ensure that climate change resilience is built into the natural and built environment, integrate new development with existing community infrastructure, ensure the integration of transport and land uses, ensure that waste management solutions are incorporated into development and ensure that high resource efficiency and low/zero carbon energy generation technologies are incorporated with development to reduce carbon emissions and energy consumption.

Policy 3: Managing TAYplan’s Assets

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

Policy 6: Energy and Waste/Resource Management Infrastructure

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

Policy 8 – Delivering the Strategic Development Plan

- 30 States, *“To ensure that quality is designed-in to development and places, developer contributions shall be sought for new development to mitigate any adverse impact on infrastructure, services and amenities brought about by development including contributions towards schools, affordable housing, transport infrastructure and facilities (including road, rail, walking, cycling and public transport) and other community facilities in accordance with the Scottish Government Circular 1/2010”.*

Perth and Kinross Local Development Plan 2014

- 31 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. It is the most recent statement of Council policy and is augmented by Supplementary Guidance.

32 The LDP sets out a vision statement for the area and states that:

“Our vision is of a Perth and Kinross which is dynamic, attractive and effective which protects its assets whilst welcoming population and economic growth.”

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

Policy PM1A - Placemaking

34 Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place. All development should be planned and designed with reference to climate change mitigation and adaptation.

Policy PM1B - Placemaking

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

Policy PM1C - Placemaking

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

Policy PM2 - Design Statements

37 Design Statements should normally accompany a planning application if the development comprises 5 or more dwellings, is a non-residential use which exceeds 0.5 ha or if the development affects the character or appearance of a Conservation Area, Historic Garden, Designed Landscape or the setting of a Listed Building or Scheduled Monument.

Policy PM3 - Infrastructure Contributions

38 Where new developments (either alone or cumulatively) exacerbate a current or generate a need for additional infrastructure provision or community facilities, planning permission will only be granted where contributions which are reasonably related to the scale and nature of the proposed development are secured.

Policy RD1 - Residential Areas

39 In identified areas, residential amenity will be protected and, where possible, improved. Small areas of private and public open space will be retained where of recreational or amenity value. Changes of use away from ancillary uses such as local shops will be resisted unless supported by market evidence that the existing use is non-viable. Proposals will be encouraged where they satisfy

the criteria set out and are compatible with the amenity and character of an area.

Policy RD4 - Affordable Housing

- 40 Residential development consisting of 5 or more units should include provision of an affordable housing contribution amounting to 25% of the total number of units. Off-site provision or a commuted sum is acceptable as an alternative in appropriate circumstances.

Policy TA1A - Transport Standards and Accessibility Requirements

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

Policy TA1B - Transport Standards and Accessibility Requirements

- 42 Development proposals that involve significant travel generation should be well served by all modes of transport (in particular walking, cycling and public transport), provide safe access and appropriate car parking. Supplementary Guidance will set out when a travel plan and transport assessment is required.

Policy CF1B - Open Space Retention and Provision

- 43 Appropriate areas of informal and formal open space should be provided as an integral part of any new development where existing provision is not adequate. Where there is an adequate supply of open space a financial contribution towards improved open space may be acceptable. Opportunities should be to create, improve and avoid the fragmentation of green networks.

Policy CF2 - Public Access

- 44 Developments will not be allowed if they have an adverse impact on any core path, disused railway line, asserted right of way or other well used route, unless impacts are addressed and suitable alternative provision is made.

Policy CF3 - Social and Community Facilities

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

Policy HE1A - Scheduled Monuments and Non Designated Archaeology

- 46 There is a presumption against development which would have an adverse effect on the integrity of a Scheduled Monument and its setting, unless there are exceptional circumstances.

Policy HE1B - Scheduled Monuments and Non Designated Archaeology

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

Policy HE2 - Listed Buildings

- 48 There is a presumption in favour of the retention and sympathetic restoration, correct maintenance and sensitive management of listed buildings to enable them to remain in active use. The layout, design, materials, scale, siting and use of any development which will affect a listed building or its setting should be appropriate to the building's character, appearance and setting.

Policy HE4 - Gardens and Designed Landscapes

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

Policy NE1A - International Nature Conservation Sites

- 50 Development which could have a significant effect on a site designated or proposed as a Special Area of Conservation, Special Protection Area or Ramsar site will only be permitted where an Appropriate Assessment shows that the integrity of the site will not be adversely affected, there are no alternative solutions and there are imperative reasons of overriding public interest.

Policy NE1B - National Designations

- 51 Development which would affect a National Park, National Scenic Area, Site of Special Scientific Interest or National Nature Reserve will only be permitted where the integrity of the area or the qualities for which it has been designated are not adversely affected or any adverse impacts are clearly outweighed by benefits of national importance.

Policy NE2A - Forestry, Woodland and Trees

- 52 Support will be given to proposals which meet the six criteria in particular where forests, woodland and trees are protected, where woodland areas are expanded and where new areas of woodland are delivered, securing establishment in advance of major development where practicable.

Policy NE2B - Forestry, Woodland and Trees

- 53 Where there are existing trees on a development site, any application should be accompanied by a tree survey. There is a presumption in favour of protecting woodland resources. In exceptional circumstances where the loss of

individual trees or woodland cover is unavoidable, mitigation measures will be required.

Policy NE3 - Biodiversity

- 54 All wildlife and wildlife habitats, whether formally designated or not should be protected and enhanced in accordance with the criteria set out. Planning permission will not be granted for development likely to have an adverse effect on protected species.

Policy NE4 - Green Infrastructure

- 55 Development should contribute to the creation, protection, enhancement and management of green infrastructure, in accordance with the criteria set out.

Policy ER6 - Managing Future Landscape Change to Conserve and Enhance the Diversity and Quality of the Areas Landscapes

- 56 Development proposals will be supported where they do not conflict with the aim of maintaining and enhancing the landscape qualities of Perth and Kinross and they meet the tests set out in the 7 criteria.

Policy EP1 - Climate Change, Carbon Reduction and Sustainable Construction

- 57 Sustainable design and construction will be integral to new development within Perth and Kinross. Proposals for new buildings must be capable of meeting one of the standards set out in the table.

Policy EP2 - New Development and Flooding

- 58 There is a general presumption against proposals for built development or land raising on a functional flood plain and in areas where there is a significant probability of flooding from any source, or where the proposal would increase the probability of flooding elsewhere. Built development should avoid areas at significant risk from landslip, coastal erosion and storm surges. Development should comply with the criteria set out in the policy.

Policy EP3A - Water, Environment and Drainage

- 59 Proposals which do not accord with the Scotland River Basin Management Plan and any relevant associated Area Management Plans will be refused unless they are considered to be of significant specified benefit to society and / or the wider environment.

Policy EP3B - Water, Environment and Drainage

- 60 Foul drainage from all developments within and close to settlement envelopes that have public sewerage systems will require connection to the public sewer. A private system will only be considered as a temporary measure or where

there is little or no public sewerage system and it does not have an adverse effect on the natural and built environment, surrounding uses and the amenity of the area.

Policy EP3C - Water, Environment and Drainage

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

Policy EP3D - Water, Environment and Drainage

- 62 Development over an existing culvert or the culverting of watercourses as part of a new development will not be supported unless there is no practical alternative. Existing culverts should be opened and redundant water engineering features removed whenever possible.

Policy EP8 - Noise Pollution

- 63 There is a presumption against the siting of proposals which will generate high levels of noise in the locality of noise sensitive uses, and the location of noise sensitive uses near to sources of noise generation.

Policy EP11 - Air Quality Management Areas

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

Policy EP12 - Contaminated Land

- 65 The creation of new contamination will be prevented. Consideration will be given to proposals for the development of contaminated land where it can be demonstrated that remediation measures will ensure the site / land is suitable for the proposed use.

EP7: Drainage within the Loch Leven Catchment Area

- 66 EP7A: Total phosphorus from development must not exceed the current level permitted by the discharge consents for Kinross and Milnathort waste water treatment works together with the current contribution from built development within the rural area of the catchment.
- 67 EP7B: Developments within the Loch Leven catchment area will be required to connect to a publicly maintained drainage system incorporating phosphorus reduction measures. Exceptions will only be permitted where they are in accordance with criteria set out.

OTHER POLICIES

68 The following supplementary guidance and documents are of particular importance in the assessment of this application.

- Developer Contributions and Affordable Housing Supplementary Guidance April 2016.
- Flood Risk and Flood Risk Assessments – Developer Guidance June 2014.
- Sustainable Design and Zero Carbon Development Supplementary Guidance May 2014.
- Perth and Kinross Retail Study 2014.

Perth & Kinross Community Plan (2006 – 2020)

69 Key aim - Create a vibrant and successful area through:

- A thriving economy including successful tourism and cultural sectors.
- A positive image locally, nationally and internationally.
- Improved infrastructure and transport links.
- A sustainable natural and built environment.

Perth & Kinross Corporate Plan 2013-2018

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

Planning Site History

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

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

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

CONSULTATIONS

External

Transport Scotland

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

Historic Environment Scotland (HES)

75 No objection to the proposal.

Scottish Environmental Protection Agency (SEPA)

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

Scottish Natural Heritage (SNH)

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

Scottish Water

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

RSPB Scotland

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

Perth & Kinross Heritage Trust (PKHT)

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

Kinross Community Council

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

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

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

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

Milnathort Community Council

83 No response received.

Balado Airfield

84 No response received.

Internal

Strategy and Policy

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

Environmental Health

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

Land Quality (Contaminated Land) Officer

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

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

Biodiversity Officer

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

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

Flood Risk and Structures

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

Community Greenspace

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

Waste Services

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

Developer Negotiations including Affordable Housing and Transport Infrastructure

Affordable Housing

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

Primary Education

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

Transport Infrastructure

95 No contribution required.

Transport Planning

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

REPRESENTATIONS

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

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

Response to issues

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

ADDITIONAL STATEMENTS

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

APPRAISAL

Policy

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

Principle

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

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

Site Specific Developer Requirements

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

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

SITE SPECIFIC REQUIREMENTS

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

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

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

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

Phase 1

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

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

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

Phase 2:

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

Indicative Build out Rate:

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

Mix of house types and sizes including low cost housing

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

- 4 bedroom – 54
- 5 bedroom - 07

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

Flood Risk Assessment

116 LDP Policy EP2 confirms there will be a general presumption against proposals for built development or land raising on a functional flood plain and in areas where there is a significant probability of flooding from any source, or where the proposal would increase the probability of flooding elsewhere. In addition, built development should avoid areas at significant risk from landslip, erosion and storm surges.

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

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

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

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

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

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

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

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

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

Transport Assessment

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

Road connection onto Gallowhill Road and A922

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

Road and access improvements

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

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

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

Noise attenuation measures

- 134 The planning system has an important role to play in preventing and limiting noise pollution. Although the planning system cannot tackle existing noise problems directly, it has the task of guiding development to the most suitable locations and regulating the layout and design of new development. The noise implications of development are a material consideration in determining applications for planning permission.
- 135 Extensive planting is proposed along the western boundary of the site alongside the M90. This is to ensure there is no adverse noise impact experienced by the residents of the development. Phase 1 of the planting along the western boundary will commence at the same time as phase 1 of the housing at the eastern side of the site. This should result in the planting maturing as the development moves westwards.
- 136 Environmental Health have not raised any concern regarding noise impact and therefore the proposal is considered to comply with LDP Policy EP8 – Noise Pollution

Financial contribution towards education provision

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

Biodiversity

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

Protected Species

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

Proposed Housing Numbers

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

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

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

Landscape and Visual Impact

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

Cultural Heritage and Archaeology

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

Air Quality

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

Design and layout

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

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

Residential Amenity

Overlooking

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

Overshadowing, loss of sunlight and daylight

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

Waste

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

Contaminated Land

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

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

Open Space and Recreation Provision

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

Developer Contributions

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

Economic Impact

- 178 The applicant has submitted an economic impact statement of the proposal. During the construction period it is predicted that up to 248 full time jobs will be created and this will impact on the level of in-direct jobs that the construction activity will generate from employees spending on local goods and services.
- 179 Once operational it is predicted that new residents should help fill job vacancies and support numerous existing employers in the local area.
- 180 The development of 300 dwellings will provide a significant increase in available expenditure for the economy of Kinross and Milnathort in particular and further afield. The Perth and Kinross Retail Study in 2014 estimates that average convenience goods available expenditure in 2019 per household will

be £2,047 per annum and the average comparison goods available expenditure per household will be £3,634 per annum. Based on these figures and 300 dwellings the estimated annual expenditure on convenience and compassion goods will be in the region of £1.7 million. This expenditure should have a significant positive impact on Kinross and Milnathort town centres.

LEGAL AGREEMENTS

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

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

DIRECTION BY SCOTTISH MINISTERS

182 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, regulations 30 – 32 there have been no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in or notification relating to this application.

CONCLUSION AND REASONS FOR RECOMMENDATION

183 Section 25 of the Act requires that determination of the proposal should be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The proposal seeks to formally establish the principal of development on the associated site and it is consistent with the objectives of the Development Plan.

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

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

RECOMMENDATION

A Approve the application subject to the following conditions:

- 1 The proposed development must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed on the planning consent.

Reason: To ensure that the development is carried out in accordance with the plans approved.

- 2 Prior to the occupation of any residential plot, all matters regarding access, car parking, road layout, design and specification, including the disposal of surface water, shall be in accordance with the standards required by the Council as Roads Authority unless otherwise agreed in writing.

Reason: In the interest of vehicle and pedestrian safety and in accordance with the policies of the adopted Perth and Kinross Local Development Plan 2014.

- 3 Prior to the occupation of any residential plot, details of the specification including materials of all footpaths and cycleways shall be submitted to the Planning Authority for further approval. The agreed detail shall thereafter be implemented prior to the completion of the development.

Reason: In the interest of pedestrian and cycle safety.

- 4 Permitted development rights associated with Classes 1A, 1B, 3A and 3B of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended), or any subsequent comparable classes in future legislation relating to development within the curtilage of a dwellinghouse are hereby revoked in full for all terraced dwellings, namely plot nos. 29-32, 37-40, 55-58, 93-96, 104-107, 119-122, 138-141, 152-159, 181-184, 297-300 of the approved Site Layout Plan.

Reason: In the interests of visual and residential amenity; to ensure a satisfactory standard of local environmental quality and to avoid over-intensive development of individual plots.

- 5 The detailed landscaping and planting scheme as approved shall be commenced at the same time as commencement of the residential development and thereafter maintained to the satisfaction of the Council as Planning Authority.

Reason: In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality and in pursuance of suitably satisfying placemaking policy criteria of the adopted Perth and Kinross Local Development Plan 2014.

- 6 Any planting failing to become established within five years shall be replaced in the following planting season with others of similar sizes and species to the satisfaction of the Council as Planning Authority.

Reason: In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality and in pursuance of suitably satisfying placemaking policy criteria of the adopted Perth and Kinross Local Development Plan 2014.

- 7 The areas of public open space and parkland indicated on the approved landscape and planting drawings shall be planted in accordance with the open space standards of the Planning Authority and completed to phase with the adjacent dwellinghouses in accordance with a programme to be submitted to and agreed in writing with the Planning Authority prior to the commencement of the development. The scheme shall thereafter be maintained to the satisfaction of the Council as Planning Authority.

Reason: In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality and to reserve the rights of the Planning Authority.

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

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

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

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

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

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

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

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

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

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

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

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

- 14 The developer shall ensure that during the construction of the development that all surface water is controlled, treated and discharged under the principles of SUDS all to the satisfaction of the Council as Flood Authority.

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

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

Reason: To reduce flood risk

- 16 Full drainage calculations and the final layout and depth of the proposed SUDS pond and associated infrastructure to be agreed in writing with the Council as Planning Authority, in consultation with Perth and Kinross Council Flooding Team. The agreed detail shall thereafter be implemented prior to the completion of development.

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

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

Reason: To reduce the risk of flooding.

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

Reason: To reduce the risk of flooding.

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

Reason: To reduce the risk of flooding.

- 20 All existing trees and hedgerows shall be retained and protected by suitable fencing in accordance with BS5837 2012 (Trees in Relation to Construction), unless otherwise agreed in writing by the Planning Authority. The details of the protective fencing and its location shall be first submitted to and agreed in writing by the Planning Authority. No materials, supplies, plant, machinery, soil heaps, changes in ground levels or construction activities shall be permitted within the protected areas without the written consent of the Planning Authority and no fire shall be lit in the position where the flames could extend to within 5 metres of foliage, branches or trunks.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 27 Prior to the commencement of development a site specific plan, detailing bin storage areas, kerbside collection locations and recycling facilities shall be submitted to and approved in writing by the Planning Authority and thereafter undertaken in accordance with the approved details.

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

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

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

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

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

Reason: To protect any nesting birds.

- 30 No works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect animals from being trapped in open excavations and/or pipe and culverts are submitted to and approved in writing by the local planning authority. The measures may include creation of sloping escape ramps which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day and open pipework greater than 150 mm outside diameter being blanked off at the end of each working day.

Reason: To protect species being trapped.

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

Reason: To protect the habitat for species.

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

Reason: In the interest of natural heritage.

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

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

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

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

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

Reason: In the interest of natural heritage.

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

Reason: In the interest of natural heritage.

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

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

B JUSTIFICATION

The proposal is considered to comply with the Development Plan and there are no other material considerations that would justify a departure therefrom.

C PROCEDURAL NOTE

Consent shall not to be issued until a Section 75 Agreement relating to planning contributions has been completed and signed to reflect the current planning reference 15/01512/FLM. The legal agreement should be concluded and completed within 4 months of the date of any Committee approval. Failure to conclude a legal agreement within 4 months will result in the planning application being re-assessed through failing to comply with the associated developer contributions policy and will be ultimately recommended for refusal under delegated powers.

- Affordable housing provision and contribution;
- Education contribution;
- Community parkland provision/maintenance.
- Open space provision /maintenance;
- Play area infrastructure provision and maintenance;

D INFORMATIVES

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
- 2 Under Section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the Planning Authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.
- 4 This development will require the 'Display of notice while development is carried out', under Section 27C (1) of the Town and Country Planning Act 1997, as amended, and Regulation 38 of the Development Management Procedure (Scotland) Regulations 2008. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. According to Regulation 38 the notice must be:
 - Displayed in a prominent place at or in the vicinity of the site of the development.
 - Readily visible to the public.
 - Printed on durable material.
- 5 The applicant is advised that to enable some of the negative suspensive conditions to be fulfilled works which are operational development may have to be undertaken outwith the application site. These works themselves may require the submission of a planning application.
- 6 The developer is advised to contact Mr David Strachan, Archaeologist – Perth and Kinross Heritage Trust to discuss terms of reference for work required Tel 01738 477080.
- 7 The applicants are advised that they must apply to the Roads Authority, for construction consent to form a new street. Please contact The Construction and Maintenance Manager, The Environment Service, Perth and Kinross Council, The Atrium, Glover Street, Perth.
- 8 Please consult the Street Naming and Numbering Officer, The Environment Service, Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth PH1 5GD

- 9 The applicant is advised that the granting of planning consent does not guarantee a connection to Scottish Water's assets. The applicant must make a separate application to Scottish Water Planning & Development Services team for permission to connect to the public wastewater system and/or water network and all their requirements must be fully adhered to.
- 10 No work shall be commenced until an application for building warrant has been submitted and approved.
- 11 The development shall be in accordance with the Council's Developer Contributions and Affordable Housing Policy approved in April 2016 which requires a 25% allocation of affordable units within the development all to the satisfaction of the Council as Planning Authority.
- 12 All domestic properties require an appropriate storage area for a minimum of 3 x 240 litre bins (1 for general waste, 1 for garden & food waste and 1 for dry mixed recyclates/paper) and suitable access/surface to wheel the bins from the storage area to the kerbside where they must be presented for collection.

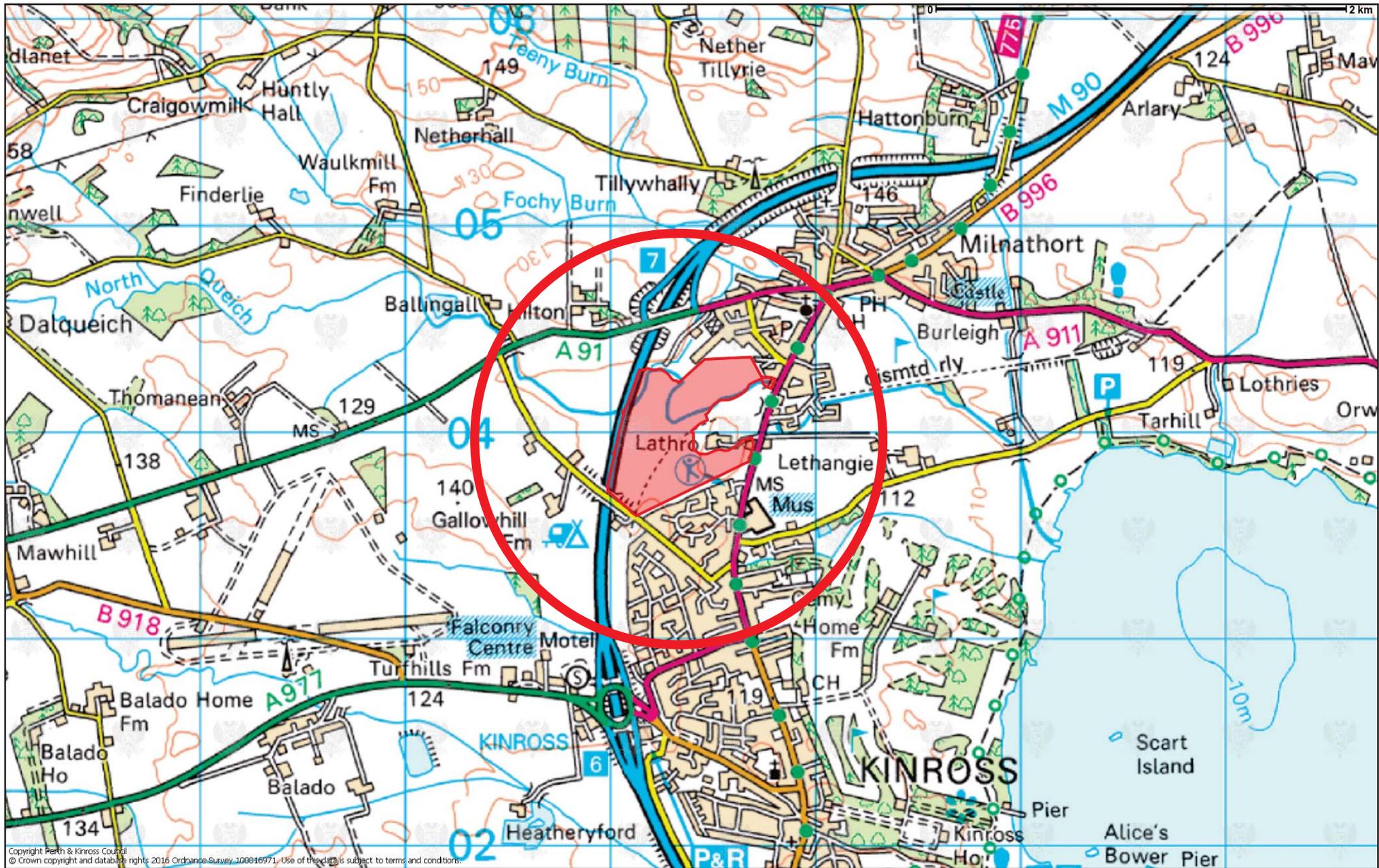
Bin Dimensions

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

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

Nick Brian
Development Quality Manager

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Scale 1:25000



15/01512/FLM

Erection of 300 dwellinghouses, formation of open space, landscaping and associated infrastructure works land NW of Lathro Farm, Kinross



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

Renewal of permission 09/02126/FLM (erection of a retail superstore (Class 1) and petrol filling station with associated landscape treatment and engineering works) at United Auctions Ltd, Perth Agricultural Centre, East Huntingtower, Perth

Ref No: 16/00696/FLM
Ward No: 9 Almond and Earn

Summary

This report recommends approval of the application for a renewal of planning permission for retail development (Class 1 Supermarket) and associated landscape treatment and engineering works. Although the development is considered contrary to some policies of the Development Plan, SPP 2014 and Scottish Government guidance in relation to retail impact, however based on the Councils Retail Study in 2014 there are further material considerations which justify support.

BACKGROUND

- 1 The site is located to the south of the A85 trunk road and to the west of the A9 trunk road as it bypasses the western extent of Perth. There are a number of houses directly opposite the access into the site and extending some 160 metres along the A85. To the east of the A9 lie established residential areas with the closest housing being approximately 120 metres from the site.
- 2 The site is bounded to the west by the boundary of the former agricultural mart landholding which is defined by a hedge and core footpath running north-south. The footpath, which is located outwith the application site boundary, meets a path running west-east some distance to the south of the application site, along what was the southern boundary of the former mart site.
- 3 The site gradually slopes down from south to north which levels out before reaching Huntingtower Castle. To the south of the site sits Newhouse farm and hills that gradually rise beyond.
- 4 The application site extends to some 6.0 hectares and is located on the footprint of the former United Action Mart, to the west of the Dobbie's Garden Centre at East Huntingtower. It is currently accessed from the A85 along with other existing businesses. Within the site there are significant areas of poor quality hardstanding associated with its previous use.
- 5 Landscaping around the site is already well established due to the use of planting to screen the previous development, the majority of which was undertaken to minimise the impact of development on the edges of the site that border onto open countryside, notably along its western and southern edges. This has resulted in a

planted southern edge some 50 metres thick and a broken line of trees running along the western edge, which itself is raised by a 2 metre high bund feature that runs the length of the site. The trees along the site's western edge run into a 40 metre wide strip of vegetation close to the north west corner of the site. There are mature clumps and strips of woodland around Newhouse farm and along the ridgeline that runs just north of Huntingtower Castle.

- 6 Unlike the previous application the site is now located within the settlement boundary of Perth as defined by the Perth and Kinross Local Development Plan 2014. It is not allocated for a particular use but is classed as a brownfield site due to its previous and current condition.

PROPOSAL

- 7 This site is now under control of administrators and their proposal seeks to renew planning consent 09/02126/FLM for the erection of a retail superstore and petrol filling station with associated landscape treatment and engineering works. The 09/02126/FLM consent expired on 19 April 2016 and this renewal application was submitted on the same day as its expiry. The site is in the process of being marketed for sale by the administrators and they considered there is a need to renew the existing consent to ensure its market value is retained.
- 8 The proposal is to erect a Class 1 (Retail) Supermarket and associated landscape treatment and engineering works. The supermarket is to have a total gross internal area of 9,533 sq.m which will be made up of a total of 6,038 sq.m net sales floor, a customer café of 320 sq.m, an entrance lobby of 83sqm, staff facilities of 450 sq.m and back-up area of 2,158sqm. The proposed foodstore is located on the eastern side of the former Auction Mart site with the car park to the west.
- 9 The associated car park is to have 583 spaces including 28 disabled spaces and 25 parent and child spaces. Within the car park area there will also be trolley storage areas, cycle racks and an area reserved for recycling facilities. The service yard to the east of the retail unit incorporates an unloading dock, pump house, sprinkler tanks and other operational apparatus.
- 10 A six pump petrol filling station (PFS) together with associated underground fuel storage tanks and car wash is shown to be located to the north west of the store, immediately adjacent to the A85 but accessed from the internal site access road. As with the previous application, it should be noted that a planning application (16/00695/FLL) has also been submitted to renew planning permission of a petrol filling station on a revised location to that applied for under this renewal application.
- 11 The main building is proposed in the eastern part of the site. The main entrance to the store will face west across the proposed car park which will occupy the space between the existing footpath and the proposed store. The east elevation will incorporate a service yard. As mentioned above, the development will be provided with vehicular access to the A85 via an existing junction onto to the north of the site which currently serves Dobbies Garden Centre, a Travelodge Hotel and a restaurant/pub. Pedestrian access follows the same route as there are footways adjoining the access road. A ramp access is proposed to the north east of the store

to allow pedestrian access to the recycling area and Dobbies Garden Centre and car park beyond.

- 12 The proposed building is to be some 127m long by 76m wide and approximately 9m high. A canopy overhang of some 7.8m is incorporated into the main elevation with a smaller canopy of some 2m providing limited shelter on the north elevation. The majority of the west elevation, which incorporates the main entrance, is to be glazed, as is part of the return along the north elevation. Internally, the customer café is shown to be located in this area. The remaining walls are shown to be finished in a white composite cladding panel with a flat texture in the main though a few area of natural stone finished panels are incorporated to provide visual variety. The colour stated is blonde/buff. This will tie in with the buff coloured stall riser cladding which features on the eastern elevation. The roof of the building is to be a very low rise trapezoidal form finished in Goosewing Grey (a light grey colour).
- 13 Additional landscaping is proposed along the western boundary of the application site adjacent to the public footpath and to the embankment area to the north of the car park, the latter of which incorporates the significant levels change. Details of the planting could be required by condition should permission be forthcoming.
- 14 The current access off the A85 into the site will be upgraded and details of the proposed works, which includes revisions to the A85 between the site and the A9 junction and beyond, are set out in the previous applications Transport Assessment. Cycle racks are to be incorporated and located adjacent to the side of the Sainsbury's Store.

Environmental Impact Assessment (EIA)

- 15 Directive 2011/92/EU requires the 'competent authority' (and in this case Perth and Kinross Council) when giving a planning consent for particular large scale project to do so in the knowledge of any likely significant effects on the environment. The Directive therefore sets out a procedure that must be followed for certain types of project before 'development consent' can be given.
- 16 This procedure, known as Environmental Impact Assessment (EIA), is a means of drawing together, in a systematic way, an assessment of a project's likely significant environmental effects. This helps to ensure that the importance of the predicted effects, and the scope for reducing any adverse effects, are properly understood by the public and the relevant competent authority before it makes its decision.
- 17 An Environmental Statement was submitted and assessed as part of the 09/02126/FLM application. As this is a renewal of a major application Regulation 11 of the Scottish Government's Development Management Procedures 2013 just requires the submission of a Pre-Application Consultation (PAC) Report along with the Land Certificate and required application fee. An EIA is therefore not required to be submitted as the environmental impact of the proposal has already been assessed.

PRE-APPLICATION CONSULTATION

- 18 The proposed development is classed as a Major development under class 9 of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. The regulations require the renewal of major planning application to have carried out pre-application consultation with the local community prior to submission of the renewal.
- 19 A Proposal of Application Notice (PAN) (16/00002/PAN) was submitted to the Council and approved in March 2016. A public exhibition was held locally on 9th March 2016. The ward Councillors and Methven Community Council were invited. The results of the community consultation have been submitted with the renewal application as part of the required Pre-Application Consultation (PAC) Report.

NATIONAL POLICY AND GUIDANCE

- 20 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

- 21 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 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

- 22 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
- Promoting Town Centres: paragraphs 58 - 73
- 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
- Annex A – Town Centre Health Check and Strategies
- Annex B – Parking Policies and Standards

- 23 The following Scottish Government Planning Advice Notes (PAN) are likely to be of relevance to the proposal,

- PAN 3/2010 Community Engagement
- PAN 1/2011 Planning and Noise
- PAN 40 Development Management
- PAN 51 Planning, Environmental Protection and Regulation
- PAN 59 Improving Town Centres
- PAN 61 Planning and Sustainable Urban Drainage Systems
- PAN 75 Planning for Transport

LOCAL POLICY AND GUIDANCE

TAYPlan Strategic Development Plan 2012-2032

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

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

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

Policy 1 – Location Priorities

- 26 Seeks to focus the majority of development in the region’s principal settlements. Perth Core Area is identified as a Tier 1 Settlement with the potential to accommodate the majority of the region’s additional development over the plan period and make a major contribution to the region’s economy.

Policy 2 – Shaping better quality places

- 27 Seeks to ensure that climate change resilience is built into the natural and built environment, integrate new development with existing community infrastructure, ensure the integration of transport and land uses, ensure that waste management solutions are incorporated into development and ensure that high resource efficiency and low/zero carbon energy generation technologies are incorporated with development to reduce carbon emissions and energy consumption.

Policy 7 - Town Centres

- 28 Planning decisions should be justified combining the retail hierarchy contained in TAYplan and the sequential approach in Scottish Planning Policy (SPP).

Perth and Kinross Local Development Plan 2014

29 The Local Development Plan was adopted by Perth and Kinross Council on 3 February 2014. It is the most recent statement of Council policy and is augmented by Supplementary Guidance.

30 The LDP sets out a vision statement for the area and states that:
“Our vision is of a Perth and Kinross which is dynamic, attractive and effective which protects its assets whilst welcoming population and economic growth.”

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

Policy PM1A - Placemaking

32 Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place. All development should be planned and designed with reference to climate change mitigation and adaptation.

Policy PM1B - Placemaking

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

Policy PM2 - Design Statements

34 Design Statements should normally accompany a planning application if the development comprises 5 or more dwellings, is a non-residential use which exceeds 0.5 ha or if the development affects the character or appearance of a Conservation Area, Historic Garden, Designed Landscape or the setting of a Listed Building or Scheduled Monument.

Policy PM3 – Infrastructure Contributions

35 Where new developments (either alone or cumulatively) exacerbate a current or generate a need for additional infrastructure provision or community facilities, planning permission will only be granted where contributions which are reasonably related to the scale and nature of the proposed development are secured.

Policy PM4 - Settlement Boundaries

36 For settlements which are defined by a settlement boundary in the Plan, development will not be permitted, except within the defined settlement boundary

Policy RC1 - Town and Neighbourhood Centres

37 Class 1 (retail) uses will be supported in identified town and neighbourhood centres commensurate with the role of the centre within the established retail hierarchy. Use Classes 2 & 3, leisure, entertainment, recreation, cultural and community facilities

will also be encouraged in ground floor units provided they contribute to the character, vitality and viability of the retail core and satisfy the criteria set out. Use of pavement areas for restaurant/cafes/bars is acceptable in the prime retail area. Housing and other complementary uses are encouraged on the upper floors.

Policy RC4 - Retail and Commercial Leisure Proposals

- 38 The location of new retail and commercial leisure facilities should follow a sequential approach. Proposals of more than 1,500 sqm (or smaller at the discretion of the Council) outwith a defined town centre and not in accordance with the development plan will require a transport, retail or leisure impact assessment. Proposals that are on the edge of a centre, out of centre or in other commercial centres will only be acceptable where they satisfy the criteria set out.

Policy TA1A - Transport Standards and Accessibility Requirements

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

Policy TA1B - Transport Standards and Accessibility Requirements

- 40 Development proposals that involve significant travel generation should be well served by all modes of transport (in particular walking, cycling and public transport), provide safe access and appropriate car parking. Supplementary Guidance will set out when a travel plan and transport assessment is required.

Policy HE1B - Scheduled Monuments and Non Designated Archaeology

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

Policy HE2 - Listed Buildings

- 42 There is a presumption in favour of the retention and sympathetic restoration, correct maintenance and sensitive management of listed buildings to enable them to remain in active use. The layout, design, materials, scale, siting and use of any development which will affect a listed building or its setting should be appropriate to the building's character, appearance and setting.

NE3 – Biodiversity

- 43 All wildlife and wildlife habitats, whether formally designated or not should be protected and enhanced in accordance with the criteria set out. Planning permission will not be granted for development likely to have an adverse effect on protected species.

Policy EP1 - Climate Change, Carbon Reduction and Sustainable Construction

- 44 Sustainable design and construction will be integral to new development within Perth and Kinross. Proposals for new buildings must be capable of meeting one of the standards set out in the table.

Policy EP2 - New Development and Flooding

- 45 There is a general presumption against proposals for built development or land raising on a functional flood plain and in areas where there is a significant probability of flooding from any source, or where the proposal would increase the probability of flooding elsewhere. Built development should avoid areas at significant risk from landslip, coastal erosion and storm surges. Development should comply with the criteria set out in the policy.

Policy EP3B - Water, Environment and Drainage

- 46 Foul drainage from all developments within and close to settlement envelopes that have public sewerage systems will require connection to the public sewer. A private system will only be considered as a temporary measure or where there is little or no public sewerage system and it does not have an adverse effect on the natural and built environment, surrounding uses and the amenity of the area.

Policy EP3C - Water, Environment and Drainage

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

Policy EP8 - Noise Pollution

- 48 There is a presumption against the siting of proposals which will generate high levels of noise in the locality of noise sensitive uses, and the location of noise sensitive uses near to sources of noise generation.

Policy EP11 - Air Quality Management Areas

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

Policy EP12 - Contaminated Land

- 50 The creation of new contamination will be prevented. Consideration will be given to proposals for the development of contaminated land where it can be demonstrated that remediation measures will ensure the site / land is suitable for the proposed use.

OTHER POLICIES

- 51 The following supplementary guidance and documents are of particular importance in the assessment of this application
- The Perth and Kinross Retail Study and Town Centres Review 2014
 - Developer Contributions Supplementary Guidance April 2016

- Flood Risk and Flood Risk Assessments – Developer Guidance June 2014
- Sustainable Design and Zero Carbon Development Supplementary Guidance May 2014
- Perth and Kinross Council Corporate Plan 2013-2018
- Perth and Kinross Community Plan 2013/2023

SITE HISTORY

- 52 There have been a series of applications relating to this site over the years. These include:
- 53 **00/01747/OUT:** Relocation of existing car auction mart and erection of health and fitness centre, hotel with restaurant facilities and class 4 business premises. Application withdrawn December 2004.
- 54 **08/01513/IPM:** In Principle Permission sought for a Mixed Use Development. Application appealed due to non-determination but withdrawn by the applicant in October 2010 prior to determination by Directorate of Planning and Environmental Appeals (DPEA).
- 55 **09/02126/FLM:** Detailed planning permission for erection of Class 1 retail superstore and petrol filling station with associated landscaping and engineering works. Application approved by the Development Management Committee 19 April 2013 and remained live until 19 April 2016.
- 56 **12/00392/FLL:** Detailed planning permission for the erection of a petrol filling station (PFS). Approved under delegated powers April 2013
- 57 **13/01795/MPO:** Modification of Planning Obligation associated with 09/02126/FLM to amend Clause 1.1, 2.1 and 3.1 and delete Clause 6. Application approved by the Development Management Committee November 2013
- 58 **16/00002/PAN** Proposal of Application Notice for renewal of 09/02126/FLM for erection of Class 1 of retail superstore and petrol filling station. Content of PAN approved February 2016.
- 59 **16/00004/PAN** Proposal of Application Notice for residential development. Content of PAN approved June 2016.
- 60 **16/00695/FLL** Renewal of 12/00392/FLL for erection of petrol filling station. Currently under consideration.
- 61 **16/01348/IPM** In Principle application for residential development. Submitted August 2016 and currently under consideration.

CONSULTATIONS

EXTERNAL

Scottish Environment Protection Agency (SEPA)

62 No objection to the proposal.

Scottish Water

63 No response to the proposal. Previously had no objection.

Transport Scotland

64 No response to the proposal. Previously recommended conditions be attached to any permission relating to gross floorspace, provision of a travel plan, proposals for new and/or extended bus services and their associated introduction, off-site improvements to the trunk road network incorporating appropriate traffic signalisation, with the improvements being completed prior to the occupation of the store, and that details of all lighting and advertisement features within the site be provided for further approval.

Perth & Kinross Heritage Trust

65 The area outlined for the development contains an area of known archaeological sensitivity and is considered to have archaeological potential. Cropmarks likely to represent archaeological remains have been identified through aerial survey in the northern sector of the site and adjacent to it, to the west. The site lies to the south east of Huntingtower, an area of extensive archaeological remains and historic significance, including Scheduled Ancient Monument (SAM 3630) and Huntingtower Castle. It is recommended that a condition for an archaeological programme of works be attached to any permission if granted to identify any archaeological remains and, if appropriate, to ensure that the impact of the development is mitigated through preservation in situ or by record.

INTERNAL

Policy and Strategy

66 Since the approval of the 09/02126/FLM application, the LDP 2014 has been approved. Perth and Kinross Council's policy approach has not changed considerably with regard to retail proposals, however in the Scottish Planning Policy (2014) update there is an increased emphasis on the town centre first principle. It is therefore considered that this proposal does not accord with the Development Plan retail policy. The proposal is considered weak in terms of active travel connections, as a safe pedestrian connection across the A9 at the Newhouse Farm area is not provided for, and there are core paths to the west and south of the site which are not linked up with. This planning application is therefore also considered to be contrary to Perth and Kinross Council LDP policies PM1A placemaking, and TA1B Transport Standards and Accessibility Requirements.

- 67 It is considered that this proposal is contrary to Policy RC4: Retail and Commercial Leisure Proposals, and is not compatible with the SPP 2014 town centre first approach, even without the benefit of an up to date Retail Impact Assessment or appropriate sequential assessment. The scale of retail proposed on this site is significant and it lies outwith the town centre, edge of town centre, or commercial centre locations which would all be sequentially preferable to this site.
- 68 The Perth & Kinross Retail study and City & Town Centre Review 2014 it gives an update on spare retail capacity and this indicates that there is not sufficient convenience capacity for this proposal. The proposal exceeds the potential capacity of up to 1,600 squares metres of convenience floorspace. This 2014 study will be reviewed shortly and will likely indicate there is some additional capacity however even if this shows sufficient capacity for this proposal, any proposal would still need to meet the sequential approach and still need to be shown that it would not threaten existing centres (especially the city centre).

Community Greenspace

- 69 No response received. Previously had concerns relating to the lack of current provision of a separate crossing over the A9 for pedestrians and cyclists are raised. An existing Right of Way (RoW) and core path runs along the western perimeter of the site. A condition requiring the footpath route to be maintained and/or repaired if necessary should be attached to any permission.

Transport Planning

- 70 No objection to the proposal provided previous conditions are applied to this application.

Environmental Health

- 71 The original application was supported by air quality and noise assessments due to the potential impacts to local residents arising from this development. However these assessments are now out of date.
- 72 This is particularly important for the air quality assessment, as since this application was approved, there have been several other planning applications in the vicinity. Of particular note are applications 15/0112/IPM and 15/01157/IPM for housing developments at Bertha Park and Huntingtower respectively. These applications include a total of over 4,000 houses and whilst the air quality was assessed cumulatively for each of these applications, this superstore development was not part of that cumulative assessment.
- 73 The previous aforementioned air quality assessment submitted as part of 09/02126/FLM did not consider any cumulative effects to air quality here; therefore no assessment has considered the cumulative effects of all 3 developments. Given this proposal contains provision for over 700 parking spaces, it is important that the air quality impacts be reassessed and updated to take account of the up to date situation here.

Noise

- 74 It is acknowledged that there is always the potential for noise from a development of this scale due to plant noise, traffic noise and delivery noise etc. The noise assessment which was included as part of the previous applications EIA did show there could be an issue with sleep disturbance due to night time deliveries therefore recommend that an acoustic barrier be installed along the service yard.

Odour

- 75 This store is proposing to have an in store bakery, therefore recommend a condition below controlling the escape of odours from this.

Lighting

- 76 A condition requiring the appropriate orientation of external lighting so as not to permit direct illumination of neighbouring land and that light spillage beyond the site boundaries is minimised is recommended.

Air Quality

- 77 In the previous application it was stated that if the applicant can mitigate air quality impacts so they will essentially be so small as to be imperceptible or show through their own monitoring that there is no risk of the AQMA being extended there is unlikely to be an air quality issue at this location.

Developer Contributions

- 78 09/02126/FLM was approved prior to the adoption of the Transport Infrastructure Supplementary Guidance in 2014. Through determining the 09/02126/FLM consent it was identified that the development would have an impact on the local road network and as such a financial contribution of £2.18m would be required through a Section 75 Planning Obligation.
- 79 In terms of the Developer Contributions and Affordable Housing Guidance 2016 paragraph 3.6 states *'Where applications are submitted for the renewal of planning consent the Guidance will be applied in accordance with Appendix 5.'* In line with Appendix 5 this proposal is being renewed for the first time, as such the Guidance will not apply.
- 80 The requirements of the S.75 Planning Obligation in relation to the 09/02126/FLM consent should also be applied to any renewal of consent.

REPRESENTATIONS

- 81 One letter of representation has been received objecting to the proposal and the letter raises the following relevant issues:
- No need for out of centre retail provision
 - Adverse impact on city centre
 - Adverse traffic impact

- Adverse noise impact
- Adverse air quality impact

82 The Appraisal section of this report responds to the material planning concerns raised.

ADDITIONAL STATEMENTS

Environment Statement	Not required
Screening Opinion	N/A
Environmental Impact Assessment	Not required
Appropriate Assessment	Not required
Design Statement / Design and Access Statement	Not required
Report on Impact or Potential Impact	Not required

APPRAISAL

Policy Appraisal

- 83 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) requires the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The determining issues here are whether the proposals comply with Development Plan policy and Supplementary Guidance or if there are other material considerations, which justify a departure from policy. The most relevant policies of the Development Plan are listed in the policy section above.
- 84 Consideration requires to be given as to whether the proposed development accords with both National Policy and Development Plan policies, in particular whether retail capacity exists to accommodate the proposal without a significant adverse impact on Perth City Centre, whether the proposals are acceptable in terms of zoning, scale, design, siting and landscape terms, whether satisfactory access, parking, servicing and related infrastructure can be achieved. If the proposal fails to meet with policy requirements, careful consideration has to be given to whether there is a satisfactory argument in terms of overriding public interest which justifies the setting aside of the Development Plan.
- 85 The site is not allocated for a particular use in the LDP but is within the settlement boundary of Perth and is classed as an urban brownfield site due to its previous use and current condition. As a result of its status in the LDP the general principle of development for a variety of uses is considered acceptable.
- 86 The planning history of the site shows a mix of uses. The site was originally developed as an agricultural livestock mart. There were a number of ancillary uses which developed alongside including cafes, banking facilities and numerous retail units aimed more at the general public. This meant that the site became a

destination for the public for purposes and at times other than directly linked with the livestock sales operation.

- 87 On the wider Huntingtower Park site there is a restaurant/public house, a Travelodge Hotel and a Dobbies garden centre. The garden centre incorporates a significantly sized café and retail areas for books, clothes, gifts and food. The character of the site, which has been established over the past twenty years, is therefore one of a mix of uses incorporating business, retail and tourism.
- 88 The majority of the application site is now cleared and sitting empty. This derelict state is detracting from the remaining businesses in the immediate area, potentially to their detriment. The current proposal would re-use this brownfield land.
- 89 LDP Policy PM1 requires that all development must contribute positively to the quality of the surrounding built and natural environment. In my view, there is scope to justify a departure from the Development Plan for the principle of development on this site given the brownfield nature of the site, the existing and historic mix of uses on the site and the potential for environmental betterment.

Retail Impact

Policy

- 90 In accordance with Scottish Planning Policy (SPP) 2014, the aim of the Development Plan is to direct new retail investment towards existing town centres as this offers the best opportunity to provide for the whole community as well as offering the potential to reduce car journeys. It is accepted in SPP 2014 that town centre locations are not always possible and recommends that the sequential approach should be applied which defines a range from 'town centre' to 'out of centre' and that reasonableness and flexibility should be exercised by all parties in the selection process.
- 91 TAYplan Policy 7 – Town Centres echoes this. Whilst the sequential test does not prohibit new retail developments outwith town centres, there remains a requirement for new developments to be accessible by a range of transport modes, especially public transport, walking and cycling. If the new site can be accessed and linked with the existing town centre, there would be a greater possibility of linked shopping trips and more mutual trade and footfall between the site and the town centre. The site is very much classed as 'out of centre' owing to its location on the western edge of the city.
- 92 The LDP does not allocate it for any use other than showing it as within the settlement boundary. A Retail Impact Assessment was submitted with the previous application which included three main elements:
- A qualitative assessment (i.e Town Centre Health Check) to define the relative health of the town centre and as such its ability to absorb impacts
 - A quantitative assessment of available expenditure and likely expenditure patterns pre and post development
 - A sequential site assessment to determine whether the subject site is appropriate

- 93 The proposal will now be assessed against current retail policy and the Perth and Kinross Retail Study and Town Centres Review 2014.

Scale

- 94 There is concern regarding the scale (9,533 sqm gross internal and 6,038 sqm net sales area) of the proposed supermarket especially in relation to the sequential assessment and the quantitative assessment. With specific regard to the quantitative assessment, there is very little capacity for the size of the supermarket proposed.

	Sqm
Net Sales	6,038
<i>Convenience Sales</i>	<i>3,716</i>
<i>Comparison Sales</i>	<i>2,322</i>
Customer Café	320
Entrance Lobby	83
Staff Facilities	450
Backup/Storage	2,158
Cash tills/Circulation	484
Total	9,533sqm

Convenience Goods

- 95 The recent Retail and Town Centres Review in 2014 by Roderick Maclean Associates on behalf of Perth & Kinross Council indicates that there is at best £179 million of available convenience expenditure in 2019. This equates to 1,600sqm of floorspace. This indicates there is little convenience capacity of the scale of the proposed superstore. However the Retail Study admits that Perth could accommodate a larger format foodstore with some trade diversion from existing stores. This indicates that while there is some concern especially if there is no capacity available for the convenience goods element of 3,716sqm (62%), it could potentially be accommodated from a quantitative perspective.
- 96 The level of convenience food retail units within the city centre is reasonably low (6%) and any impact from the proposed stores large convenience goods section (3,716sqm) will therefore be reasonably limited.

Comparison Goods

- 97 There is also concern regarding the scale of the store’s comparison offer and its potential impact on Perth City Centre. The comparison shopping element of the proposed store of 2,322sqm (38%) is considered too high and could result in a significant adverse impact on the existing comparison retailers within Perth City Centre.
- 98 If permission were to be granted for the store it is considered that a comparison goods element of 30%-35% would be more acceptable given the size of the store which will be the largest within Perth. This can be covered by way of a planning condition which includes the percentage and a maximum floorspace allowance in the event that the store expands in the future.

99 In addition there should also be a condition preventing any internal comparison units such as opticians, pharmacy, travel agents etc. from trading as such units are traditionally found in town centres and it is considered that they could have an adverse impact on the city centre.

Sequential Assessment

- 100 SPP 2014 sets out the Government's aspirations for town centres in relation to retailing and emphasises the need for Development Plan policies to better reflect local circumstances. It goes on to state that the sequential approach requires flexibility and realism from Planning Authorities, developers, owners and occupiers to ensure that different types of retail and commercial uses are developed in the most appropriate location. Both TAYplan Policy 7 and LDP Policy RC4 requires that a sequential approach is demonstrated for non-town centre or edge of centre retail sites.
- 101 The sequential approach in SPP 2014, TAYplan and the LDP requires locations for retail development to be considered in the following order:
1. town centre,
 2. edge of town centre,
 3. other commercial centres identified in the Development Plan,
 4. out of centre locations that are or can be made easily accessible by a choice of transport modes.
- 102 The application site is considered to be an out of centre site.
- 103 In terms of the sequential assessment there are a number of sites which have been assessed. There continues to be a number of vacant units within St. Catherine's Retail Park. These vacant sites are located within an edge of centre retail park and because of their proximity to the city centre are better placed to encourage linked trips and are more accessible by all modes of transport in comparison to the proposed site.
- 104 The surface car park at Thimblelow is a city centre site on the edge of the prime retail area. It has also been allocated in the LDP as an opportunity site with retail use at ground floor level.
- 105 Whilst both of the above sites could accommodate a large percentage of the proposed store, recent case law (Tesco v Dundee City Council 2012) indicates it is unreasonable to expect a proposal to now have to subdivide.
- 106 The application site is only readily accessible to the car and is currently not easily accessible to sustainable modes of transport of public transport, walking and cycling. There are four bus services which pass the application site with just two scheduled to stop near the proposed development. The services at the weekend and in the evenings are particularly poor and this is when the store is likely to be at its busiest.
- 107 From a qualitative perspective it is considered that west/north west Perth is currently adequately served by the Asda at Dunkeld Road, Tesco Extra on Crieff Road and Marks and Spencers and Aldi at Highland Gateway. Whilst the population of Perth is

predicted to increase over the next 20 years and it is the west/north west of the city that is expected to expand, it will be some time before a significant population will be present in west/north west Perth.

- 108 It is accepted that no comparison should be made with other out of centre sites within Perth in terms of the sequential assessment. However, SPP 2014 does state that comparison with out of centre sites supported by the Development Plan can be made. The LDP does not allocate the site in question for retail use and it could be some time before the surrounding area sees any significant levels of development.
- 109 The important issue is the fact that while there is limited quantitative capacity available within Perth for the scale of store proposed it does acknowledge that a large format store could potentially be accommodated with some trade diversion from existing foodstores. The 2014 Retail Update identifies that in 2019 and 2024 there will be some spare capacity.
- 110 Having taken all the above into consideration and based on the 2014 Retail Study it is considered that there is slightly more capacity than before for a store of the proposed scale and because there is no site available in Perth City Centre or in an edge of centre location then the sequential assessment is now met.

Quantitative Assessment

- 111 An understanding of the current quantitative retail factors within an area allows an understanding of the retail requirements of an area and the effect of bringing forward new retail development. The Retail Impact Assessment submitted with the previous application contained a model that set about understanding the current available expenditure within an identified catchment (demand) and assessing this against the turnover of existing/consented provision (supply).
- 112 The previous RIA stated that there is considered to be a Total Available Expenditure of some £201.95 million for convenience goods and £552.15 million for comparison goods at 2014. Based on the Retail Study 2014 total available expenditure in Perth in 2019 is predicted to be £179 million and based upon average turnover levels of the existing retail units in Perth suggests that there is a surplus of £6 million on convenience goods and £97.47 million capacity for comparison goods in 2019. The 2014 Retail Review prepared by Roderick Maclean Associates on behalf of Perth & Kinross Council is more up to date than the previous RIA (2009) and it shows that within Perth and Kinross there is £313 million available for convenience goods and £493 million for comparison goods at 2019.

Convenience Goods Capacity

- 113 On the basis of the capacity information contained within the Retail Study there is some quantitative need justified for convenience goods and there is capacity for additional comparison goods. LDP Policy RC4 states there must be sufficient capacity in expenditure terms to accommodate the retail proposal and that it does not have an adverse impact on the city centre.
- 114 The 2014 Retail Review shows that that at 2019 there is now some convenience capacity in Perth with £179 million available expenditure amongst the resident

population but the existing stores in Perth have an average turnover £173 million leaving a small capacity surplus of £6 million.

Comparison Goods Capacity

- 115 In terms of capacity for comparison goods in Perth the 2014 Retail Study shows there is capacity of £44.8 million at 2019 within Perth itself and £53.6 million in Perth & Kinross. Whilst the comparison goods capacity figure indicates that there are opportunities for further development there are still concerns that the comparison goods element of the proposal of 2,322sqm will have an adverse impact on Perth City Centre which is currently struggling following a recent increase of comparison good unit closures. It is considered that the scale of the proposed comparison goods floorspace in the proposed location could result in further city centre closures, though as mentioned previously, this could be restricted by condition.

Qualitative Assessment

- 116 A health check is a recognised monitoring tool to measure the strengths and weaknesses of a town centre and to analyse factors which contribute to its vitality and viability. Vitality is a measure of how lively and busy a town centre is and viability is a measure of capacity to attract on going investment, for maintenance, improvements and adaption to changing needs.
- 117 Perth is the main urban area within Perth and Kinross and has a strong focus on the tourist industry. It plays a vital social and economic role in providing services for Perth and the surrounding region. There is a range in the quality and convenience of services, especially independent retailers that are attractive to local residents, tourists and investors.
- 118 The previous RIA assessed the proposal against the Town Centre Health Check, and it scored relatively highly at 3.7 out of 5 and that Perth has a reasonably healthy town centre and robust enough to accommodate the impact of the proposed new store. Based on the 2014 Retail Study and Town Centres Review, it is considered that the score today would be a bit lower due to the number of comparison goods shops that have closed in the city centre in recent years.
- 119 The impact on convenience provision in Perth is predicted to be small but this is based mainly on the fact that convenience representation within the city centre is relatively low at just 6%. The previous RIA, did not fully assess the impact of the proposal on city centre comparison outlets other than saying they *“are not predicting any adverse comparison impacts arising”*.
- 120 The RIA concluded that a new superstore will further improve the convenience and comparison goods on offer within Perth, will provide appropriate competition and will enhance local consumer choice.
- 121 Whilst the above may be true, in terms of qualitative impact the site does contain several weaknesses. The site is not currently easily accessible to non-car modes of transport and the current bus service past the site is relatively infrequent especially at evening time or at weekends when the store would be at it’s busiest. Because of its distance from the city centre beyond the A9 there will be limited scope for linked trips

with people carrying out their convenience shopping at the supermarket and heading home rather than using the town centre for other retail and service needs which would help claw back any lost expenditure.

- 122 It is recognised that the additional competition may lead to some of the existing stores improving their offer. However, the qualitative justification other than increased competition and consumer choice struggles to outweigh any expenditure capacity issues for convenience goods and the potential impact the proposed store could have on the existing comparison retailers in Perth City Centre.
- 123 In summary, the impact on Perth city centre will still be somewhat marginal given the trading position of the city centre and the predominance of the non-food retail offer. It further states the greatest impacts will be realised within the existing large food stores set around Perth but not so much that this would undermine their ability to trade.

Conclusion

- 124 Based on the information provided in the 2014 Retail Study it seems a number of matters are clear regarding the proposal.
- There is now some quantitative capacity for a new large foodstore within Perth;
 - Improving customer choice, adding competition and added investment in Perth's retail offer will provide some qualitative benefits. However the qualitative reasons put forward for the proposed store are marginal;
 - Following recent case law (Tesco v Dundee City Council 2012) it is now considered that the sequential assessment is acceptable as there are no sites available in Perth City Centre or in an edge of centre location that could accommodate the scale of the proposal;
 - The proposed store is currently considered to be in a poorly accessible location and poorly related to existing residential areas within Perth, although the proposed expansion of north/west Perth over the next 30 years will help improve its relationship.
- 125 On the basis of the above, there is now some retail planning policy support for the proposed superstore. Should permission be granted it is considered necessary that there should be a condition restricting the comparison goods element of the sales floor. It is recommended that 30%-35% would be more than acceptable. A maximum comparison floorspace allowance should also be stipulated in the event that the store expands in the future. There should also be a condition preventing internal comparison units such as opticians, pharmacy, travel agents etc., from trading as they could have an adverse impact on the city centre.

Road Network Capacity/Traffic Impact

Background

- 126 The biggest single constraint facing the Perth Area is the capacity of the roads infrastructure in and around Perth. Of the future land supply identified through the LDP for the Perth Housing Market Area only 30% can be delivered without significant

improvements to the transport network. Not only is congestion becoming an ever increasing problem but the increased pollution levels evident in several areas of the City have required the Council to identify Perth as an Air Quality Management Area. This deterioration in air quality is caused in part by standing traffic which is particularly evident around the A9/A85 junction at present.

- 127 To help alleviate these issues planning permission has now been granted for a new A9/A85 junction as part of the proposed Cross Tay Link Road (CTLR) project. The A9/A85 works are due to commence this autumn and should help alleviate a number of issues relating to congestion and air quality.
- 128 The strategy of the TAYplan focuses the majority of growth on Perth City and its Core area building upon its key role as the hub of the area. The Plan concentrates on the delivery of strategic sites to the north-west and north of Perth as the main driver to achieving sustainable economic growth providing the prime source of future employment and housing land during and beyond the Plan period. The delivery of the A9/A85 junction improvement is a key component in achieving the aims of the LDP.

Transport Assessment

- 129 LDP Policy TA1 requires local road networks be capable of absorbing the additional traffic generated by the development and that a satisfactory access to the network is to be provided. The required standard is the impact that any development has on the operation of the associated road network should result in 'no net detriment'.
- 130 SPP 2014 emphasises the importance of locating development in places well served by public transport and a wide choice of transport modes, including on foot and by cycle.
- 131 A Transport Assessment (TA) was submitted with the previous planning application. The TA was thoroughly audited by both by the Transport Planning team and by the Council's Term Traffic Consultants using S-Paramics Traffic Modelling software.
- 132 The Council's Transport Planners have been consulted on the renewal of the application and offer no objection to the proposal provided the same conditions are carried forward from the 09/02126/FLM. It is considered that, subject to the on-line road improvements and a financial contribution required by an existing S75 legal agreement to the construction of the new A9/A85 junction, the development is in compliance with LDP Policy TA1 in regard to transport and road safety issues.

Trunk Road Network

- 133 Transport Scotland have been consulted on the proposal. Whilst no response has been received Transport Scotland, they previously offered no objection to the proposal subject to conditions requiring the submission of a comprehensive Travel Plan.

Conclusion

- 134 The overall proposed package of transport network improvements, including the new junction, will help solve the standing traffic issue which is particularly evident in the area around Crieff Road while the upgraded A9/A85 junction is a key component and immediate requirement to support short term growth.

Public Transport

- 135 The application site is at present accessible to the car but is not easily accessible to sustainable modes of transport of public transport, walking and cycling. It is not currently accessible by public transport with four services passing the site with two scheduled to stop near the proposed development. Existing services are poor in the evening and weekends – a time when the proposed store is likely to be at its busiest.
- 136 It is considered that a Travel Plan Framework will need to be submitted with a view to minimising private single occupancy car usage whilst encouraging the use of public transport, car sharing, cycling and walking amongst staff with some measure being equally applicable to customers. An improved and extended bus service, as previously recommended by Transport Scotland, could be reasonably required by condition, if permission were to be granted. The proposed Travel Plan would be considered in detail by Transport Scotland and the Council's Transport Planning and Public Transport sections prior to it being agreed. This could ensure a satisfactory package of appropriate measures would be put in place prior to the opening of the proposed store.

Footpaths/Cycle Access

- 137 The previous application's TA identifies the designated cycle route NCR 77 as running to the north of the site and through Almondbank. This route then links in with local cycle routes into the city centre. An existing Right of Way (RoW) and core path runs along the western side of the application site, but outwith, the site. This route links in with routes in the wider area. None however are developed specifically as cycle routes.
- 138 It is acknowledged within the TA that pedestrian and cycle links to the site are currently limited. There are, however, some pedestrian and cycle improvements are outlined in the TA and include:
- 2m wide footways along both sides of the site access road, linking in with internal walkways
 - A pedestrian and cycle entrance along the western boundary linking in with the Right of Way
 - The footway along the south side of the A85 will be improved to provide a continuous link to the east of the A9 overbridge.
 - Installation of traffic lights will allow pedestrians to safely cross the A9 slip road
 - Signalised pedestrian facilities will be provided around the junction of A85 with the A9(southbound ramp which is to be changed from a roundabout to signalised junction

- Appropriate cycle parking provision will be made within the site

139 Whilst concerns relating to the lack of current provision of a separate crossing over the A9 for pedestrians and cyclists have been raised, there is no proposal for a dedicated pedestrian and cycle crossing over the A9 but some accommodation is made via the above noted mitigations.

140 As the Right of Way along the western boundary of the application site lies outwith the identified planning application site, it is not under the control of the applicant. To that end it would not be reasonable to condition any approval to require works to or the maintenance of the existing footpath.

Air Quality

141 Due to the lack of up to date air quality modelling any application which considerably increases traffic at this location will push PM₁₀ levels up, the potential for degradation of air quality here is a material consideration in this application. Further work is required by the applicant to show whether or not the increase in PM₁₀ would be imperceptible. The proposed new interchange for the A9/A85 may make a difference to levels here as may the “other transport mitigation measures” which are proposed and these should be incorporated into a revised model.

Residential Amenity

142 There are residential properties within close proximity to the application site located opposite the existing junction of the access with the A85, to the north of the site (approx 170m from site), to the north. LDP Policy PM1 seeks to ensure new development does not result in an unacceptable environmental impact.

External Lighting

143 Due to the distance between the site and local receptors, and taking into account intervening structures and land uses, there is not likely to be any significant impact from proposed external illumination. All external lights within the development site, both on the building and within the car park can be sufficiently aligned to ensure the prevention of nuisance and to meet the design target that glare to local residents will be totally prevented. This aspect can be suitably controlled by a condition on any permission granted.

Construction Phase

144 In terms of potential impacts during the construction phase (including noise, vibration and management of construction traffic), Environmental Health has sufficient statutory powers to address such issues if any permission is granted.

Odours from Food Preparation

- 145 The escape of odour from cooking can be suitably controlled by providing a suitable ventilation system for cooking and this can be controlled by a condition on any permission granted.

Noise

- 146 Noise from plant and equipment can again be suitably controlled by use of a condition on any permission granted to protect neighbouring residential amenity.

Deliveries/Loading and Unloading Activities

- 147 If permission were to be granted, it would be reasonable to control the operating hours by condition.
- 148 The proposed service yard is to be located to the east of the site approximately 125m across the A9 from Errochty Grove and over 200m from the houses at East Huntingtower. It is accepted that there are potential noise issues associated with vehicle noise and loading/unloading activities. However given the previous use of the site, the location of the proposed servicing yard, the distance to the nearest residential properties, the intervening buildings and the busy trunk roads which bound the site to the north and east, it is extremely unlikely that any disturbance to residential amenity would be discernible let alone significant.

Audible Reversing Alarms

- 149 Given the use of audible reversing alarms is connected with nearby commercial premises it would be unreasonable to prevent their use in connection with the proposed development.

Servicing of Recycling Facilities

- 150 The plans indicate that the proposed supermarket will have a collection point for recyclable materials. There is potential for nuisance to be created due to noise generated during the uplift of glass bottles, and the nature of this noise can result in annoyance to nearby residents. A condition would therefore be recommended to restrict the hours of servicing to the recycling facilities if consent were to be given.
- 151 In conclusion, and having considered the above, there will be no significant detrimental loss of amenity to nearby residential properties.

Design and Layout

- 152 The application site sits within the immediate context of recently constructed buildings which use a simple palette of materials which have traditional characteristics. The site sits a considerable distance from the Category A Listed Huntingtower Castle and due to the physical separation between the two there is

unlikely to be any adverse impact. The relatively simple, modern design proposed here is considered to be acceptable in principle given the context of the site.

- 153 The store is shown to be located at the eastern extent of the site, with the car park extending to the west. The development sits at a higher level than the access road on the terrace formed as part of the previous development of the site. The proposed store is very similar in overall height (approximately 9 metres) to the height of the mart building previously on the site, though the massing will be increased. The design and variety of materials proposed, along with elevational treatments will work to reduce the overall perceived massing of the building. This and the increased depth of the landscaping area to the north of the store will help to minimise any visual impact and will ensure the development fits the site.
- 154 The wall cladding is to be a white composite panelling with a buff coloured masonry basecourse. The roofing material is to be a “goosewing grey” panelling. Elements of sandstone ashlar on the main elevations are proposed to visually break the massing. The projecting canopy detail will also help this.
- 155 The design which is proposed is still considered to be appropriate in the context of the area. The materials on the public elevations of the building help to integrate the building more successfully with its surroundings. The exact details of colour and type of finishing materials can be requested by a condition on any permission given. I do not consider the proposed store would have any significantly detrimental impact on the visual amenity of the area.

Landscaping and Trees

- 156 LDP Policy ER6 seeks to ensure development proposals have a good landscape framework within which the development can be set and, if necessary, can be screened. The site benefits from established perimeter planting inherited from the earlier development of the site. Within the site there is little established landscaping that will be affected. The planting which is located at the boundaries of the site is set to be retained.
- 157 The most significant change to the existing situation will be the formation of a stone faced retaining wall at the south of the existing roundabout within the site. The proposed wall is shown to be some 3.7m high at the centre, reducing in height to the east and west due to road levels. A landscaping area of between 20m and over 30m is to be incorporated to the south of the retaining wall and to the north of the store and car park area. Although details have not been submitted at this stage, it is appropriate to require further information by condition, should permission be granted. The potential exists for this area of landscaping to effectively filter views of the store and car parking giving only partial views of the store from the A85. This would ensure the visual amenity of the area is protected and enhanced.

Impact on Listed Buildings and Scheduled Monuments

- 158 The site is over 350m from Huntingtower Castle which is Listed category A. Due to the distance between the sites, the topographical changes and the existing buildings,

it is accepted that there will be no detrimental impact on the Listed building or its setting.

- 159 There are four Scheduled Monuments in the vicinity of the application site. The previous ES contained an assessment of the potential impacts on these sites and concluded that there would be no significant impacts on any of the sites. Historic Environment Scotland concur with this assessment and raise no concerns.

Archaeology

- 160 LDP Policy HE2 seeks to protect unscheduled sites of archaeological significance and their settings and where it is likely that archaeological remains exist the developer will be required to arrange for an archaeological evaluation to be carried out. The previous ES adequately considered the development in terms of the above and recommends that during the construction works an archaeological watching brief be put in place.
- 161 Perth and Kinross Heritage Trust has again advised that the development site contains an area of known archaeological sensitivity and is considered to have archaeological potential. On this basis it is recommended that a condition for an archaeological programme of works be attached to planning permission, should it be granted, to identify any archaeological remains and, if appropriate, to ensure that the impact of the development is mitigated through preservation in situ or by record.

Natural Heritage

- 162 LDP Policy NE3 requires development proposals to avoid detrimental impact on biodiversity and protected species. The previous ES identified that there are no potential bat roost sites and no evidence has been found of any other protected species on site.

Drainage

- 163 LDP Policy EP3 requires all development to have sufficient infrastructure to serve the development. Within a settlement the main aim is to ensure that the public services can accommodate the development. Scottish Water previously advised that they had no objection to the proposal.
- 164 The surface water drainage is required to be controlled by way of a Sustainable Urban Drainage System (SUDS). As no detailed system has been submitted a condition requiring such a system could be required by condition, if permission were forthcoming.

OTHER MATERIAL CONSIDERATIONS

Previous Permission (09/020126/FLM)

- 165 The previous application (09/2126/FLM) is a significant material consideration in the determination of this renewal application. The principle of the use proposed has

already been accepted and much of the detailed design and layout has already been approved. As the renewal application was submitted the same day as and therefore before the previous application expired (19 April 2016), significant weight must be given to the previous decision of approval.

Economic Impact

- 166 There are a number of economic benefits both direct and indirect arising from the proposed development. Direct jobs will be created by the on-going operation of the proposal; shorter term job opportunities arising from the construction phase of the project; and opportunities created for further sales within both current and potentially new local food and drink. The previous application advised that the proposed development would create around 450 direct job opportunities within the new store; approximately 70% of these would be part-time, with the remaining 30% being full-time. They have also indicated that as part of 450 opportunities, around 45 management/team leader positions would be created within the new store.
- 167 The creation of additional employment opportunities is very significant in supporting the sustainable economic growth of the area. While it is recognised that the proposal may lead to an element of displaced jobs from other local supermarkets, the overall net impact is likely to provide a significant boost to local employment.
- 168 In summary, the overall economic impact will be positive for the local area, supporting the creation of additional employment and training opportunities, and providing additional business opportunities for local suppliers.

LEGAL AGREEMENTS

- 169 The Section 75 Agreement associated with 09/02126/FLM remains applicable regarding the requirement to secure the payment of a financial contribution by the applicant towards the construction of the new A85/A9 junction.

DIRECTION BY SCOTTISH MINISTERS

- 170 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, regulations 30 – 32 there have been no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in, or notification relating to this application.

CONCLUSION AND REASONS FOR RECOMMENDATION

- 171 The proposal does not fully accord with National Guidance and Development Plan policy in relation to retail development on an out of centre site and may lead to a deterioration in air quality through a possible deterioration of PM₁₀ levels. The proposal is acceptable in terms of its design, siting and landscape impact. The development can be satisfactorily accessed, with appropriate parking, road

infrastructure improvements and servicing, together with the implementation of the proposed junction improvements to the A85/A9 junction.

- 172 However what is a key material consideration is planning permission 09/02126/FLM as this has established the proposed use and design details as being acceptable. There are other key material considerations in this instance including the potential economic benefit to the local area with the creation of a number of temporary, permanent, full- and part-time jobs.
- 173 The assessment here requires to consider whether the material considerations outweigh the primacy of the Development Plan for over-riding reasons of public interest. My conclusion, in taking into account the policy background, updated retail guidance (including the Councils Retail Study in 2014), the increase of choice for the local consumer, the economic benefits and the wider development strategy for Perth, is that in this particular instance the materials considerations do, on balance, provide a strong enough justification for setting aside certain policy concerns of the development plan. On that basis I recommend approval of the application subject to the conditions noted below.

RECOMMENDATION

A Approve the application subject to the following conditions:

1. The proposed development must be carried out in accordance with the approved plans herewith, unless otherwise provided for by conditions imposed on the planning permission.

Reason: To ensure that the development is carried out in accordance with the plans approved.

2. Notwithstanding the details shown on the drawings hereby approved, no permission is granted for the petrol filling station, car wash, landscaping and associated works.

Reason: In order to clarify the terms of the permission.

3. Unless otherwise agreed in writing by the Planning Authority, after consultation with Transport Scotland, the gross floor area of the permitted development shall not exceed 9,533sqm.

Reason: To restrict the scale of the development to that suited to the layout of the access and other junctions, and minimise interference with the safety and free flow of traffic on the trunk road.

4. The net sales floor area of the supermarket shall be made up of a minimum of 65% for the sale of food and a maximum of 35% for the sale of non-food unless otherwise agreed in writing by the Planning Authority.

Reason: To safeguard the vitality and viability of Perth city centre

5. No internal comparison units (e.g. opticians, travel agents, pharmacies, etc) shall be formed within the retail unit hereby approved without the prior written agreement of the Council as planning authority.

Reason: To safeguard the vitality and viability of Perth city centre

6. No development shall take place within the development site as outlined on the approved plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by Perth and Kinross Heritage Trust, and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the service, shall be submitted to and approved in writing by the planning authority, after satisfaction of the Planning Authority in agreement with Perth and Kinross Heritage Trust.

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

7. Prior to the commencement of any development on site a detailed scheme design and specification for modifications to the A85 corridor between the site access junction and the A85/Newhouse Road junction (inclusive), generally in accordance with the 09/02126/46 approval, shall be submitted to and approved by the planning authority, in consultation with the Local Roads Authority and Transport Scotland.

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

8. The traffic signals associated with the works indicated in Condition 7 shall incorporate either MOVA control, or other approved means of dynamic control and queue detection (e.g. SCOOT), to the satisfaction of the Planning Authority, in consultation with the Local Roads Authority and Transport Scotland.

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

9. Prior to the occupation of any part of the development the modifications to the A85 corridor between the site access junction and the A85/Newhouse Road junction (inclusive) shall be completed in accordance with the approved plans, referred to in Condition 7 above, to the satisfaction of the planning authority, after consultation with Transport Scotland.

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

10. Prior to the commencement of any development on site a comprehensive Travel Plan that sets out proposals for reducing dependency on the private car shall be submitted to and approved in writing by the planning authority, in consultation with

the Local Roads Authority and Transport Scotland. The Travel Plan will have particular regard to provision for walking, cycling and public transport access to and within the site and shall identify measures to be implemented; the system of management, monitoring, review and reporting; and the duration of the plan.

Reason: To be consistent with the requirements of Scottish Planning Policy.

11. Prior to the commencement of any development on site proposals for the provision of either new or extended bus services to serve the development, including details of operating hours, frequency of service, route and timescale for introduction, together with evidence of an agreement with a public transport operator to provide this, shall be submitted to and approved in writing by the planning authority in consultation with the Local Roads Authority and Transport Scotland.

Reason: To be consistent with the requirements of Scottish Planning Policy.

12. Concomitant with the occupation of any part of the development hereby approved the agreed bus services referred to in Condition 11 shall be introduced.

Reason: To be consistent with the requirements of Scottish Planning Policy.

13. Prior to the commencement of the development a sample of each of the external finishing materials shall be submitted for the approval of the Council as Planning Authority.

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

14. A detailed landscaping and planting scheme for the site shall be submitted for the further approval of this Planning Authority prior to the commencement of any site works and construction shall not commence prior to the approval of that scheme. The scheme shall include details of the height and slopes of any mounding or recontouring of the site, species, height, size and density of trees and shrubs to be planted. The on-site scheme as subsequently approved shall be carried out and completed within the first available planting season after the completion of the development hereby approved with the off-site planting scheme being completed within the first available planting season after the commencement of works on site; unless otherwise agreed in writing with this Planning Authority and thereafter maintained to the satisfaction of the Planning Authority

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

15. Any planting failing to become established within five years shall be replaced in the following planting season with others of similar size and species to the satisfaction of the Council as Planning Authority.

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

16. Prior to the occupation or use of the approved development all matters regarding internal access, car parking, cycle parking, road layout, design and specification, including the disposal of surface water, shall be in accordance with the standards required by the Council as Roads Authority and to the satisfaction of the Planning Authority.

Reason: In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

17. Storm water drainage from all paved surfaces, including the access, shall be disposed of by means of suitable sustainable urban drainage systems to meet the requirements of best management practices.

Reason: In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

18. All plant and equipment to be installed or operated in connection with the granting of this permission shall be so enclosed, attenuated and/ or maintained such that any noise therefrom shall not exceed International Standards Organisation (ISO) Noise Rating 35 between 0700 and 2300 hours daily, or Noise Rating 25 between 2300 and 0700 hours daily, within any neighbouring residential premises, with all windows slightly open, when measured and/ or calculated and plotted on an ISO rating curve chart, all to the satisfaction of the Planning Authority.

Reason: In the interest of residential amenity.

19. All external lighting to be installed shall be sufficiently screened and aligned so as to ensure that there is no direct illumination of neighbouring land and that light spillage beyond the boundaries of the site is minimised to the satisfaction of the Planning Authority.

Reason: In the interest of residential amenity.

20. Hours of operation will be limited to 0700-2300 Mondays to Saturdays and 0800-2000 Sundays but with extended hours of 0600-0000 during December unless otherwise agreed in writing by the Council as planning authority.

Reason: In the interest of residential amenity.

21. Prior to the commencement of the development, full details of an acoustic barrier to be erected around the service yard and capable of reducing noise levels by 5-10 dB shall be submitted for further approval of the planning authority. The barrier should be sufficiently high to obscure direct line of sight between the noise source and the upper floor windows of the houses along Errochty Grove. The acoustic barrier as subsequently agreed shall be installed prior to the store hereby approved being brought into use and the barrier shall be maintained to the satisfaction of the Council as planning authority for the term of the development.

Reason: In the interest of residential amenity.

22. Servicing of the recycling facilities shall be limited to 0800 hours to 1900 hours Monday to Friday and 0900 to 1300 on Saturdays unless otherwise agreed in writing with the Planning Authority.

Reason: In the interest of residential amenity.

23. An effective ventilation system commensurate with the nature and scale of cooking to be undertaken shall be installed, operated and maintained, within the commercial areas, such that cooking odours are not exhausted into or escape into any neighbouring dwellings.

Reason: In the interest of residential amenity.

24. Details of all lighting and advertising features within the site shall be submitted to and approved in writing by the planning authority, in consultation with Transport Scotland Trunk Road Network Management.

Reason: To ensure that there will be no distraction or dazzle to drivers on the trunk road.

B JUSTIFICATION

The proposal is contrary to the Development Plan but there are material considerations to justify a departure there from.

C PROCEDURAL NOTES

The decision notice shall not be issued until the requisite Section 75 agreement is updated, signed and appropriately recorded to reflect the current planning reference 16/00696/FLM. The legal agreement should be concluded and completed within 4 months of the date of any Committee approval. Failure to conclude a legal agreement within 4 months will result in the planning application being re-assessed through failing to comply with the associated developer contributions policy and will be ultimately recommended for refusal under delegated powers.

D INFORMATIVES

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
- 2 Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.

- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
- 4 This development will require the 'Display of notice while development is carried out', under Section 27C(1) of the Town and Country Planning Act 1997, as amended, and Regulation 38 of the Development Management Procedure(Scotland) Regulations 2008. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. According to Regulation 38 the notice must be:
 - Displayed in a prominent place at or in the vicinity of the site of the development
 - Readily visible to the public
 - Printed on durable material.
- 5 Should consent incorporating the archaeological condition be granted, the developer should contact the Area Archaeologist as soon as possible. The procedure for work required can be explained and Terms of Reference prepared.
- 6 The applicant is advised that in terms of Sections 21 of the Roads (Scotland) Act 1984 he/she/they must obtain from the Council as Roads Authority consent to construct a new road prior to the commencement of roadworks. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environmental Protection Agency.
- 7 The applicant is advised that in terms of Sections 56 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environmental Protection Agency.
- 8 The applicant is advised he must consult with Transport Scotland, Trunk Road and Bus Operations through its Management Organisation (Transerv, Broxden House, Broxden Business Park, Lamberkine Drive, Perth PH1 1RA) on the terms and conditions, under Roads legislation, that require to be agreed to enable works within the trunk road boundary to be approved.
- 9 All signage proposed on the building shall be subject to a separate application for Display of Advertisement Consent.
- 10 There is evidence of Japanese Knotweed present on the site. This is an invasive species which may require a licence from SEPA for its disposal. Advice should be sought.

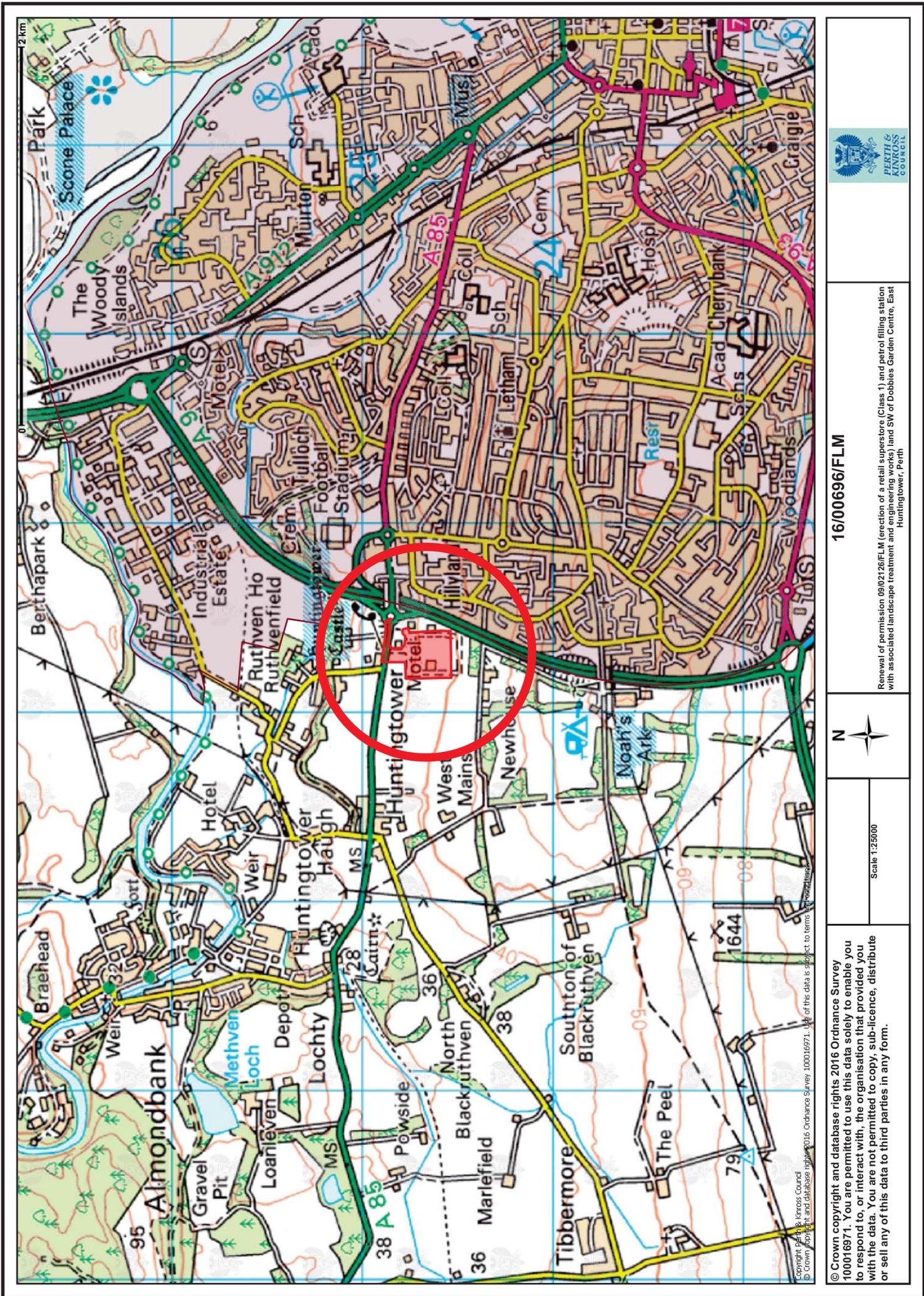
Background Papers: 1 letter of representation
Contact Officer: Steve Callan
Date: 31 August 2016

Nick Brian
Development Quality Manager

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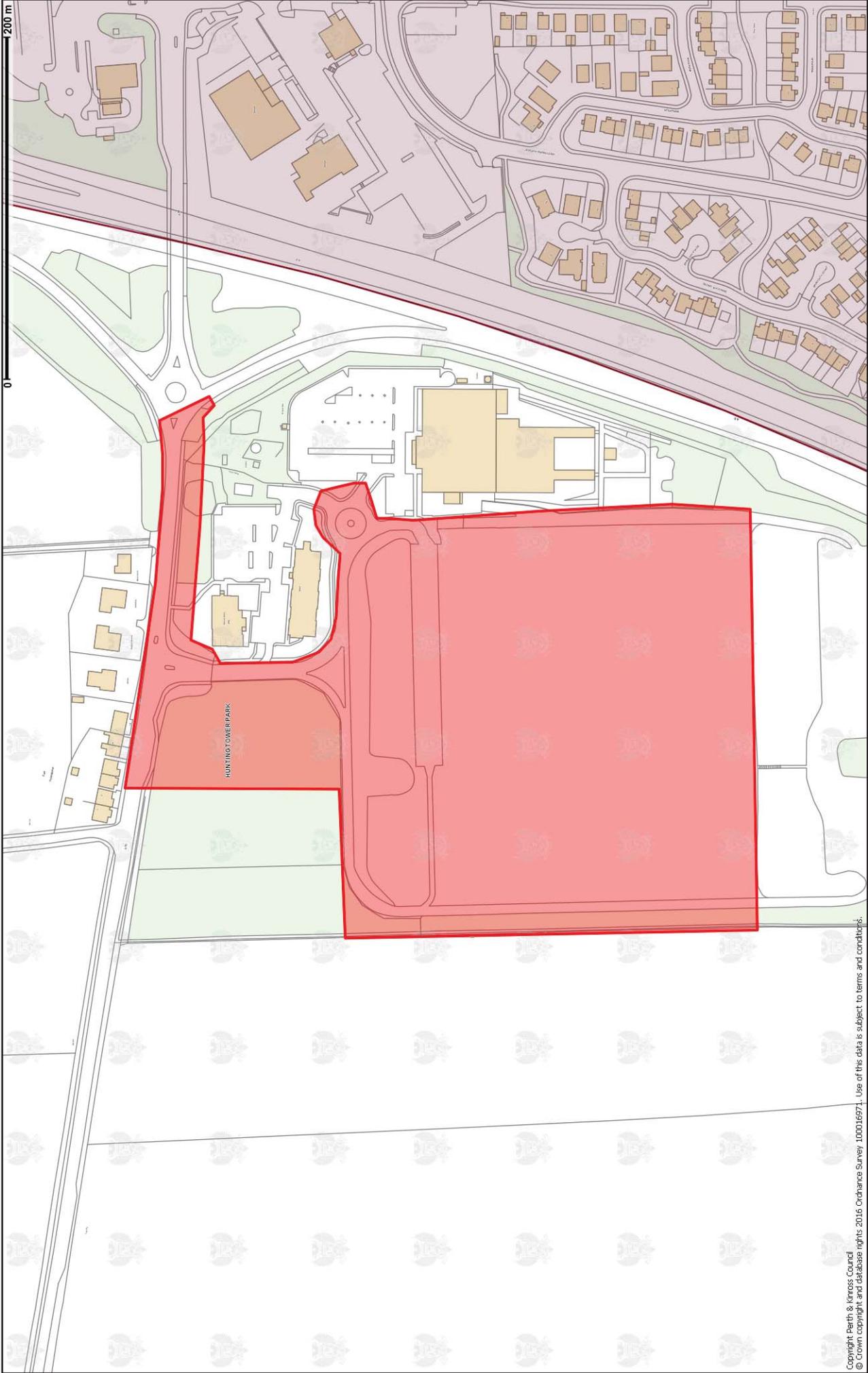
16/000696/FLM

Renewal of permission 09/02126/FLM (erection of a retail superstore (Class 1) and petrol filling station with associated landscape treatment and engineering works) land SW of Dobbies Garden Centre, East Huntingtower, Perth



Scale 1:25000

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Scale 1:3000



16/00696/FLM
 Renewal of permission 09/02126/FLM (erection of a retail superstore (Class 1) and petrol filling station with associated landscape treatment and engineering works) land SW of Dobbies Garden Centre, East Huntingtower, Perth



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

Formation of mine for the extraction of minerals, erection of associated service buildings, formation of transfer site (including processing operations), access track, haul road and borrow pits and associated restoration at Land at Duntanlich, Logierait.

Ref. No: 15/01972/FLL
Ward No: N4 – Highland

Summary

This report recommends **approval** of an application to form a Barite mine with associated works, including a 14 km vehicular access, above ground mine platform, borrow pits, transfer and processing site and all associated follow up restoration as the proposed development, providing it follows the recommendations of the Environmental Statement (ES), and supporting information and is subject to appropriate planning conditions, complying with the Development Plan and National Planning Policy and there are no material considerations which are considered to outweigh the Development Plan. The proposals are recommended for approval, subject to conditions, including associated conclusion of a financial Bond to ensure satisfactory restoration measures are secured.

BACKGROUND AND PROPOSAL

- 1 The site is located approximately 7.5km west of Pitlochry and 7km north of Aberfeldy. The proposed mine site lies within the upper reaches of the catchment of the Middleton Burn, flowing north from just below the Farragon Ridge down to Loch Tummel. The site is currently accessed by an all-terrain vehicle track, from a short spur leading from the private estate track from Netherton, above Loch Tummel.
- 2 The proposed mine site portal (opening) sits at 490m, with the highest part of the proposed access track sitting at 577m. The general surrounding site characteristics are generally that of upland heath and moorland, currently managed by Pitlochry Estate for limited sporting purposes. The Farragon Ridge and the associated river valleys are defined as transitional in landscape terms, an intrusion into the more rugged character of the Grampians to the north and west, with the more undulating, settled lowlands to the south-east, onto Perth and the eastern coast.
- 3 The site incorporates the mine itself, with associated service buildings, a transfer site, access track and haul road, and borrow pits. The overall above ground mine site area extends to approximately 1.6ha. The above ground operational area of the mine site extends to 0.63 hectares, including the mine portal, site office, vehicle workshop, stores and mineral ore bins. A plan is included (extracted from ES – plan 15/01972/3) showing the maximum extent of underground mining operations at the site. The lateral and vertical underground operations, within that the detailed extents of mining, would be influenced by geological features and economic factors encountered for the duration of the mine operation.

- 4 Currently, a Barite mine is operated at Foss, approximately 4.5km to the west-south-west of the proposed Duntanlich site, operated by the same applicants. This mine produces in the region of 42,000 tonnes of domestic oilfield grade barite mineral, which is milled into a powder form and then used primarily as a weighting agent in drilling fluids in oil and gas wells. The current mine at Foss employs 18 men directly, with a further 30 employed by a local haulier, who transport the ore via road from the mine site and crush the raw barite production at their yard in Aberfeldy, before being trucked to operations in Aberdeen. Barite is also shipped from Perth harbour to a mill at Great Yarmouth.
- 5 It has been quantified that a third of the UK demand for barite currently comes from the Foss mine, with the rest mainly sourced from Morocco. However Foss, which has been operational since 1985, is a small mine with a complex geology. As it gets deeper this useful mineral is becoming harder and less economical to obtain.
- 6 Historically, exploratory drilling was undertaken into the barite deposit at Duntanlich on the northern side of the Faragon Ridge, undertaken in the 1980's, which identified a clean stratiform resource exceeding 7.5 million tonnes. Unlike Foss mine with a complex folded structure, the Duntanlich deposit is a simple, sub-vertical sheet, contiguous with the surrounding metasedimentary rocks with a layer thickness varying from 5 – 13 metres. The applicants have identified this resource as the only significant barite orebody resource considered economically viable to operate within the UK.

Planning Site History - Original Duntanlich Planning Application

- 7 Following initial site investigation in the 1980's, a planning application was originally submitted to Perth and Kinross District Council in 1991, and subsequently recommended for refusal in October 1992. A planning appeal was also ultimately unsuccessful.
- 8 Key issues at appeal are summarised as:
 - Impacts from the development on landscape and visual amenity within and outwith the National Scenic Area, in particular from Queens View.
 - Impacts on the local road network from barite transport to Aberdeen via a cross country route.
 - Concerns regarding surface and groundwater quality, the latter with respect to private water supplies in Strathtay.
 - Effects on the natural environment long term – inadequate restoration proposals and mine closure plans.
- 9 It should be noted that the extent and overall red site line boundaries of this scheme are notably different to that of the original planning submission, with the mine portal situation one of the key consistent elements. Informing the current proposal, environmental studies have taken place over a 3 year period, seeking in part to address the issues, which led to the historic application refusal, including visual impact and impact on the wider road network.

The Proposal Elements

- 10 The applicants have applied for a 50 year total project life, with an estimated average of 120,000 tonnes per annum, resulting in the region of 6 million tonnes of barite being mined during the lifetime of the project. The applicants have also set out through the ES, a commitment to decommissioning the Foss mine and undertaking associated area restoration, following Duntanlich mine being operational.
- 11 In summary, the proposed mine operation comprises a small mine site platform, linked by 13.9km of access track to a transfer site where the barite ore is crushed and stored, then loaded and transferred by a 1.3km haul road to the A827 and then onwards to the A9.

Site Establishment

- 12 Existing tracks would be utilised, including at Netherton on the south shore of Loch Tummel, at the Fonab forestry access on the northern side of Strath Tay and Logierait. These points allow initial access for plant to the proposed mine site, borrow pit locations and transfer site. A dedicated power supply is proposed via cable trenching alongside the existing Netherton Track.

Construction

- 13 It is proposed that the construction elements will concur simultaneously to the mine site, transfer site and on the access routes. Sectional construction of the access track and haul road can also be carried out simultaneously from key locations to reduce the construction duration and movement of plant and materials.

Ongoing Restoration of Construction Works

- 14 Ground, which is affected by construction elements, would be reinstated where practical as works progress, through a rolling restoration programme overseen by an appointed Clerk of Works.

Principal elements of restorative construction works identified include:

- Landscaped bund and earthworks associated with the mine site
- Cut and fill faces of the mine site earthworks
- Access track
- Transfer site
 - Haul road
 - Individual contractors compounds

Mine site Platform – Infrastructure and Plant

- 15 The mine site platform is proposed to include:
 - Four combined barite ore storage bays with a capacity equivalent of approximately one month production,

- A workshop, separate office and welfare facilities.
- Also proposed at the platform are water treatment facilities controlling and treating site run off and any associated groundwater discharges.
- A 20,000 litre capacity diesel tank and substation will also be in situ with a back-up generator
- An isolated explosive store situated at minimum separation distance (set out in The Explosive Regulations 2014).

Borrow Pits

- 16 Two borrow pits have been identified in Forestry Commission land, providing on-site hard rock for use in track surfacing and also sand and gravel, intended for fill and as a base course.

Haul Road and Mine Access

- 17 Both the proposed haul road and access track elements with a combined length of approximately 14km have gone through a number of assessments and iterations in coming to the final scheme as presented for consideration.

- 18 A number of factors accounted for and sought to be addressed in the final route options which included:

- Potential flooding at Logierait
- Interface with recreational routes
- Proximity to cultural heritage features
- Requirement for an intermediate gas pipe crossing
- Existing alignment of the old Pitlochry road (C452)
- Proximity to residential properties
- Requirement to achieve suitable gradients to accommodate Heavy Goods vehicles
- Effects on natural heritage, including minimising development footprint and consideration for species specific sensitivities.

Site Access

- 19 The 1991 proposal for an access to Duntanlich routed vehicles onto the public road network at Ballechin. Alternative access points directly onto the A9 were all considered and subsequently discounted with Transport Scotland, advising that there should be neither a new vehicle access created or associated intensification of any minor junction directly onto the A9 through the proposal.

- 20 Access onto the A827 in very close proximity to the A9 junction at Ballinluig was the identified preferred option. The old Aberfeldy road onto the A827 was originally investigated and subsequently discounted at preliminary site investigation stages in consultation with the Council as Roads Authority, with the current proposed junction providing enhanced visibility for vehicles accessing and egressing the site, improved alignment to navigate the embankment north of Ferry cottage and retention of the majority of the field to the south of Ferry cottage.

Mineral Extraction

- 21 As mentioned, the proposed quantity of minerals to be extracted is anticipated to be in the region of 120,000 tonnes of barite per annum. It should be noted however that the ES has based its calculations on a worst case scenario extraction of up to 180,000 tonnes per annum, based on identified vehicle movements for up to 50 weeks a year. This upper limit realistically accounts for cyclical changes, with the actual annual extraction volumes fluctuating, depending largely on market conditions at the time.
- 22 The proposed mine portal would be an opening of approximately 4 m x 4m, cut from surface on the north site of the ore resource. This is designed to drop at 1:7 for 370m in a spiral decline. From the initial ramp, a spur will travel south, intersecting the ore body at 37m below the surface of solid rock. The principal decline will spiral down on an initial loop of 300m to the access to the crown pillar drive in the ore, 50m below rock surface, establishing 152m loops to provide access to the ore at 15m intervals. The ore will be blasted in 2 or 3m slices daily, progressing from the raise, back east. Following a 40m extraction, a 10m pillar will be left in situ and the sequence re-established with a new raise.
- 23 Drill rigs will be diesel powered with an electro-hydraulic power pack for drilling operations. Underground loaders and trucks will all be diesel powered with the ore transported via the portal to the ore bins on the mine platform, with no processing undertaken at the mine itself.
- 24 This type of selective mining results in no requirement for a tailings impoundment. Any waste rock from mining the access tunnels would be stored then either used to backfill old workings or for road repairs.

Haulage from the mine

- 25 Barite ore would be loaded into 39 tonne articulated off-road dump trucks (Volvo A40 vehicle or similar) and then transported to the proposed transfer site along the access track. A fleet of 3 trucks are anticipated to be on site, each making a total of 12 return trips (36) within a working day.

Transfer Site

- 26 The proposed transfer site incorporates ore bins, a transfer/crushing building, turning and loading area and a weighbridge alongside office and welfare facilities. The proposed transfer/crushing building dimensions are included within the Figures background information, section 16.
- 27 The proposed building is currently identified to be constructed in a mixture of concrete panel and box profile sheeting finished in recessive colour/s. The building would also be partially bunded on the eastern aspects, providing both visual and acoustic screening primarily. Both the size and layout of the transfer building were identified to have been proposed with the specific design criteria of minimising disturbance to both recreational and residential amenity.

28 The transfer site would be serviced via a generator due to the limited power network in the area; with the crushing plant also diesel powered. Both elements will be served by a 4,000 litre diesel tank, situated to the west of the transfer building.

Processing

29 Initial crushing processes would be undertaken solely within the designated plant building, down to an ore size suitable for graded despatch to Aberdeen and Great Yarmouth for additional processing.

30 Alternative transfer and crushing locations were all considered at the pre-submission stage, including:

- Forested sites higher up the ridge, discounted due to the additional haul road requirements and the increased visibility.
- At Logierait, providing an easier access for road hauliers but would conversely be highly visible from the public highway and extend the access track and mine truck activities closer to the public highway.

31 Alternative detailed site layouts were also considered, including the alignment of the site and building layout, the weighbridge and access in and out of the transfer site.

32 The current layout proposed seeks to optimise reduction on noise receptors, particularly on neighbouring residential properties and associated amenity effects on recreational visitors.

Despatch

33 The processed ore would then be loaded onto 30 tonne articulated lorries, including 'walking floor' models in some cases, seeking to apply best practice measures to achieve quiet loading of the material. The applicant has however clarified that 'walking floor' models cannot be guaranteed on every occasion.

34 The 1991 proposals included despatch via cross-country routes of the A923 and A984, which was deemed unsatisfactory. The current proposal seeks to simply despatch directly via the trunk road network. The proposed routing includes the dedicated haul road to the A827 and then directly onto the A9. All vehicles shall join the A9 south and route around Perth on the A9 and M90 exiting onto Dundee road for Perth Harbour or onto the A90 for vehicles continuing on up to Aberdeen.

Project Timescales

35 It should be noted of the 50 years applied for; this is set out and confirmed to include:

- Initial 18-24 month period for associated enabling and construction works.
- Up to 2 years for final restoration (with some elements seasonally dependent).

36 The ES sets out that the overall operational mining life will be reduced from these elements.

Proposed hours of working

37 *Initial Construction*

Surface construction	0700-1900	Monday to Friday
Mine establishment	24 hours	Monday to Friday

38 *Ongoing Operations*

Processing Operations	0700 – 1900	Monday to Friday
Despatch	0700 – 1900	Monday to Friday
Mining Operations *	24 hours	Monday to Friday

*anticipated that mining shifts will generally follow a standard 12 hour shift from 0700-1900 but 24 hour proposal builds in flexibility for emergency contingency for maintenance and production recovery (machine failure etc).

Decommissioning and Site Restoration

39 At the time of the mine being decommissioned, the mine portal would be secured, all associated mine site buildings and ancillary structures shall be removed and the surrounding mine platform shall be regraded and landscaped. The majority of access track is proposed to be removed and portions of the haul road and the whole transfer site. Pre-existing forestry tracks will be returned to the estate and it is proposed that a section of new access track over the ridge shall also be retained for estate use. This new track section extends to approximately 1.7km and runs between the basin at the head of Drumchaber Burn and the eastern end of Locahn Sgaradh Gobhair. The section of sealed haul road within the woodland is also proposed to be retained for forestry uses.

40 The ES sets out the site restoration rationale as follows:

- Respect the intrinsic character of the local area, conserving and regenerating where possible;
- Address the stability and safety of the areas that have been subject to excavation or the effects of excavation;
- Create a topography in keeping with the surrounding area; and
- Maintain and enhance existing habitat where possible.

Advertisement and Re-advertisement

41 The application was originally advertised as an EIA development within the Perthshire Advertiser (20th November 2015). The application was also advertised within the Edinburgh Gazette (20th November 2015) as required for all EIA developments. Further re-advertisement took place on the 3rd June 2016 and re-notification letters were sent out first class on the 31st May 2016 in relation to supplementary environmental information (SEI).

ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

- 42 Directive 2011/92/EU requires the ‘competent authority’ (Perth and Kinross Council) when giving planning consent for particular large scale projects, to do so in the knowledge of any likely significant effects on the environment. This Directive therefore sets out a procedure that must be followed for certain types of project before ‘development consent’ can be given.
- 43 This procedure, known as Environmental Impact Assessment (EIA), is a means of drawing together, in a systematic way, an assessment of a project’s likely significant environmental effects. This helps to ensure that the importance of the predicted effects, and the scope for reducing any adverse effects, are properly understood by the public and the relevant competent authority before it makes its decision.
- 44 Part II, Schedule 4 of the Environmental Impact Assessment (Scotland) Regulations 2011 outlines the information required to be included in any EIA.
- 45 A screening exercise in accordance with the EIA (Scotland) Regulations 2011 (as amended) was undertaken by the Planning Authority and in this case due to the projects size, nature and location an Environmental Statement was deemed to be required. Mineral workings fall within Category 19: ‘Quarries and open-cast mining where the surface of the site exceeds 25 hectares’ of Schedule 1. A scoping exercise was also undertaken to assist in scoping out the principal elements.

Scope of the ES

- 46 The scope of the ES was defined by the Planning Authority and associated statutory consultees. This recommended the following issues were addressed:
1. Introductions and Background
 2. Consideration of Alternatives
 3. Landscape and Visual Assessment
 4. Surface Water and Groundwater
 5. Peat Stability
 6. Ecology and Restoration
 7. Noise
 8. Emissions – Air Quality and Lighting
 9. Blast Vibration
 10. Access and Traffic
 11. Archaeology (Heritage)
 12. Management of Waste
 13. Summary of Effects

Points of clarification and Supplementary Environmental Information (SEI) from the applicant

- 47 Following the initial consultation period, there were several background items of correspondence submitted from the applicant to answer queries and clarify points raised during the processing and assessment of the application, in particular from items raised in consultation responses. Much of this was already set out within the supporting background documents. Additional points are summarised below:
- Impact on protected birds (raptor surveys)
 - Impact in relation to noise anticipated from transfer site
 - Peat management and borrow pit assessment
 - Presence of ground-water dependent terrestrial ecosystems (GWDTE)
 - Updated draft of construction environmental management plan (CEMP)
 - Cultural Heritage Assessment
 - Flood risk and surface water management at the haul road in proximity of Ferry Cottage.
- 48 The basic content and the associated background information of the ES are considered to meet the requirements of the associated regulations. SEI was formally submitted on request by the Council, addressing an identified shortfall in the flooding assessment and associated impacts through the haul road section at Logierait. Both internal and external consultees are now satisfied with the baseline findings submitted.

APPROPRIATE ASSESSMENT

- 49 The proposal parameters are located within the catchment of the River Tay Special Area of Conservation (SAC), with a section of the proposal in close relative proximity to the Shingle Islands SAC. The Tay SAC is designated for its Annex I freshwater habitats and for the Annex II species *Salmo salar* (Atlantic Salmon), *Lampetra fluviatilis* (River Lamprey), *Lampetra planeri* (Brook Lamprey), *Petromyzon marinus* (Sea Lamprey), and *Lutra lutra* (Otter). SNH identified at the scoping stages of the proposal that the proposed development has the potential to impact on both construction and operational stages, specifically through surface water run-off and the release of sediments and pollutants upon the qualifying interests of the SAC. An appropriate assessment has been undertaken by the Council, agreeing with the conclusions of the ES that if the project design and mitigation measures are respected and applied, there would be no consequential adverse impact on the nature conservation objectives of the SAC.

WASTE MANAGEMENT REGULATIONS 2010

- 50 The Management of Extractive Waste (Scotland) Regulations 2010 came into effect on 1st April 2010. The Regulations transpose the EC Mining Waste Directive, which was in response to serious accidents at mine tailings ponds, causing considerable environmental damage. The regulations make Planning Authorities determining mineral planning applications, the Competent Authority for issuing associated permits as envisaged in the Mining Waste Directive. Mineral planning permissions therefore serve as a permit under the Mining Waste Directive.

- 51 A plan concerning extractive waste management has been submitted in respect of the above hard rock quarry as required by the Management of Extractive Waste (Scotland) Regulations 2010.
- 52 The tests in the Scottish Government Guidance Note on The Management of Extractive Waste (Scotland) Regulations 2010 are considered to be met, consistent with established best practice at the current Foss mine operation. There are therefore no further requirements under these Regulations. Conditions regarding the stability and prevention of pollution must however continue to be met during the storage, use and aftercare of any material.
- 53 There are no other inert or non-inert waste facilities at the site, which will not be utilised for approved restoration operations. The applicant has recognised and followed the Scottish Government Guidance in relation to the above Regulations and as such I am satisfied with the submission. No formal waste management plan is therefore required in respect of this site.

NATIONAL POLICY AND GUIDANCE

- 54 The Scottish Government expresses its planning policies through the National Planning Framework 3, Scottish Planning Policy (SPP) and Planning Advice Notes (PAN).

National Planning Framework 3

- 55 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 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.

Scottish Planning Policy 2014

- 56 The SPP was published on 23 June 2014. It sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:

- The preparation of development plans.
- The design of development, from initial concept through to delivery.
- The determination of planning applications and appeals.

Of relevance to this application are;

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

A Successful, Sustainable Place:

- Paragraphs 92- 108 Supporting Business and Employment

A Natural, Resilient Place:

- Paragraphs 193 – 218 The Natural Environment
- Paragraphs 219 – 233 Maximising the Benefits of Green Infrastructure
- Paragraphs 254 – 268 Managing Flood Risk & Drainage

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

- Air Quality and Land Use Planning (2004)
- PAN 1/2011 Planning and Noise
- PAN 2/2011 Planning and Archaeology
- PAN 3/2010 Community Engagement
- PAN 1/2013 Environmental Impact Assessment
- PAN 40 Development Management
- PAN 50 Controlling the Environmental Effects of Surface Mineral Workings
- PAN 51 Planning, Environmental Protection and Regulation
- PAN 60 Planning for Natural Heritage
- PAN 61 Planning and Sustainable Urban Drainage Systems
- PAN 64 Reclamation of Surface Mineral Workings
- PAN 75 Planning for Transport
- PAN 79 Water and Drainage
- PAN 81 Community Engagement: Planning with People

National Roads Development Guide (2014)

- 57 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 proposed motorised vehicle movement's at a local and regional level, including parking provision.

DEVELOPMENT PLAN

- 58 The Development Plan for the area consists of TAYplan Strategic Development Plan 2012-2032 (Approved June 2012) and the Perth and Kinross Local Development Plan 2014 (Approved February 2014).

TAY plan Strategic Development Plan 2012

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

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

- 60 The following sections of the TAYplan 2012 are of particular importance in the assessment of this application:

Policy 2: Shaping Better Quality Places

- 61 Seeks to ensure that climate change resilience is built into the natural and built environment, integrating new development with existing community infrastructure, ensure the integration of transport and land uses, ensure that waste management solutions are incorporated into development and that high resource efficiency and low/zero carbon energy generation technologies are incorporated with development to reduce carbon emissions and energy consumption.

Policy 3: Managing TAYplan's Assets

- 62 A salient section on Finite Resources identifies that land should be identified through Local Development Plans to ensure responsible management of TAYplan's assets by using the location priorities set out in Policy 1 of this Plan to:
- safeguard minerals deposits of economic importance and land for a minimum of 10 years supply of construction aggregates at all times in all market areas; and
 - protect prime agricultural land, new and existing forestry areas, and carbon rich soils (where identified) where the advantages of development do not outweigh the loss of productive land.

Policy 8: Delivering the Strategic Development Plan

- 63 States:

“To ensure that quality is designed-in to development and places, developer contributions shall be sought for new development to mitigate any adverse impact on infrastructure, services and amenities brought about by development including contributions towards schools, affordable housing, transport infrastructure and facilities (including road, rail, walking, cycling and public transport) and other community facilities in accordance with the Scottish Government Circular 1/2010”.

TAYPLAN MAIN ISSUES REPORT APRIL 2014

- 64 *Main Issue 7: Planning for Resource Security*
“Food, minerals, oil, gas and timber, amongst others, are all traded on the international commodities markets. Many of these resources are finite or finite within economic viability. This means that there is global competition for a limited supply of available resources. Their price is affected by global demand and supplies”
- 65 *“The British Geological Survey’s Risk List (2012) identifies economically important chemical elements or element groups for which the UK and EU are almost wholly reliant on imports. These same materials cannot easily be substituted for recycled products. There are some deposits of Barytes, Gold, Silver and Zine in western Perth & Kinross. This suggests some need to ensure that these nationally important materials are not lost as a result of where development takes place”.*

TAYPLAN PROPOSED STRATEGIC DEVELOPMENT PLAN (2016-2036)

Policy 9 Managing TAYplan’s Assets

- 66 *Land should be identified through Local Development Plans to ensure responsible management of TAYplan’s assets by:*

A. Finite Resources

Using the location priorities set out in Policy 1 of this Plan to:

- i. identify and protect known deposits of solid, liquid and gas minerals of economic importance;*
- ii. maintain a minimum of 10 years supply of construction aggregates at all times in all market areas;*
- iii. identify and protect deposits of nationally important minerals identified on the British Geological Survey’s Critical List; and,*
- iv. protect prime agricultural land, new and existing forestry areas, and carbon rich soils where the advantages of development do not outweigh the loss of this land.*

B. Protecting Natura 2000 sites

Ensuring development likely to have a significant effect on a designated or proposed Natura 2000 site(s) (either alone or in combination with other sites or projects), will be subject to an appropriate assessment. Appropriate mitigation must be identified, where necessary, to ensure there will be no adverse effect on the integrity of Natura 2000 sites in accordance with spp.

C. Safeguarding the integrity of natural and historic assets

- i. Understanding and respecting the regional distinctiveness and scenic value of the TAYplan area through safeguarding the integrity of natural and historic assets; including habitats, wild land, sensitive green spaces, forestry, water environment, wetlands, floodplains (in-line with the Water Framework*

Directive), carbon sinks, species and wildlife corridors, and also geo-diversity, landscapes, parks, townscapes, archaeology, historic battlefields, historic buildings and monuments; and by allowing development where it does not adversely impact upon or preferably enhances these assets.

- ii. Protecting and improving the water environment (including groundwater) in accordance with the legal requirements in the Water Framework Directive 2000/60/EC and the Water Environment and Water Services (Scotland) Act 2003 which require greater integration between planning and water management through River Basin Management Plans.*

PERTH & KINROSS LOCAL DEVELOPMENT PLAN FEBRUARY 2014

67 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. It is the most recent statement of Council policy and is augmented by Supplementary Guidance.

68 The LDP sets out a vision statement for the area and states that:

“Our vision is of a Perth and Kinross which is dynamic, attractive and effective which protects its assets whilst welcoming population and economic growth.”

69 Under the LDP, the following policies are of particular importance in the assessment of this application:

PM1: Placemaking

70 PM1A: Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place.
PM1B: All proposals should meet the placemaking criteria set out.

PM2: Design Statements

71 Design Statements should normally accompany a planning application if the development comprises 5 or more dwellings, is a non-residential use, which exceeds 0.5 ha or if the development affects the character or appearance of a Conservation Area, Historic Garden, Designed Landscape or the setting of a Listed Building or Scheduled Monument.

PM3: Infrastructure Contributions

72 Where new developments (either alone or cumulatively) exacerbate a current or generate a need for additional infrastructure provision or community facilities, planning permission will only be granted where contributions which are reasonably related to the scale and nature of the proposed development are secured.

ED3: Rural Business and Diversification.

- 73 This policy states that the Council will give favourable consideration to the expansion of existing businesses and the creation of new ones in rural areas. It is, however, important that the proposal meets the criteria set out within this policy, specifically in terms of its contribution to the local economy.

TA1: Transport Standards and Accessibility Requirements

- 74 TA1A: Encouragement will be given to the retention and improvement of transport infrastructure identified in the plan.
- 75 TA1B: Development proposals that involve significant travel generation should be well served by all modes of transport (in particular walking, cycling and public transport), provide safe access and appropriate car parking. Supplementary Guidance will set out when a travel plan and transport assessment is required.

CF2: Public Access

- 76 Development proposals that would have an adverse impact upon the integrity of any (proposed) core path, disused railway line, asserted right of way or other well used route will be refused. Development proposals that would affect unreasonably public access rights to these features will be refused unless these adverse impacts are adequately addressed in the plans and suitable alternative provision is made.

NE1: Environment and Conservation Policies

- 77 National, local and European protected species should be considered in all development proposals.
- 78 NE1A: International Nature Conservation Sites
Development which could have a significant effect on a site designated or proposed as a Special Area of Conservation, Special Protection Area or Ramsar site will only be permitted where an Appropriate Assessment shows that the integrity of the site will not be adversely affected, there are no alternative solutions and there are imperative reasons of overriding public interest.
- 79 NE1B: National Designations
Development which would affect a National Park, National Scenic Area, Site of Special Scientific Interest or National Nature Reserve will only be permitted where the integrity of the area or the qualities for which it has been designated are not adversely affected or any adverse impacts are clearly outweighed by benefits of national importance.
- 80 NE1C: Local Designations

Development which would affect an area designated as being of local nature conservation or geological interest will only be permitted where the integrity of the area or the qualities for which it has been designated are not adversely affected or any adverse impacts are clearly outweighed by benefits of local importance.

NE2: Forestry, Woodland and Trees

- 81 NE2A:
Support will be given to proposals where forests, woodland and trees are protected, where woodland areas are expanded and where new areas of woodland are delivered, securing establishment in advance of major development where practicable.
- 82 NE2B:
Where there are existing trees on a development site, any application should be accompanied by a tree survey. Where the loss of individual trees or woodland cover is unavoidable, mitigation measures should be provided.

NE3: Biodiversity

- 83 All wildlife and wildlife habitats, whether formally designated or not should be protected and enhanced in accordance with the criteria set out.

NE4: Green Infrastructure

- 84 Development should contribute to the creation, protection, enhancement and management of green infrastructure, in accordance with the criteria set out.

ER3: Minerals and other Extractive Activities – Safeguarding

- 85 ER3A: Sterilisation of Mineral Deposits
Development which would sterilise important economically workable mineral deposits will not be allowed unless there is an overriding need for the development and prior extraction of the mineral cannot reasonably be undertaken; or extraction of the mineral is unlikely to be practicable or environmentally acceptable.
- 86 ER3B: Advance Extraction
The extraction of proven mineral deposits in advance of other planned development will be permitted provided that it accords with the criteria set out.

ER4: Minerals and Other Extractive Activities – Supply

- 87 ER4A: Extraction
Favourable consideration will be given to proposals for the extraction of minerals where they are in accordance with the criteria set out and where they do not have an adverse effect on local communities and the environment.
- 88 ER4B: Restoration

Restoration, after use and aftercare proposals will require to be agreed in advance of mineral and other extractive operations. Financial bonds for restoration will be required.

- 89 ER4 C: Efficiency and Waste
Greater efficiency in the use of primary mineral resources is encouraged.

ER5: Prime Agricultural Land

- 90 Development on prime agricultural land will not be permitted unless it is necessary to meet a specific established need such as a major infrastructure proposal, there is no other suitable site available on non-prime land or it is small scale development (generally single buildings) linked to rural business.

ER6: Managing Future Landscape Change

- 91 Managing Future Landscape Change to Conserve and Enhance the Diversity and Quality of the Area's Landscapes. Development proposals will be supported where they do not conflict with the aim of maintaining and enhancing the landscape qualities of Perth and Kinross.

EP1: Climate Change, Carbon Reduction and Sustainable Construction

- 92 Sustainable design and construction will be integral to new development within Perth & Kinross.

EP2: New Development and Flooding

- 93 There is a general presumption against proposals for built development or land raising on a functional flood plain and in areas where there is a significant probability of flooding from any source, or where the proposal would increase the probability of flooding elsewhere.

EP3: Water Environment and Drainage

- 94 EP3A: Proposals, which do not accord with the Scotland River Basin Management Plan and any relevant associated Area Management Plans, will be refused unless they are considered to be of significant specified benefit to society and / or the wider environment.
- 95 EP3B: Foul drainage from all developments within and close to settlement envelopes that have public sewerage systems will require connection to the public sewer. A private system will only be considered as a temporary measure or where there is little or no public sewerage system and it does not have an adverse effect on the natural and built environment, surrounding uses and the amenity of the area.
- 96 EP3C: All new development will be required to employ Sustainable Urban Drainage Systems (SUDS) measures.

EP5: Nuisance from Artificial Light and Light Pollution

- 97 Consent will not be granted for proposals where the lighting would result in obtrusive and / or intrusive effects.

EP8: Noise Pollution

- 98 There is a presumption against the siting of proposals, which will generate high levels of noise in the locality of noise sensitive uses, and the location of noise sensitive uses.

Policy HE1: Scheduled Monuments and Non-Designated Archaeology

- 99 Policy HE1A: There is a presumption against development which would have an adverse effect on the integrity of a Scheduled Monument and its setting, unless there are exceptional circumstances.
- 100 Policy HE1B: Seeks to protect the integrity of areas or sites of known archaeological interest and their settings.

OTHER POLICIES

- 101 The following supplementary guidance and documents are of particular importance in the assessment of this application:

- Tayside Landscape Character Assessment (TLCA)
- Perth and Kinross Local Landscape Areas (2014)
- Flood Risk and Flood Risk Assessments – Developer Guidance (June 2014)
- Sustainable Design and Zero Carbon Development Supplementary Guidance (May 2014)
- Green Infrastructure Supplementary Guidance (Draft) (July 2014)
- BS 4142: 2014 Methods for rating and assessing industrial and commercial sound

Perth & Kinross Corporate Plan 2013-2018

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

SITE HISTORY

103 91/01276/FUL at Duntanlich - Pitlochry Estates by Pitlochry. Extraction of Barytes/erect Minehead Yard/Form Access Road 27 October 1992 - Application Refused.

Public local inquiry appealing refusal of planning permission (91/01276/FUL). 11 May – 21 October 1993 - Appeal dismissed.

14/02206/SCRN Screening Opinion: proposed barite mine 8 January 2015

14/02197/SCOP Scoping Opinion: proposed barite mine 27 January 2015

CONSULTATIONS

104 During the first consultation period for the application, the following responses were received:

EXTERNAL

105 **Transport Scotland (TS) –**

No objection and no comments made or conditions proposed on the proposal.

106 **Scottish Environment Protection Agency (SEPA)–**

Objected on the grounds of lack of information in relation to:

- flood risk information affecting lowest section of haul road.
- draft construction method statement (CMS).
- peat management.

107 **Scottish Water (SW) -**

No objection, concluding that due to the distance of the mine to the Scottish Water intake and associated dilution of any discharge within Loch Tummel and Loch Faskally prior to the discharge entering the River Tay, it is considered that the risk of any effect on the Scottish Water intake is low. Similarly, any pollution from the borrow pits and transfer area are likely to be mitigated due to the distance to the intake. Request that SW were notified of any pollution incident taking place as a result of the works to ensure that water quality can be protected.

108 **Scottish Natural Heritage (SNH) –**

Initial response (two stage response received) confirmed no objection to the proposal in relation to the ecological interests; it did however set out some concerns in relation to peat and carbon rich soil information and the details of schedule 1 bird breeding sites in the area, seeking further clarification.

109 A secondary follow up position of formal objection was then received, specifically relating to the impact on the landscape, stating insufficient information to determine

whether the proposal will have an adverse effect on the integrity of the National Scenic Area or the qualities for which it has been designated.

110 Historic Environment Scotland (HES) –

No objection, confirming that the proposal was not considered to raise issues of national significance such that HES would object. There were some background comments made in relation to the contents of the ES, whereby there was some disagreement over the terminology used and the associated significance placed on certain features. This is discussed further within the Appraisal Archaeology and Cultural Heritage.

111 Royal Society for the Protection of Birds (RSPB) –

Initial objection received in relation to lack of information in the following areas:

- Impacts on peat. Insufficient information has been provided to demonstrate that alternative options have been explored to avoid areas of deep peat and minimise carbon store losses.
- Restoration proposals.
- Breeding birds and lack of detail of mitigation to prevent impacts.

112 Follow up information was submitted by the applicant, clarifying aforementioned points. RSPB subsequently removed its objection with recommended suspensive conditions attached to any recommendation of approval.

113 Forestry Commission Scotland (FCS) –

No objection received, further clarification was initially sought in relation to the requirement for compensatory planting of the 1.2ha of trees on site, which are proposed to be felled. Suitable compensatory planting proposals were identified by the applicant allowing FCS to support the application, subject to the inclusion of a suspensive condition to ensure the compensatory planting is undertaken.

114 Dull And Weem Community Council –

No response received.

115 Mid Atholl Strathtay And Grandtully Community Council -

Objection comments received, setting out the following:

1. Location of Junction between A827 and proposed new road towards ferry cottage

The proposed location for this junction now appears to be much closer to Clais-an-deor than shown in original proposals. Those present at the meeting felt that the junction should be situated further east than currently proposed i.e. closer to the River Tummel and further away from Clais-an-deor. This would move the junction further from nearby properties and closer to the junction between the A827 with the A9.

2. Earth banking on which proposed new road to Ferry Cottage would be constructed

Understood proposal involves the provision of culverts under the earth banking that would carry the proposed road up the incline to join with the A827. Those present saw no merit in there being culverts - as this would allow water to cross the field in the

direction of Clais-an-deor and other properties. Instead the Community Council suggest that measures should be taken to improve the flow of the River Tummel under the A827 Road Bridge and down towards the confluence with the River Tay.

3. Dispersal of surface water from disturbed fields/wood area due to proposed construction

Should the development be approved, the resulting disturbance to the fields and wood above Logierait will reduce the ability of the land to absorb and hold water and there is a concern that this will increase the amount of surface water flowing off the hill down to Logierait.

- 116 **Pitlochry And Moulin Community Council -**
No response received.

INTERNAL

117 **Environmental Health (EH) –**

Several environmental factors were closely considered by the EH team, including dust, air pollution impacts through particulates, noise, vibration and impact on private water supplies. The associated impacts of dust, air pollution through particulates and vibration were all considered sufficiently addressed from the outset and were recommended to be controlled through suspensive condition.

A principal concern was however set out in relation to the associated noise from operations at the transfer station. The original response set out a preference to see further mitigation identified at the transfer site to reduce noise levels at specified, affected properties.

Further clarification and discussion between the applicants' noise consultants and EH led to follow up comments confirming the detailed nature of the assessment in relation to BS 4142, which states "*Where background sound levels and rating are low, absolute levels might be as, or more, relevant than the margin by which the rating level exceeds the background.*"

EH accepted this approach as reasonable and competent, clarifying the background level and rating levels were low, with the transfer station being considered an ancillary element to the mine (as interpreted in PAN 50) . A follow up consultation memo recommended that associated suspensive noise conditions were included on any granting of consent, including the requirement for a noise management plan.

Private Water Supply

No objection, but initial assessment and proposed conditional approach was re-evaluated following clarification on the additional extent of background assessments undertaken. A recommended suspensive condition was fundamentally recommended for the applicant to establish baseline monitoring position for all affected private water supplies.

118 Local Flood Prevention Authority

Flood Risk and Structures –

No objection received in relation to proposals affecting watercourse crossing along the access track and the proposed surface water drainage details of the access track. There were however further questions posed in relation to the surface water drainage of the haul road section and an objection regarding the detailing of the proposed section of haul road directly between ferry cottage and the proposed junction with A827 effectively considered as land raising within the 1:200 year flood plain without suitable background information pertaining to and addressing the proposed flood risk mitigation.

119 Transport Planning –

No objection following some additional clarification in relation to identifying the relevant sections within the ES. The response states the development is proposed to generate a relatively low number of vehicle trips once operational. The response also clarified that extensive pre-application enquiry discussions took place, particularly in relation to the preferred route options to the site from the A827 and improvements required to the affected section of the public road network (C452) at Logierait. Suspensive conditions proposed for all phases of development, particularly in relation to management of construction traffic.

120 Perth and Kinross Heritage Trust (PKHT) –

No objection to the proposals, with suspensive archaeological conditions proposed relating to the pre-commencement and construction phases of the development. The response stated that the methodology and mitigation measures set out in Section 14 of the ES were considered robust.

121 Policy and Strategy Team –

Considered the principle of the mine to remain in accordance with the regional and local development plan, subject to meeting specific policy criteria.

122 Community Greenspace Access Officers -

No objection, identifying that whilst a number of core paths and access tracks would be affected by the proposals, particularly during the construction elements, sufficient consideration of the associated impacts were set out in ES and it was acknowledged that management of public access during and post construction could be appropriately controlled by the requirement for an access management plan through suspensive condition.

123 Biodiversity –

No objection, subject to conditional control at all stages of the development, including pre-commencement, during the construction periods and follow up survey monitoring and review during operation.

124 Supplementary Environmental Information (SEI)

Following the formal submission of SEI in May, which included the procedural re-advertisement of the EIA, relevant consultees were re-consulted, responding as follows:

EXTERNAL

125 **SEPA –**

All initial objections were removed subject to assurance that suspensive conditions would be applied and following the associated recommendations of the ES.

Post submission dialogue included:

- Addressing the flood risk at section of haul road at Logierait.
- Redressing the draft construction method statement, which was not initially considered to conform to relevant environmental regulations.
- Further clarification required in relation to sustainable peat management.

126 **SNH –**

All initial objections removed, subject to application of suspensive conditions, including the requirement for the suitable appointment of an independent Landscape Clerk of Works and following the associated recommendations of the ES. The applicant, agent, case officer and SNH met to discuss the points of objection requiring clarification.

Clarification and agreed additional information was submitted by the applicant via the agent, seeking to address and remove initial objection included further detailing of:

- The landscape and visual mitigation for the design, construction and operation of the permanent access route and the mine site, including their use by vehicles.
- The proposed grading works on the Netherton track and its restoration.
- The proposed installation of the 33 kV grid connection adjacent to the Netherton track.
- Clarification on noise information in relation to associated impact of “peacefulness and tranquillity” at Queens View.

127 **Dull And Weem Community Council -**

No response received.

128 **Mid Atholl Strathtay And Grandtully Community Council -**

No response received.

INTERNAL

129 **Local Flood Prevention Authority Flood Risk and Structures –**

Advised no further comment to make regarding this application, setting out that through ongoing extensive correspondence with the applicant, the flood risk and structures team (FRST) are now satisfied with associated detail proposed and relevant background material, with one additional suspensive condition proposed in relation to SUDS.

REPRESENTATIONS

- 130 A total of 44 representations were received during the first advertisement/consultation period, including 5 indicating support. No additional comments were received during the secondary advertisement period.
- 131 The summary of the objection representations are set out below:
- 132 General Points
- Out of character with village of Logierait
 - Setting a precedent for development in the area
 - Inadequacy of community consultation
- 133 Water Quality
- Inadequate assessment of private water supplies
- 134 Flooding
- Formation of haul road adjacent to Clais an Deor Place, with culverts perpetuating flooding at Logierait.
- 135 Landscape Impact
- Impact on Area of Outstanding Beauty
 - Excessive height
 - Loss of trees
 - Loss of open space
 - Screening of proposed access road
 - Inaccurate visual impact assessment
 - Impacting on a SSSI (adverse impact on dragonfly ponds)
 - Visual impact of the junction of the new haul road
- 136 Access
- Haul road from crushing depot to A827
 - Traffic congestion
 - Safety concerns for pedestrians and motorised vehicles
 - Lighting of the junction
 - Current speed limit at this section of road.
- 137 Noise
- General noise pollution, including substantial noise from any above ground operations, particularly haulage vehicles.
 - Surrounding Logierait with noisy roads
- 138 Amenity
- Fields to be used for half road peaceful and quiet – backdrop for residents, walkers and cyclists to enjoy.
 - Loss of open space.
 - Loss/disturbance to community greenspace.
 - Site should not be gated.

- Transit shed – major industrial process with major environmental issues
- Inappropriate hours of operation.

139 Objection Recommendations

- Route should go under C452 and east, maintaining no visible road haulage vehicles.
- Crushing to road by conveyor (below surface) to Ferry cottage, located in enclosed building – removing eyesore and reducing noise.
- Soil removed from cutting could be used for new access track.
- Operational times should be 0800 – 1800.
- Imposition of condition imposing weekly or monthly tonnage.
- Provision of community benefit on a pro-rata tonnage basis.
- Retention of greater areas of track at the decommissioning and restoration stages.
- Track finishing material specification of a recessive colour.
- Reference to the retention of existing tracks at the Foss Mine
- Points of clarification offered in relation to refinement of assessment on ecology section, with particular reference to fauna its impact and the associated recommendations, seeking to ensure that best practice is sought and achieved, including appropriate species selection.

Support

140 Support for the proposed project was also provided in the representations, set out as:

- Welcoming positive impact of investment in local economy in relation to maintenance and creation of long-term employment opportunities.
- Diversification of existing skills base.
- Sensitive approach to environmental and visibility concerns.
- Reduced surface footprint on current Foss mine operation.
- Proposed haul route will bypass much of the Tay valley, currently used by the Foss mine traffic, minimising local traffic impacts.
- Ensuring self-sufficiency in mineral resource within the UK.
- Only known significant barite orebody in the UK.

Response to representation's

141 The Appraisal section of this report seeks to respond to the material planning concerns.

ADDITIONAL STATEMENTS

Environment Statement	Submitted and updated.
Screening Opinion	Previously Undertaken confirming EIA required.

Environmental Impact Assessment	Required
Appropriate Assessment	Undertaken
Design Statement / Design and Access Statement	Submitted
Report on Impact or Potential Impact	Various sections of ES responding to impact or potential impact of development including landscape and visual impact.

APPRAISAL

Policy Appraisal

- 142 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) requires that planning decisions be made in accordance with the Development Plan unless material considerations indicate otherwise.
- 143 The most relevant policies of the Development Plan are TAYplan Strategic Development Plan 2012 and Perth and Kinross Local Development Plan 2014 including Supplementary Guidance.
- 144 In terms of assessing the principle of a development of this nature at this location, specific mineral resource policies and land designation policies must be reviewed and considered first of all.

TAYplan Strategic Development Plan (Approved 2012)

- 145 The Strategic Development Plan recognises the importance of resources and assets with potential to support economic growth. The Plan highlights that development and growth in the economy should occur in a way that does not place unacceptable burdens on environmental capacity and should not increase the exposure of users or inhabitants to risks.
- 146 Policy 3 deals with finite resources and specifically refers to mineral deposits of economic importance; while emphasising the protection of prime agricultural land, forestry areas and carbon rich soils.
- 147 TAYplan Proposed SDP was published in May 2015, and it is a material consideration as it represents the Planning Authority's settled view, subject to the outcome of any examination into the plan's unresolved issues. The Proposed SDP Policy 7 on Energy, Waste and Resources allows Local Development Plans to ensure appropriate safety regimes and post-operational restoration of land, particularly for extraction of minerals.

Perth and Kinross Local Development Plan (Adopted 2014)

- 148 Local Development Plan Policy ER4 applies to proposals for the extraction of minerals. It gives support for the proposed development, provided the proposal

complies with the criteria in the policy; and with other national, strategic and local planning policy.

- 149 The other main relevant policy is ED3, which supports rural businesses subject to important safeguards including a specific locational need or site-specific resource.

Public Consultation

- 150 The application has been criticised by objectors as having undertaken inadequate community consultation at the pre-application stage.
- 151 Prior to formal submission, the application was considered by the Planning Authority to be a local rather than a major development proposal. Notwithstanding this, a full Pre-application Consultation (PAC) Report was undertaken in line with Circular 4/2009 and submitted in support of the application, set out in Appendix 1 of the ES. The contents of this report were considered to be comprehensive and sufficiently adequate in terms of the frequency, timing, venue choice and content. In addition, the case officer also noted a live website was available whereby the public could readily get background information on the mine proposals, with contact details to pose questions directly to the applicants.
- 152 On this basis, it is considered that an appropriate level of pre-application consultation has been undertaken.

General Points of Objection

- 153 The proposed physical elements and ongoing operations are not considered to impact directly to the existing character of the village of Logierait. Whilst the haul road requires to be gated for health and safety and liability reasons, the applicant has identified a willingness to allow the use of the haul road for other large vehicles on request, including large deliveries and forestry operations within the estate. This is considered to provide a direct community benefit in taking large vehicles off the Logierait C452 junction.
- 154 The proposed barite mine is a unique development proposal and it is not considered to set any sort of precedent for wider development in the area.

Requirement for the Proposal

- 155 Policies specific to proposed mineral extraction within the LDP includes Policies ER3, and policy ER4 minerals and other extractive activities, safeguarding and supply and associated restoration. As set out in the ES, the underlying proposal justification is through its categorisation as a strategic mineral requirement that cannot be met elsewhere
- 156 This is the only known significant barite orebody in the UK that has been identified to be currently economically viable to mine. The proposed mine is identified as having the capacity to produce three times the average output of Foss, with the Duntanlich mine proposal calculated to have the potential to supply the whole of the UK's

requirements for more than 50 years at planned production rates, ensuring a guaranteed indigenous supply of barite for the UK North Sea oil and gas industry.

- 157 The existing Foss mine operation is experiencing increased difficulty in viably continuing mining operations longer term, largely down to associated complexities of the folded seam, a geological characteristic which Duntanlich does not suffer from.

Restoration and Aftercare

- 158 A conceptual decommissioning overview and restoration plan proposals for Duntanlich have been set out in section 10 of the ES. In addition, whilst not being directly assessed as part of this application, a restoration plan commitment for the Foss site has also been included in Appendix 15 of the ES, setting out the approach in line with the associated conditions of planning consent PKD 84/375 MW.

- 159 Different stages include:

- Progressive Restoration
- Reinstatement and final restoration following decommissioning

- 160 Final restoration scheme overview:

- Monitoring will continue for a minimum of five years post closure.
- Continuing Monitoring and Management

- 161 Aftercare is proposed to vary in relation to each restored area, depending on level of attention and management required, supervised by ECow, anticipated to follow:

Year 1

- Completion of site restoration and soil replacement
- Appraisal of restored areas undertaken during operational phase to establish if any remedial action required.
- Sampling and analysis of water in Middleton burn and Duntanlich Lochan with remedial action as required.

Year 2 – 5

- Monitor the establishment of grassland/heathland areas undertaking remedial action as necessary.
- Removal of undesirable species
- Re-sample and analyse water as in year 1.

- 162 The applicant concludes that the proposed restoration will make a positive statement with respect to landscape, conservation status, habitat and amenity value, with associated areas being returned to relevant estate use and management.

163 It is recommended that the associated detailed restoration will be adequately controlled via suspensive condition.

Adequacy of Financial Guarantees

164 A bond will be required to give financial security throughout the 50 year life of the development, ensuring decommissioning is undertaken and more importantly the agreed appropriate restoration measures and associated monitoring and management of that restoration can be fully resourced at all times. A draft bond is currently being worked up by the applicant for consideration by the Council as Planning Authority.

Design, Layout and consideration of Alternatives

- 165 Relevant policies include PM1A & PM1B of the LDP, which set out a range of policy criteria. The scale, form and situation of the proposed structural elements, both at the mine platform and transfer site, are broadly considered to be optimal in terms of their operational requirements, versus the impact and contribution to the surrounding natural environment and aim of respecting important views and the landscape character of the area. The structures have been identified to be designed in such a way as to retain a rural feel and scale; they will nonetheless be introduced in areas with little or no physical structures at the moment and certainly not on the scale proposed. A specific standalone design statement (policy PM2) was not considered necessary in this case, because it was dealt with concurrently through the ES.
- 166 Overall, a best fit for the individual site parameters, characteristics and the associated operational requirements is considered to have been broadly achieved, including a sound environmental approach to investigating and assessing alternatives (where appropriate) and should be further detailed and mitigated through the recommended suspensive conditions to control associated landscaping proposals, tree protection and building finishing materials.

Landscape and Visual Impact

- 167 Generally, the associated landscape policies within the SPP, Tayplan and the LDP seek to protect areas of landscape value and only support development where it can be accommodated without adversely affecting the quality of the landscape.
- 168 In this case, Policy NE1B, which relates to the National Park and National Scenic Area and Policy ER6, which seeks to ensure effective management of future landscape change directly apply. Policies PM1A and PM1B are also relevant in considering the proposal relationship to the surrounding built and natural environment and assessing whether it respects important views and the landscape character of the area.
- 169 The overall assessment in respect of landscape and visual impact has to be considered in three distinct development phases of
- construction,
 - operation and
 - restoration,

alongside the three distinct proposal sections of:

- Haul Road, transfer site and associated infrastructure
- Access track between the transfer site and the mine site
- The mine site platform and associated infrastructure.

- 170 The landscape and visual impact assessment (LVIA) was prepared as part of the ES seeking to address the landscape and visual impact of the site establishment and all associated construction works as well as the ongoing operational phase of the scheme. Given the nature of the mineral extraction proposal in its associated situation, appropriate assessment to consideration of the impacts of these elements and the associated mitigation concerning these elements is crucial in assessing the overall acceptability and in relation to key policy criteria.
- 171 Due to the potential visual interrelationship from higher vantage points, the impact on Cairngorms National Park has also been considered in the assessment with the applicants consulting the Park on key viewpoints.
- 172 Viewpoints were agreed in consultation with a number of parties, set out in table 7.4 of the ES. A zone of theoretical visibility mapping (ZTV) was produced using 3D modelling software, which calculates the areas from which the proposed development components are potentially visible. This exercise is based on a 'bare ground' baseline and does not take account of potential screening from man-made structures or associated filtering by vegetation. The baseline was set at 1.8m above ground level, accounting for eye-line viewing parameters of an average height person (from standing). The model was also set with an access track height +3m, to account for the anticipated visibility of vehicles using the tracks.
- 173 The development proposals include the introduction of the access track, which is acknowledged as being a potentially significant feature in the landscape. An agreed zone of theoretical visibility (ZTV) of 20km from the site boundaries was deemed reasonable to take into account more distant viewpoints as proposed.
- 174 Several objections were received in relation to the associated impact on landscape and visual amenity as already set out. Principally, the impact of the haul road, access tracks and associated physical structures caused greatest concern to the general public comments received.
- 175 SNH also stated concerns relating to the impact on the character and qualifying interests of the national scenic area (NSA), specifically with regards to impact through the initial use of the estate track at Tummel for construction and the associated longer term relationship of sections of the proposed track within the NSA in particular ensuring no adverse impact through associated cut and fill, which could result in up to 8m differences, which if not sensitively designed with professional landscape input, could result in an adverse impact on the landscape and within the NSA.
- 176 Following the unsuccessful 1991 planning application, key elements and considerations of this submission include:

- Re-orientating the mine platform to be hidden from key viewpoints, respecting the sensitivity of the popular Queen's View at the eastern end of Loch Tummel.
- The underground operation, which includes a surface footprint of under 1 hectare – less than a quarter that of the current Foss mine
- The proposed access route has been designed to closely work with existing site topography wherever possible, maximising natural screening opportunities whilst avoiding site specific sensitivities including for instance deeper peat areas.
- The transfer site has been purposefully situated within afforested land in Logierait Wood, which also assists reduction in overall vehicle numbers along the main track.

177 *Impact on Cairngorms National Park*

Lying to the north of the application site, the views from the higher southern peaks of Beinn Dearg and Beinn a' Ghlo massif were considered. No objection was received from the Park. In summary, none of the identified special qualities of the park were considered to be adversely affected by the proposal, lying in excess of 5km from the park boundary and a further 5km to the closest intervisible features.

178 *Loch Tummel NSA*

Although there has been concluded to be an effect on the 'scenic splendour' of the NSA from individual viewpoints, the scale and overall visibility of the proposal is not considered to directly influence or impact on the special quality across the NSA.

179 *Peacefulness and Tranquillity*

SNH identified concerns regarding the peacefulness and tranquillity of the NSA, particularly in relation to the Queens View. The applicants sought to address this concern, further clarifying that, given the associated noise levels calculated to be experienced from the mine site at Queens View and the nearby noise receptors out with the control of the mine site operator, the overall impact was considered negligible and not harmful to the peacefulness or tranquillity currently experienced at this particular site within the NSA.

180 *Strath Tay SLA*

The assessment has concluded no direct impact on the immediate or wider setting of Strath Tay as a result of the proposals.

181 *Wild Land/Wildness*

Wild land character areas lie at some distance from the development site, albeit there is acknowledged intervisibility with the Cairngorms. The key characteristic impact on this landscape character relates to *the visible lack of buildings, roads, pylons and other modern artefacts*. Whilst the impact to this characteristic has been designed to be minimised, it is not entirely avoidable, with the impact acknowledged as long term but overall temporary and reversible.

182 *Landform*

The potential impact magnitude of the proposed development in relation to landform has been assessed low-medium, with the current sensitivity relating to the proposed development considered low impact in terms of landform.

- 183 *Land Cover*
Land cover in the Highland Summits and Plateaux is open moorland with bare rock and peat. Value portioned to the land cover has been assessed as medium through its sensitivity to change at this scale. Alterations may be noticeable at points.
- 184 *Wider Landscape Character*
Overall, the sensitivity of the wider landscape is considered medium-high, with most of the development lying within a moderately valued landscape; there are elements within Loch Tummel NSA. Overall the magnitude has been assessed a low-medium within the context of the wider landscape area.
- 185 The establishment and construction phases are considered to introduce a short term moderate-major landscape impact on the Shiehallion landscape area, with subsequent operations considered to represent a slight-more impact with a slight impact on the Strath Tay area.
- 186 Proposed mitigation is considered throughout all phases of the development, including the application of progressive restoration as much as possible.
- 187 *Visual impacts through assessment of viewpoints*
Through assessing the viewpoints, the impact considered to be moderate in most cases through the residual operational significance (see table 7.6 of the ES) crucially, none of the specific viewpoints assessed are considered to be affected to an extent that their visual integrity is compromised.
- 188 *Sequential and cumulative impacts*
A cumulative impact assessment was also undertaken looking at hill tracks, wind farms or other neighbouring structures which have been built, benefit from permission, are the subject of undetermined applications or have had a scoping opinion issued.
- 189 The principal cumulative impact considered in this regard was the introduction of a new hill track at the mine access to the track leading onto the Farragon Ridge from Netherton. The total impact is assessed as being limited to the specific section of the ridgeline and the combination of old and new tracks only being apparent between the mine platform and Meall nan Uan, with the cumulative effect on the landscape concluded as low impact. Over the combined track length however, there is considered to be moderately significant.
- 190 The ES concludes that there will be direct impacts on the Highland Summits and Plateaux and also the Highland Glen character types. A low magnitude of impact will be experienced to landform and land cover within the overall footprint of the development area. The landscape character was assessed in relation to all elements, including NSA and SLA designations and wild land characteristics. Due to landscape designations and expectations of viewers, the landscape has an increased inherent sensitivity, with the resultant impact considered slight-moderate in the long term. Given the wider landscape relationship, beneficial impacts of the Foss mine restoration are cited.

- 191 Two of the closer viewpoints are altered to an extent that the impact is considered moderate-major, with the majority of viewpoint impacts considered slight or negligible.
- 192 The proposals are considered to remain compliant with specific landscape and visual policy, including Policy ER6 of the LDP, through an agreed conclusion that the distinctive character of the area will not be eroded.
- 193 The control of this development through key stages of construction, operation and decommissioning/restoration will however be fundamental to ensuring no adverse impact on the landscape and visual amenity. Additional details in relation to the construction phases and detailed landscape plans are recommended, alongside the SNH recommendation for the crucial appointment of an independently appointed landscape clerk of works, both during the construction phases and then as a retainer for, which is recommended to thereafter undertake bi-annual visits to the site throughout its operation.

Ecology and Biodiversity

- 194 Policy NE3 of the LDP requires new development to take account of any potential impact on natural heritage including protected species and states that the Council should seek to protect and enhance all wildlife and wildlife habitats whether formally designated or not.
- 195 When determining applications the Planning Authority is required to have regard to the Habitats Directive and the Habitats Regulations. Consideration of how 'European Protected Species' (EPS) are affected must be included as part of the consent process, not as an issue to be dealt with at a later stage. Three tests must be satisfied before the Scottish Government can issue a license under regulation 44(2) of the Habitats Regulations so as to permit otherwise prohibited acts.
- 196 The mine site and access track running from the mine site on the lower slopes of Beinn Eagagach to Creag a' Choire lie within an upland area with high precipitation and a mosaic of habitats including dry and wet dwarf shrub, heath, mire, flush, running water and bare ground.
- 197 The remaining stretches of access track, transfer site and upper reaches of haul road are located within dense commercial conifer plantations (Fonab forest, Ballechin, Killichangie and Logierait woods). The remainder of the haul road is predominantly across agricultural fields.
- 198 A number of schedule 1 species of birds were observed in the vicinity of the proposed development. The Council biodiversity officer concluded that there is unlikely to be any impact on any of these birds as a result of the proposals.
- 199 Some areas of woodland will be affected by the haul route through Ballechin Woods, which could have an impact on protected species such as bats, red squirrels and pine martens as well as woodland birds.

- 200 RSPB, SEPA and the Council biodiversity officer all identified concerns in relation to impacts on peat through the proposed access track elements. Detailed sections on peat stability and management have been produced in appendix 10 and 11 of the ES. Clarification was submitted by the applicant in relation to carbon balance and detailed approach to peat management within the track sections, to a level of certainty and comfort that RSPB and SEPA were in a position to remove formal objections.
- 201 A detailed objection letter suggested that the proposed access track was routed closer than it needed to be in relation to a designated SSSI. The associated consultation responses and the ecological assessment have not identified any adverse impact on the integrity of the SSSI, only suggesting that opportunities exist for the applicant to augment existing habitat through the creation of additional dragonfly ponds, in consultation with the British Dragonfly Association. The red site line boundary allows for flexibility in relation to micro-siting of the proposed track if pre-commencement surveys did consider there to be justification in moving the track further from the SSSI. It is not considered reasonable however in relation to the associated assessments, to oblige the applicant to move the track at this stage.
- 202 *Groundwater Dependent Terrestrial Ecosystems (GWDTE's)*
A detailed assessment of GWDTE's was undertaken and set out in Appendix 9 of the ES. The proposed track route sits adjacent to the Logierait Mires SSSI has been addressed to ensure an appropriate separation from the SSSI boundary. Impact on track works adjacent to wetland areas within Fonab Forest is minimal with much of the track sections already existing.
- 203 Moorland sections of the proposed track route have been assessed and are found not to be directly associated with any groundwater source and would therefore not be classified as groundwater dependent.
- 204 The ES states that careful construction measures will be considered and employed to ensure that the current flow of groundwater across the proposed site tracks will not be compromised or radically altered to ensure minimal impacts on any affected wetland habitats. Both SNH and SEPA have concluded that no adverse impact on GWDTE's to be anticipated in assessing the findings of the ES.
- 205 I am satisfied with the findings of the ecological impact assessment overall, concluding that the development will potentially have negligible to minor adverse impacts upon the ecological status of the proposed site. Through the appointment of an independent Ecological Clerk of Works (ECoW) and associated recommended suspensive conditions, including habitat surveys re-visited every 10 years of the 50 year consent; it is considered that the ecology and biodiversity of the site can be appropriately addressed and managed to ensure no adverse impact on associated interests, consistent with policy objectives of Policies NE1A, NE1B and NE3.

Impact on Trees/Forestry

- 206 Policy NE2A and NE2B relate to consideration on the impact to trees, and Policy NE2A supports proposals where forests, woodland and trees are protected or where existing woodland is expanded or new areas delivered. Policy NE2B sets out that

where there are existing trees on a development site, the application should be accompanied by a tree survey.

- 207 The ES looked at the impact on trees, with a detailed survey in relation to the proposed transfer site, but did not undertake a tree survey across wider key sections, including in behind Ferry cottage. I am comfortable that sufficient detail and assessment has been undertaken at this stage, but recommend that full detailed surveys of key sections will be required to be undertaken through suspensive conditions, appropriately addressing impact on trees, biodiversity and habitat and wider impact on landscape.
- 208 Compensatory planting of 1.2ha of felled trees was identified as a requirement by FCS. In principle compensatory planting proposals were identified by the applicant and signed off with FCS, with the details controlled via suspensive condition.

Loss of Prime Agricultural Land

- 209 Policy ER5 states that development on prime agricultural land will not be permitted unless it is necessary to meet a specific established need; there is no other suitable site available.
- 210 Approximately 0.5 ha of class 3.1 prime agricultural land is proposed to be lost in order to accommodate the proposed haul road. On the basis of the overall volume, situation and nationally significant development requirement, the proposals are considered to remain in general compliance with policy ER5.

Ground Conditions

- 211 Policy EP12 of the LDP indicates that any potential contaminated land on an application site requires to be considered. There is not considered to be any significant existing contamination issues relating to this site.

Traffic and Transport

- 212 Paragraph 271 of SPP 2014 requires development plans and development management decisions to take account of the implications of development proposals on traffic, patterns of travel and on road safety.
- 213 PAN 50 Controlling the Environmental Effects of Surface Mineral Workings is also relevant, providing good practice advice, including the assessment of traffic at mineral working sites, which has been reflected in the ES.
- 214 Policy TA1B of the LDP requires a full assessment of the impact of the development to pedestrian and traffic safety to be undertaken. The submission included a Transport Statement (TS) which outlines the implications on the road network of the proposed development.

- 215 The existing Foss mine site dispatches materials onto the B846, continuing for 16km to Aberfeldy and then a further 16km along the A827 onto the A9. This route currently passes through several settlements. Despite additional traffic movement, the overall impact on the local road network is a reduction in approximately 31km per vehicle trip made. Through traffic count data, it has been established that the additional 22 HGV movements proposed at Duntanlich equates to 0.66% of an increase in overall vehicle movements and 10.28% increase in HGV movements at the A827, which has been identified by local representation as significant.
- 216 Representation from objectors suggested that the haul road junction onto the A827 should be lit for safety and review of the permissible speed along this section of road into Logierait.
- 217 In response to these points, there was no reasonable justification to reduce the speed of this section of road as set out in the ES or through the associated Council Transport Planning dialogue, both at pre-application and post submission stages. Neither is there considered to be a requirement to light the junction within its proposed location.
- 218 The TS and review from transport planning colleagues' centres on the principal sections of the haul road and junction access onto the A827 and beyond. There has been less significance placed on the assessment of initial phases of construction and specifically how the proposed construction points of access are assessed to be fit to cope with the type and volume of construction vehicles proposed. This element was considered to be adequately covered in relation to recommended suspensive condition for a construction traffic management plan.
- 219 In relation to cumulative impact, provided that the Foss mine ceases operation as is proposed, the overall cumulative impact on the road network is calculated to be negligible.
- 220 Further pre commencement consideration is required in relation to construction traffic at the different access points. Particular attention will be required to the existing Foss road and Netherton track where a sensitive balance is required in relation to the impact on existing designated landscape characteristics, against ensuring safe transfer of construction material and equipment to the mine portal in the interests of pedestrian and traffic safety, whilst not compromising the condition of this section of public road long term.
- 221 Overall, I am satisfied that the proposals meet the terms of SPP paragraph 271 and the associated requirements of Policy TA1B of the LDP, provided the best practice measures of the ES are adopted and appropriate conditions applied.

Impact on the water environment

- 222 One of the identified failings of the original planning submission was a lack of assessment on the impact on ground water and private water supplies. This criticism was maintained through private objection to the current proposals.

- 223 As part of the ES, there is considered to be comprehensive analysis undertaken in relation to the wider water environment and specific impact on ground water and private water supply.
- 224 As set out in the ES, there will be no adverse impacts on the water environment, including the River Tay Special Area of Conservation, as a consequence of mining operations, associated discharges and site run-off will be treated and have to comply with SEPA requirements, which they routinely monitor.
- 225 Scottish Water's consultation response set out that they were comfortable with the findings and did not consider any adverse impact on their existing operations. In addition the Council Environmental Health officer commenting on private water matters considered the only failing of the ES to be a lack of baseline monitoring information affecting the private water supplies, which is recommended to be addressed through a suspensive condition.

Drainage and Flooding

- 226 Policy EP2 relates to flooding and states that there is a general presumption against proposals for built development or land-raising on a functional flood plain and in areas where there is a significant possibility of flooding from any source.
- 227 There was no objection from consultees or public in relation to the access track or individual elements of the mine platform and transfer site, including FRST stating they were satisfied with the proposals for the watercourse crossings along the new access track, particularly given the remote location, which was proposed to be designed to allow a 1 in 200 year flood event to pass through.
- 228 A section within the ES seeks to directly address surface water and groundwater, including a paragraph on flooding potential, which stated no risk of flooding from the mine and transfer site, but a small risk of localised surface water flooding within the forestry area. More fundamentally, the first 60m of the haul road, joining onto the A827 was acknowledged to have a medium likelihood of flooding from a river source, sitting within the 1:200, 2015 SEPA flood risk maps.
- 229 A number of concerns were raised through the initial consultation and advertisement period regarding drainage and flooding, specifically in relation to the proposed formation of the haul road section from the C452, down past Ferry cottage and onto a new junction with the A827. Whilst compensatory storage and connective culverts through the road embankment have been proposed, there were no specific details of the proposed mitigation measures (e.g. FRA/modelling) to sufficiently demonstrate no negative impacts on the existing flood situation, with SEPA and FRST objecting on the principle of land raising within the 1 in 200 year floodplain, and on the grounds of associated lack of information to the proposed mitigation
- 230 Public objections included:

- Impact from dispersal of surface water from disturbed fields/wood area due to proposed construction
- Formation of haul road adjacent to Clais an Deor Place, with culverts perpetuating flooding at Logierait.

- 231 Following a meeting with SEPA, FRST, the applicant and the case officer in March 2016, there was an agreed position on the scope of supplementary flood risk information required regarding flood risk and associated mitigation at this section of the proposed haul road. This formed the basis for the submission of SEI received in May 2016 by the applicants.
- 232 Both SEPA and FRST were content with the additional information received in relation to the wider flooding position affecting the haul road, crucially identifying no net displacement of flood water through proposed land raising with a permeable embankment and associated culverts proposed to allow floodwater to pass both ways through the affected haul road section and potential compensatory storage area identified. This approach is considered the appropriate solution at this location and that recommended by the consultant flood engineers and consultees, but is acknowledged to contrast with local objectors who considered it most appropriate to design a solid embankment structure to prevent flood water reaching Clais an Deor Place.
- 233 Given the above, it is considered the proposed development of this site and the associated elements fully accord with Policy EP2 of the LDP and the wider national policy position of the SPP.

Developer Contributions

- 234 The Council Transport Infrastructure Developer Contributions Supplementary Guidance, which relates directly to Policy PM3, requires a financial contribution towards the cost of delivering the transport infrastructure improvements, which are required for the release of all development sites in and around Perth.
- 235 There is no policy requirement for developer contributions at this location for this proposal, other than through securing a bond, assuring appropriate restoration for the life of the scheme.
- 236 In addition, whilst there have been requests from local residents to push for direct community investment from the applicant and the Planning Authority would welcome consideration of the applicant to do so, but it cannot reasonably request or require that the applicant does so through the planning process.

Neighbouring & Recreational Amenity

- 237 The proposal has a number of environmental considerations associated with it such as dust, air pollution impacts through particulates, noise and vibration. In assessing the impact on amenity, the 2 main functional base elements are considered separately; the mine itself, which is very remote, and the transfer station, which is much closer to residential receptors at Kings Stables (180m) and Woodend of Logierait (250m) as well as the village of Logierait.

238 *Noise*

Policy EP8 of the LDP relates to noise pollution, stating there is a presumption against the siting of development, which will generate high levels of noise in the locality of existing noise sensitive land uses.

- 239 A number of objections were received from surrounding properties relating to the potential noise generation of the proposed use, particularly in relation to haulage lorries and the siting of the transfer station and the impact this would have on both recreational and residential amenity, specifically in and around Logierait.
- 240 Environmental Health (EH) indicated in their first consultation response that they were concerned about noise arising from the proposal, particularly in relation to the impact from the transfer site, requesting the consideration of extra mitigation. This was undertaken via a noise model, with the model identifying a very slight improvement in levels at nearby properties.
- 241 Further clarification was set out, including the nature of the noise likely to arise and identifying that the assessment of the transfer site had been undertaken in line with BS4142:2014 parameters, which allows for the correction of noise levels by the application of factors due to acoustic features. The transfer site is deemed an ancillary element to the mine. BS4142 states *“Where background sound levels and rating are low, absolute levels might be as, or more, relevant than the margin by which the rating level exceeds the background.”*
- 242 EH still remained cautious to the assessment recommendations, particularly regarding the +3dB correction. In association, PAN 50 also recommends an upper limit of 45dBA in exceptionally quiet rural areas. EH were more comfortable with this approach, recommending a condition to limit absolute noise levels. The requirement for a noise management plan to be submitted for written approval by condition was also recommended, removing EH objection.
- 243 In summary, the findings, associated calculations and conditional recommendations are considered to remain within the reasonable tolerances of associated guidance and policy.

244 *Vibration from Blasting*

This is addressed in the ES along with best practice advice set out in PAN 50 Annex D on its control; Appendix 13 of the addresses this issue fully. Blasting is required during construction and operation of the mine, which is considered to have been assessed accordingly.

- 245 Based on the anticipated 35Kg explosive charge for the construction of the transfer site, the aforementioned closest receptors may be able to perceive the vibrations but it is below the PAN 50 Annex D criterion of 6mms^{-1} at a 95% confidence level.
- 246 The assessment from EH sets out that they are satisfied that blasting would not be unacceptable at this site as long as advice in the Blasting Assessment and PAN 50 Annex D is followed, alongside associated suspensive condition recommendations.

247 SNH also queried the associated impact on existing “*peacefulness and tranquillity*” (an identified characteristic of the NSA and specifically the Queens View) in relation to mining operations. The applicant sought to address this query with the associated noise assessment calculations. Ultimately, the levels of noise experienced at the Queens View from mining operations versus existing associated background noises from closer proximity noise generators (including cars and coaches visiting the Queens View) was such that the direct impact was deemed de minimis. On this basis, I consider that the proposed mining operations will not have an adverse impact on the peacefulness and tranquillity of the Queens View within the NSA.

248 *Air Quality and Dust*

An assessment of potential dust generating sources was undertaken to determine the best methods of limiting or suppressing dust attributable to the proposals. No adverse impact is considered to impact on neighbouring or recreational amenity providing that the recommendations within the ES are strictly adhered to. This will be followed through within the detailed environmental management plan; the details of which will be agreed and controlled through suspensive condition. It should also be noted that the existing Foss mine crushing plant, currently situated within the settlement boundary of Aberfeldy will be decommissioned for Barite crushing purposes in tandem with the decommissioning of Foss mine.

Lighting

249 Policy EP5 of the LDP relates to light pollution, seeking to prevent statutory nuisance from occurring due to artificial lighting. Full lighting details have not been provided at this stage for comment, but it is generally assessed, considered and set out in the ES and through proposed suspensive conditions that lighting requirements shall be restricted to a minimum; avoiding unnecessary light pollution or adverse impact on either ecological interests or on the visual amenity and character of the area.

Recreational Access and Tourism Impact

250 Policy CF2 relates to public access, advising acceptable development proposals shall not have an adverse impact upon the integrity of any (proposed) core path, disused railway line, asserted right of way or other well used routes. Development proposals that would unreasonably affect public access rights to these features will be refused unless these adverse impacts can be adequately addressed in the supporting plans and suitable alternative provision is made.

251 Section 15 of the ES sets out its assessment on recreational access throughout all stages of the proposed development. In their consultation response, the Community Greenspace Team confirm that a number of core paths are affected (MASG/6, MASG/100, MASG/101 and MASG/103), and there are other routes used by access takers on these hills, including the route between the proposed mine and Netherton, which is likely to be affected. The needs of access takers should be considered in the

usual way. Core path MASG/6 is also a right of way (51/6); forming part of the Rob Roy Way, and is potentially quite busy over the summer months.

- 252 The development would have an effect on paths in Logierait Woods especially core path MASG/103 (impact on local users, but the route only crosses and does not use this core path). The access track to the mine crosses the Rob Roy Way and core path MASG/103 referred to as 'Granny Pines Trail'. In consultation with the estate, the applicant has also identified recommended mitigation of adding a different, additional loop route 'Curling pond Trail' an additional loop route.
- 253 Community Greenspace advise that where the access road is shared with core path MASG/101 for 900m (Top of the Hill Trail) it is important that the safety of access takers (cyclists and horse riders as well as pedestrians) is not compromised. Potential mitigation solutions include refuges, which could be put in at appropriate intervals, a verge kept open into which access takers can step, or the track made sufficiently wide along this section for vehicles to pass access takers without danger.
- 254 It is considered that through adherence to the recommendations of the ES and the recommended conditional requirement for a detailed access management plan to be provided, the policy requirements of policy CF2 can be achieved with no resultant adverse impact on tourism and associated recreational access to all users.

Archaeology and cultural heritage

- 255 Policy HE1B seeks to protect the integrity of areas or sites of known archaeological interest and their settings.
- 256 The methodology, results and mitigation measures set out in Section 14 of the ES are described by PKHT and a Council conservation officer as robust. Both the direct and indirect impact of the development was assessed. The assessment consisted of desk based research, a walk over survey, assessment of indirect impact on five Scheduled Monuments, a geophysical survey and a trial trench evaluation.

Direct Impact

- 257 The proposed development impacts on three distinct zones, described from West to East as open moorland, commercial forestry and the Logierait terraces. The moorland and commercial forestry are considered to have low archaeological potential and no further mitigation is required other than the protective demarcation of Meall nan Uan shieling huts (ES site S16). For the Logierait terraces, where trial trenching and, to a lesser extent, the geophysical survey have demonstrated the potential for simple, discrete archaeological features, a further programme of archaeological works is proposed. This will consist of a combination of a strip-map-sample (SMS) exercise on the line of the haul road and monitoring of its construction where SMS is impractical. In regard to the impact of the haul road on a small part of Scheduled Monument 9525 (ES site S5), PKHT were content this impact is of a minor magnitude given that the evaluation has demonstrated this part of the Scheduled Monument to be void of complex archaeology. It is noted that Historic Environment Scotland will require Scheduled Monument Consent for the construction of the haul road.

Indirect Impact

- 258 As outlined above, five Scheduled Monuments (numbered sites S2, S4-6, S9, S11 and S12 in the ES) were visited and an assessment made as to the indirect impact of the haul road, primarily visual, on these nationally significant monuments. The significance of indirect effects was found to be minor. This is a result of the design of the haul road that maintains the landscape form of the Logierait terraces and will not introduce elements such as street lighting into the vicinity of the Scheduled Monuments. Protective demarcation of Scheduled Monuments. 2638 (ES S2) and 9525 (ES S5 and S6) is recommended to ensure no accidental damage during the construction phase of the development.
- 259 PKHT confirmed their support for the enhancement options presented of a number of heritage assets for public benefit. These include vegetation management at Tom na Croiche castle and the Atholl Memorial, as well as interpretation boards for visitors at this location and at Clachan an Diridh stone circle, on the Rob Roy Way. PKHT have indicated they may be able to assist the applicant in some of the enhancement opportunities identified.
- 260 In summary, both HES and PKHT conclude that the proposed development (inclusive of the mine, the transfer site, borrow pits and the haul road), does not constitute an adverse effect on the historic environment, with the policy criterion of Policy HE1B considered to be satisfied.

Socio-Economic Benefits

- 261 Policy ED3 encourages appropriate rural economic development opportunities and diversification and Policy ER4, which seeks to address extraction of minerals and subsequent restoration are considered directly relevant in the assessment of the socio-economic assessment. Perth and Kinross Council identifies sustainable economic growth as a key vision statement, recognising that its rural areas provide a valuable platform for food and raw material production, but equally through supporting tourism through the areas environmental assets and associated economic enterprises.
- 262 The ES section on socio-economic benefits has looked at key Council policy objectives of economy, place and biodiversity in relation to the mine proposals within its proposed situation. The assessment investigated the value of the mine proposal to the local, regional and national economy. With a fluctuation in the price of Barite as a raw mineral, based on a number of factors, a crude calculation of £525.27 million benefit to the economy as a result of the mining operations over its anticipated 50 year life (based at today's prices) is predicted.
- 263 It is acknowledged within the assessment that the UK's oil and gas opportunities may tail off in coming decades through a gradual exhaustion of oil and gas resources from the continental shelf but also contrastingly global dependency on hydrocarbon based energy is anticipated to remain in strong demand over the next 25-50 years, during a gradual rather than rapid transition to a low carbon economy.

- 264 It is considered that the extraction of barite ore minerals from the quarry would ensure the continuation of employment at the site over a number of years both through the identified transfer of workforce from the Foss operation as well as generating additional indirect employment to the area. The local area currently has 13% of its workforce employed in the tourism industry, in many cases dependant on seasonal trade.
- 265 The identified provision of sustainable employment opportunities in the area is therefore considered a tangible benefit with additional side benefits in relation to rural diversification of the estates on which the development is proposed, both directly and indirectly, which is consistent with objectives of LDP policy ED3.
- 266 In addition, the proposed routing for HGVs carrying barite will remove the current Foss mine traffic from over 33km of the Tay Valley, leading to villages, other settlements and minor roads bypassed. Additionally, the proposed haul road will also be made available to Atholl Estate for its own HGV movement, including timber haulage, reducing their need to use the poor junction arrangement with the C452 and the A827 at Logierait village.
- 267 The economic impact of the proposed development is considered to be significant at a local and national, strategic level. As previously set out, Duntanlich has the potential to supply the total UK requirement of barite for more than 50 years at planned production rates, providing both an indigenous and secure long-term source of this mineral, which can be used in other applications, but in this case is primarily identified for the offshore oil and gas industry.

PLANNING PROCESSING AGREEMENT

- 268 In line with best practice working arrangements, the applicant and the planning authority have entered into a planning processing agreement.

LEGAL AGREEMENTS

- 269 It is anticipated that a Section 75 will be required in order to adequately secure the terms of the bond or financial instrument associated with required site decommissioning, restoration and aftercare over the lifetime of the development and beyond.

DIRECTION BY SCOTTISH MINISTERS

- 270 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, regulations 30 – 32 there have been no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion.

CONCLUSION AND REASONS FOR RECOMMENDATION

- 271 Following the original Duntanlich mine planning proposal received and assessed in the first half of the 1990's; the current planning application is the result of over 3 years' worth of assessment of all associated environmental factors, culminating in significant amendments to the original scheme identified and presented. This includes a more visually sensitive approach, seeking to address understood concerns over the potential significant visual impact of the proposed development alongside associated access and haulage challenges. Overall, it is acknowledged that this current proposal is significantly different to the original planning submission considered and assessed. The applicants also acknowledge the considerable foundation of knowledge gleaned through the experience of operating and managing ongoing operations of the Foss barite mine for almost 30 years. The associated proposed decommissioning and site restoration of Foss mine is considered to have tangible beneficial outcomes to the immediate and wider area in relation to landscape impact, visual amenity and positive impact on local communities through removal of haulage vehicles travelling through the local road network.
- 272 The application has been assessed in parallel with EIA regulations. The proposal and its parameters are known to include a number of sensitive environmental receptors, which were required to be considered and assessed, as set out in the associated ES. The proposals are assessed as having no significant adverse impacts in terms of noise, dust, traffic, archaeology, ecology and the qualifying features of the River Tay SAC. The ES identifies elements of the proposed development, which was assessed to categorise landscape and visual impact as significant, principally due to the known landscape designation of heightened landscape sensitivity. Reasonable mitigation is considered to have been identified and set out in the ES addressing this.
- 273 There has also been a potential short term significant impact identified in relation to a private water supply, proposed to be adequately mitigated with no adverse impact on residents predicted. There will be significant impact on groundwater flow paths at a local scale, specifically around the mine workings, which is proposed to be managed with no associated adverse impact on the wider water environment anticipated, which is accepted by both SEPA and Scottish water.
- 274 The 2014 LDP offers conditional policy support for the proposed extraction of an important mineral resource provided other salient policy criteria are satisfied including conserving the natural and water environment, protection of environmental assets and public safety, transport and access, waste management, and protection of the historic environment.
- 275 The proposed mine site has been identified as a resource of national importance, with an associated significant socio-economic impact quantified. As previously mentioned and set out in the ES, the economic impact of the proposed development is considered to be significant at a local and national, strategic level. A mine at Duntanlich has the known potential to supply the total UK requirement with barite for more than 50 years at planned production rates, providing both an indigenous and secure long-term source of this valuable mineral resource, primarily serving the oil and gas industry.

276 The proposals are considered to comply with the approved TAYplan 2012 and the adopted Local Development Plan 2014. I have taken account of material considerations and find none that would justify overriding the Development Plan.

RECOMMENDATION

A Approve subject to the following conditions:

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

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

2. All mining operations and associated decommissioning and restoration shall be completed not more than 50 years from the date of commencement of the development (as indicated on the 'Notice of Initiation of Development'). For the avoidance of doubt, the 50 years associated with this condition includes construction, mining operations, restoration, decommissioning and removal of all associated ancillary development.

Reason - To reflect the nature of development contained in the planning application, and assessed in the Environmental Statement.

3. Prior to the commencement of the development hereby approved, full details of all proposed building structures above ground at the mine platform and the transfer site shall be submitted to and agreed in writing by the Council as Planning Authority. The detailing as agreed shall be thereafter implemented prior to the operational use of the development.

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

4. Haulage of ore to the transfer site, processing at the transfer site and despatch shall be limited to 07.00 to 19.00 Monday to Friday.

Reason - In the interests of neighbouring recreational and residential amenity; to ensure a satisfactory standard of local environmental quality is maintained and to

remain within the parameters of the scope assessed within the Environmental Statement.

5. The total volume of mineral extracted from the mine shall not exceed 180,000 tonnes of ore in any calendar year. On request, the Council as Planning Authority shall be provided with full details of the annual extraction volumes (through weighbridge records) from the date of commencement of development.

Reason - To ensure that all associated mine operations do not exceed maximum volumes of extraction assessed within the parameters of the Environmental Statement, ensuring a satisfactory standard of local environmental quality is maintained.

6. The underground mining operations shall not advance beyond the extent of underground working parameters identified on plan reference (15/01972/3), figure 2.3 dated 15/10/15.

Reason - To accurately define the development extent and remain within the parameters of the scope assessed within the Environmental Statement.

7. For the avoidance of doubt, the mine portal as identified on approved plan (Figure 3.3) shall remain the only vehicular point of access and egress to the mine and there shall be no new or additional entrances created without prior approval.

Reason - In the interest of visual amenity within a sensitive landscape setting and to remain within the parameters of the scope assessed within the Environmental Statement.

8. A minimum of two months prior to the commencement of development, a detailed Environment Management Plan (EMP) incorporating an Aftercare Monitoring Plan (AMP) addressing all phases of the construction and mining operations will be submitted to the Council as Planning Authority for approval in writing, in consultation with key stakeholders as deemed appropriate. The EMP shall incorporate:

- Detailed construction methods of compounds and tracks.
- Detailed plans and sections of the access track at chainages identified in Annex 3.5 (May 2016).
 - Detailed routing location of bridges.
 - Detailed Location and extent of the construction corridor.
- Detailed Site Waste Management Plan (SWMP), including details of the disposal of surplus excavated material (as necessary).
- Detailed Site Access Management Plan (SAMP).
- Detailed Drainage Management Plan (DMP).
- Detailed progressive restoration proposals for all habitats.

- An AMP providing a methodology for developing avoidance and mitigation measures to address any adverse landscape effects during construction. Restoration Monitoring Reports shall be submitted by July in years 1, 3 and 5 and shall include recommendations for any further restoration and/or intervention to be implemented by September in that year.
- A methodology for developing avoidance and mitigation measures to address any adverse landscape effects identified during the course of monitoring.
- Detailed design of mitigation measures, including mitigation measures outlined in Annex 3.5 (May 2016)

Thereafter, the development shall be undertaken fully in accordance with the EMP unless otherwise agreed in writing by the Council as Planning Authority.

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

9. The development hereby approved shall not commence until independent and suitably qualified Ecological/Landscape/Environmental Clerk of Works (E/L/EnvCoW) professional/s have been appointed at the developers' expense. Details of this/these appointment/s shall be subject to the prior written agreement of the Council as Planning Authority. The person or persons appointed shall only be replaced in full cognisance of this condition and the post/s shall not be vacant at any time, for the duration and subsequent restoration of the proposed development. The E/L/EnvCoW shall have responsibility for the following:
 - a) Implementation of the Environmental Management Plan (EMP) required by this permission.
 - b) Implementation of the Aftercare Monitoring Plan (AMP) required by this permission, including specific measures for environmental monitoring post construction, shall be submitted for the further written approval of the Council as Planning Authority in consultation with SNH and/or SEPA. The AMP shall include:
 - Submission of a Restoration Monitoring Report to be carried out by the end of July in years 1, 3 and 5.
 - Recommendations for further restoration and/or intervention should be implemented in full by the end of September in years 1, 3 and 5.
 - c) An empowered watching brief and involvement in decisions over key development stages directing the micro-siting of significant elements of the scheme to minimise impact on natural heritage and visual amenity.
 - d) Authorisation to stop operations or amend working practices in the interests of natural heritage. Any amendments which result in a required revision of the EMP

shall be submitted to the Council as Planning Authority within 1 calendar month of the revision date.

- e) Notifying the Council as Planning Authority in writing of any requirement to halt construction in relation to this condition as soon as reasonably practicable.
- f) Providing an ecological/ landscape and environmental tool box talk for staff prior to the commencement of development (with follow up sessions as deemed appropriate throughout the duration of the development).
- g) Identifying supplementary landscaping mitigation opportunities in and around sensitive and publicly visible locations in consultation with the Council as Planning Authority, to feed into detailed landscaping plans.
- h) Undertaking weekly visits to the development site at a time of their choosing for the duration of the construction elements. No notification of this visit is required to be given to the developer or contractor.
- i) With regard to the construction phase, within 10 working days of the end of each calendar month, submission of a detailed monthly report (augmented by photographic record evidencing findings) for the review of the Council as Planning Authority in consultation with SEPA and SNH.
- j) Upon completion of construction elements, the E/L/EnvCoW can restrict visits to bi-annual (spring and autumn) to inform the ISPP and assess ongoing development impact.
- k) Upon completion of construction elements the E/L/EnvCoW shall submit annual reports, including a photographic record to the Council as Planning Authority for consultation with appropriate stakeholders.

The above shall be adhered to throughout the construction, mineral extraction, de-commissioning and restoration phases of the development hereby approved unless otherwise agreed in writing with the Council as Planning Authority.

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

- 10. Prior to the haulage of any barite ore from the proposed mine site to the transfer site, details of the colour and lighting of operational haulage vehicles shall be agreed in writing with the Council as Planning Authority, in consultation with SNH. Thereafter, the details as agreed shall be implemented for the duration of the mining operations, unless otherwise agreed in writing by the Planning Authority.

Reason - In the interests of neighbouring recreational and residential amenity;

To ensure a satisfactory standard of local environmental quality is maintained within a sensitive landscape setting and remain within the parameters of the scope assessed within the Environmental Statement.

11. Prior to the commencement of the development hereby approved, detailed landscaping and planting schemes for individual key agreed areas (in consultation) shall be submitted for the further written approval of the Council as Planning Authority, in consultation with SNH and SEPA (as required), including as a minimum:
- the mine site platform,
 - transfer site,
 - access and haul road sections;

The schemes shall include details of the height and slopes of any mounding or re-contouring 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 schemes as approved shall be carried out and completed within the first available planting season (October to March) and prior to the operational phase of development. The date of practical completion of the landscaping schemes shall be supplied in writing to the Council as Planning Authority within 7 days of that date. The schemes as agreed and implemented shall thereafter be maintained for the duration of this planning permission unless otherwise agreed in writing with the Council as Planning Authority.

Reason - To minimise any associated adverse landscape and visual impact of the above ground elements, protect the character and visual amenity of the immediate and surrounding countryside and associated nature conservation interests.

12. Prior to the commencement of development, detailed tree surveys relating to pre-agreed key sections of the haul road, access track and transfer site shall be undertaken, identifying the extents of felling required, and submitted for approval in writing by the Council as Planning Authority, in consultation with SNH.

Reason - In the interests of visual amenity, to establish the detailed extents of tree felling at key locations and to ensure that the proposed development does not adversely prejudice the appearance of the locality long term and to account for nature conservation interests.

13. Affected trees identified for retention following the satisfactory conclusion of condition 12, shall be protected in accordance with BS 5837: 2012 '*Trees in relation to design, demolition and construction*'. Approved tree protection measures shall not be removed breached or altered without prior written authorisation from the Council as Planning Authority but shall remain in a functional condition throughout the entire phase of

construction. If agreed protection measures are damaged beyond effective functioning then works that may compromise the protection of trees shall cease until the protection can be repaired or replaced with a specification that shall provide a similar degree of protection.

Reason- To prevent avoidable harm to trees identified for retention within visually sensitive sections of the site.

14. Prior to commencement of development, details identifying a minimum of 1.2Ha of compensatory tree planting shall be submitted to the Council as Planning Authority for approval in writing, in consultation with Forestry Commission Scotland. The compensatory planting measures as agreed shall thereafter be undertaken within 3 years of the commencement of development.

Reason –In ensuring appropriate accordance with national reforestation and afforestation strategies.

15. No construction works, including vegetation clearance, tree felling or subsequent decommissioning shall take place without pre-felling/construction surveys of protected species being undertaken as required. Survey results and any necessary mitigation or licensing measures shall be incorporated into a Species Protection Plan (SPP) and submitted for written approval by the Council as Planning Authority, in consultation with RSPB and SNH. The initial SPP as agreed shall thereafter be adhered to throughout the period of construction works taking place.

Reason- In the interests of minimising impacts on protected species and priority habitats.

16. Prior to the commencement of development a Species Protection Plan (SPP) shall be submitted to and approved in writing by, the Council as Planning Authority. The purpose of the SPP shall be to ensure that protected species are taken into account throughout the development. The content of the SPP shall include the following:

- Aims and objectives of monitoring to match the stated purpose.
- Identification of baseline conditions prior to the start of development.
- Appropriate targets against which the effectiveness of the SPP can be judged.
- Methods for data gathering and analysis.

- Species monitoring for 3 years.
- Location of monitoring.
- Identification of responsible persons and lines of communication.
- Review, and where appropriate, publication of results and outcomes.

A report describing the results of monitoring shall be submitted to the Council as Planning Authority after the initial 3 years of monitoring. The report shall also set out (where the results from monitoring show that conservation aims and objectives are not being met) contingencies and/or remedial action as appropriate, for written agreement with the Council as Planning Authority. Such agreed measures shall be implemented so that the development remains in full compliance with wildlife legislation and best practice. Thereafter, an Interim Species Protection Plan (ISPP) shall be submitted every 10 years after the commencement of development to ensure continued compliance and provide the opportunity to monitor the introduction of any new species. Agreed actions from each ISPP shall be implemented within 6 months of each ISPP being submitted.

Reason – In the interests of employing best practice ecology and to ensure there is no adverse impact on any protected species as a result of and throughout the life of the development hereby approved.

17. Prior to the commencement of development a Habitat Management Plan (HMP) shall be submitted to and approved in writing by the Council as Planning Authority in consultation with SNH and SEPA. Thereafter, the approved HMP shall be implemented and adhered to throughout the development. The HMP shall include measures to minimise impacts on peat and priority habitats.

Reason – In the interests of minimising impacts on priority habitats.

18. All works shall be undertaken in a manner which considers wildlife, including measures to prevent access for wildlife or provide escape from operations, should be considered and incorporated at all times. As part of their remit, the appointed ECoW shall undertake toolbox talks to ensure operatives are aware of dangers to wildlife.

Reason – In order to prevent animals from being trapped within any open excavations.

19. Prior to decommissioning of the site a Decommissioning Method Statement and Restoration Plan shall be submitted to and approved by the Council as Planning Authority in consultation with SNH and SEPA. The agreed method statement and plan shall be implemented in full as part of the agreed decommissioning programme.

Reason – To minimise any associated adverse landscape and visual impact, protect the character and visual amenity of the immediate and surrounding countryside and associated nature conservation interests.

20. The approved Decommissioning Method Statement and Restoration Plan shall be overseen by an independent E/L/EnvCoW appointed under the same terms as specified in Condition 9.

Reason - To minimise any associated adverse landscape and visual impact, protect the character and visual amenity of the immediate and surrounding countryside and associated nature conservation interests.

21. Mining operations shall have begun within 3 years of the date of commencement of development (as indicated on the 'Notice of Initiation of Development'). If mining operations have not commenced within this period, Condition 19 shall be discharged in full within 18 calendar months, in cognisance of Condition 20.

Reason - To minimise any associated adverse landscape and visual impact, protect the character and visual amenity of the immediate and surrounding countryside and associated nature conservation interests.

22. If at any time after the commencement of mineral extraction, mining operations cease for more than a continuous calendar month, the site operator must notify the Council as Planning Authority in writing within one week, and thereafter notify in writing the subsequent date of re-commencement, within one week of the date of the re-commencement taking place. If at any time after the commencement of mineral extraction, the site is not mined for a continuous period of 12 months, the mine and all associated elements shall be regarded as abandoned. Should the mine be abandoned, Condition 19 shall be discharged in full within 18 calendar months, in cognisance of Condition 20.

Reason - To minimise any associated adverse landscape and visual impact, protect the character and visual amenity of the immediate and surrounding countryside and associated nature conservation interests.

23. Prior to any despatch of the approved development, all matters associated with the new haul road and junction and improvements to the existing road network will be in accordance with the standards required by the Council as Roads Authority.

Reason - In the interest of road safety; to ensure an acceptable standard of construction within the public road boundary.

24. Prior to the commencement of development, an agreement addressing liability for remedial work required as a result of damage to the C452 local road directly attributable to the construction phase of the development, and providing for pre and post-construction surveys of the said local road, shall be submitted to and approved in writing by the Council as Planning Authority, in consultation with the Roads Authority.

Reason – In the interest of road safety; to ensure an acceptable standard of construction within the public road boundary.

25. White noise alarms and/or audible vehicle reversing alarms, which only emit a warning if necessary (e.g. on an infrared signal which detects moving bodies to the rear of the vehicle), shall be employed on all on-site vehicles, until such times as alternative suitable measures are proposed, subject to the written approval of the Council as Planning Authority.

Reason – In the interests of neighbouring recreational and residential amenity; to ensure a satisfactory standard of local environmental quality is maintained.

26. Should any aspect of the development result in formal complaints from nearby residential properties, within 14 days of written request by the Council as Planning Authority, the developer shall instigate monitoring for noise vibration, dust or light pollution using independent specialist consultants as required (the scope of such monitoring to be agreed in advance). The report findings shall be submitted for the written approval of the Council as Planning Authority, in consultation with Environmental Health and must draw conclusions and make recommendations as necessary. Any recommendations contained within the report and approved by the Council as Planning Authority shall be implemented by the developer within 28 days of written notification of such approval to the developer.

Reason - In the interests of neighbouring recreational and residential amenity; to ensure a satisfactory standard of local environmental quality is maintained.

27. A Dust Management Strategy as outlined in section 12.2.7.2 of the Environmental Statement shall be put in place prior to the operation of the mine, defined as the first movement of barite ore from the mine platform to the transfer site. Records of inspection and maintenance should be kept and made available on request in relation to this strategy.

Reason - In the interests of neighbouring recreational and residential amenity; to ensure a satisfactory standard of local environmental quality is maintained.

28. Prior to the commencement of any blasting operations, a scheme for the monitoring of blasting including the location of monitoring points and equipment to be used shall be

submitted to the Council as Planning Authority for written approval, in consultation with Environmental Health. All blasting operations shall take place only in accordance with the scheme as approved or with such subsequent amendments as may receive the written approval of the Council as Planning Authority.

Reason - In the interests of neighbouring recreational and residential amenity; to ensure a satisfactory standard of local environmental quality is maintained.

29. Ground vibration as a result of blasting operations shall not exceed a peak particle velocity of 6 mm -1 in 95% of all blasts measured and no individual blast shall exceed a peak particle velocity of 12 mm -1 as measured at vibration sensitive buildings. The measurement to be the maximum of 3 mutually perpendicular directions taken at the ground surface at any vibration sensitive building.

Reason - In the interests of neighbouring recreational and residential amenity; to ensure a satisfactory standard of local environmental quality is maintained.

30. Any permanent external lighting fixtures shall be sufficiently screened and aligned so as to ensure that there is no direct illumination of neighbouring land or on surrounding watercourses and woodland, and that light spillage beyond the boundaries of the site is minimised.

Reason - In the interests of neighbouring recreational and residential amenity and biodiversity; to ensure a satisfactory standard of local environmental quality is maintained and to avoid unnecessary light pollution.

31. Noise levels measured at 3.5m from the façade of noise sensitive properties shall not exceed the following limits: LAeq, 1 Hour 45 dB (free field).

Reason - In the interests of neighbouring residential amenity; to ensure a satisfactory standard of local environmental quality.

32. Only the plant machinery and equipment specified in the supporting Noise Assessment R15.8847/2/RK (dated 17 September 2015) (or similar plant which generates no greater sound power levels) shall be used, unless otherwise agreed in writing with the Council as Planning Authority.

Reason - In the interests of neighbouring recreational and residential amenity; to ensure a satisfactory standard of local environmental quality is maintained.

33. Prior to the commencement of operations, a Noise Management Plan (NMP) must be submitted to and approved in writing by the Council as Planning Authority, in consultation with Environmental Health. Thereafter the measures contained within the

approved NMP shall be implemented, with records kept and made available on request by the Council as Planning Authority.

Reason - In the interests of neighbouring recreational and residential amenity; to ensure a satisfactory standard of local environmental quality is maintained.

34. The developer shall ensure during the construction of the development that all surface water is controlled, treated and discharged under best practice principles of SUDS, all to the satisfaction of the Council as Planning Authority, in consultation with the Council as Flood Authority.

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

35. Prior to commencement of mining operations, a Water Environment Monitoring and Mitigation Plan (WEMP) shall be submitted for the written approval of the Council as Planning Authority, in consultation with SEPA. Any approved recommendations of the WEMP shall thereafter be implemented by the developer, within a timescale agreed in writing by the Council as Planning Authority. .

The WEMP shall set out monitoring parameters to measure the response of groundwater, in terms of level and quality to the proposed mining activity, both during development and following site abandonment.

Relevant surface water monitoring should also be included.

The WEMP shall detail:

- The number of proposed groundwater and surface water monitoring points,
- Defined monitoring locations,
- Frequency of level monitoring and chemistry sampling,
- The suite of proposed chemical analysis,
- The collection, interpretation and reporting of data, and
- Provide mechanisms to secure mitigation of impacts should they occur.

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

36. Within 6 months of cessation of mine operations and prior to closure (defined as completion of restoration and sealing of mine access), a revised WEMP shall be submitted for the written approval of the Council as Planning Authority in consultation with SEPA.

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

37. Prior to the commencement of any development on site, the applicant shall provide details of the proposed nature and frequency of private water supply and drainage monitoring to the Council as Planning Authority in consultation with Environmental Health for written approval, covering the following:

- Primary baseline survey (prior to commencement),
- During operations,
- Subsequent to development completion,
- The proposed methods of alerting affected individuals in the event of any contamination and alternative water supply arrangements identified should the development result in pollution or contamination.

Reason - To ensure existing private water supplies and drainage infrastructure is not compromised.

38. Prior to the commencement of any development on site, the following shall be submitted to the Council as Planning Authority:

- a) Details of a bond or other financial instrument which will ensure that sufficient funds are available to meet the cost of implementing the removal of all development granted by this permission and the approved restoration scheme (relating to Condition 19)
- b) Confirmation by an independent Chartered Surveyor (whose appointment for this task has been approved by the Council as Planning Authority) that the amount of the bond or financial instrument is sufficient to meet the cost of the removal of all development granted by this permission and the site's restoration.

Reason - To ensure that at all times there are sufficient funds available to ensure that the removal of all development and site restoration can occur.

39. The approved bond or financial instrument shall be maintained throughout the duration of the operation of the development hereby approved. At five-yearly intervals (as a minimum) from the commencement of the development, an independent review of the approved bond or financial instrument shall be carried out and submitted to the Council as Planning Authority. The Council as Planning Authority may direct that the approved bond or financial instrument be amended if this is necessary to ensure that funds remain sufficient to cover the removal of all development granted by this permission and the site's restoration.

Reason - To ensure that at all times there are sufficient funds available to ensure that the removal of all development and site restoration can occur.

B JUSTIFICATION

The proposal is considered to comply with the Development Plan and there are no other material considerations that would justify a departure therefrom.

C PROCEDURAL NOTES

1. Consent shall not be issued until a Section 75 Agreement is in place to enable a financial guarantee to secure delivery of a Habitat Management Plan and the associated decommissioning of the mine and site restoration over the associated lifetime of the development. The legal agreement should be concluded and registered within 4 months of any Committee approval. Failure to conclude a legal agreement within 4 months will result in the planning application being re-assessed.

This agreement shall include

- i) the maximum sum required
- ii) details of the financial guarantee which can either be by way of an ESCROW facility, restoration bond or bank guarantee,
- iii) requirement for the review of the maximum sum every five years (as a minimum) to ensure sufficient funds.

D INFORMATIVES

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
- 2 Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
- 4 This development will require the 'Display of notice while development is carried out', under Section 27C (1) of the Town and Country Planning Act 1997, as amended, and Regulation 38 of the Development Management Procedure (Scotland) Regulations 2008. The form of the notice is set out in Schedule 7 of the Regulations and a draft

notice is included for your guidance. According to Regulation 38 the notice must be:

- Displayed in a prominent place at or in the vicinity of the site of the development.
 - Readily available to the public
 - Printed on durable material.
- 5 The applicant should ensure that any existing wayleaves for maintenance or repair to existing private water supply or septic drainage infrastructure in the development area are honoured throughout and after completion of the development.
- 6 The applicant shall ensure the private water supply for the development complies with the Water Scotland Act 1980 (Section 63) and the Private Water Supplies (Scotland) Regulations 2006. Detailed information regarding the private water supply, including the nature, location and adequacy of the source, any storage tanks / pipework and the filtration and disinfection treatment proposed to ensure provision of an adequate and consistently wholesome water supply shall be submitted to Perth and Kinross Council Environmental Health in line with the above legislation.
- 7 The applicant is advised to contact Perth and Kinross Heritage Trust as soon as possible to discuss the procedure of the archaeological works required and, as necessary have a written Terms of Reference prepared.
- 8 The applicant is advised that the archaeological response prepared is based on information held on the Perth and Kinross Historic Environment Record of archaeological sites and historic buildings, which is regularly updated.
- 9 The applicant is advised to pay due regard to PKC Flooding and Flood Risk Guidance Document (June 2014).
- 10 The applicant is advised to refer to Management of Extractive Waste (Scotland) Regulations 2010, where mandatory or 'deemed' conditions apply to this development.
- 11 No work associated with the approved building elements shall be commenced until an application for building warrant has been submitted and approved.
- 12 In the interest of clarity, the following terms referred to in the attached conditions of consent are intended to mean the following:
- a) Construction – referring to all physical construction elements, including (but not exclusively);
 - Mine site platform
 - Transfer site

- Haul road
 - Access Track
- b) Operations – all matters relating to mining, transfer, processing and despatch of the barite mineral.
- c) Restoration and Decommissioning - referring to the initial ongoing progressive restoration of the site during construction and final site restoration of all agreed matters following the cessation or abandonment of mining operations.
- d) Development – covering absolutely all matters pertaining to the consent, including construction, operations, restoration, decommissioning and post development monitoring.

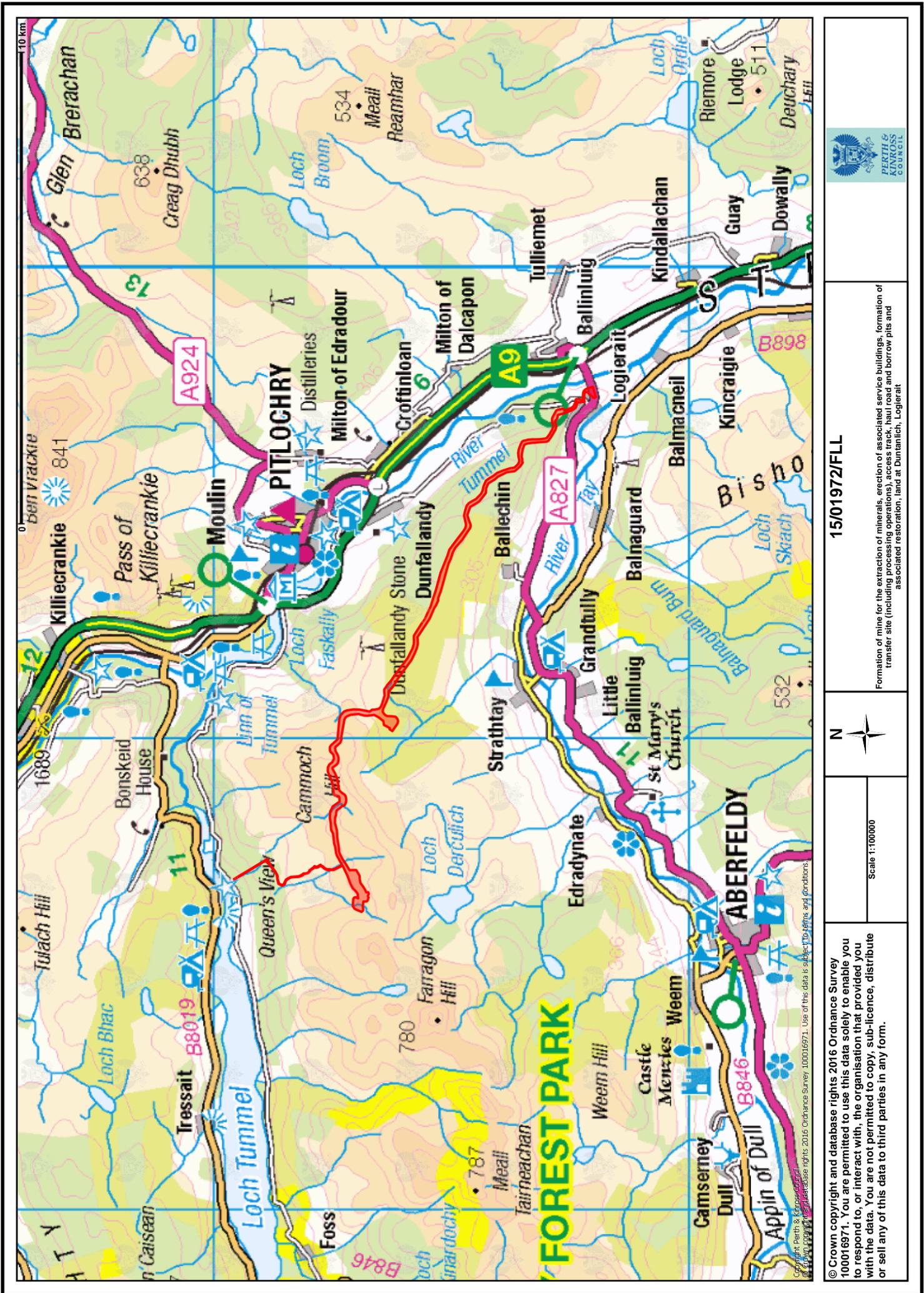
Background Papers: 44 letters of representation
Contact Officer: Callum Petrie Ext 75353
Date: 31 August 2016

Nick Brian
Development Quality Manager

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15/01972/FLL

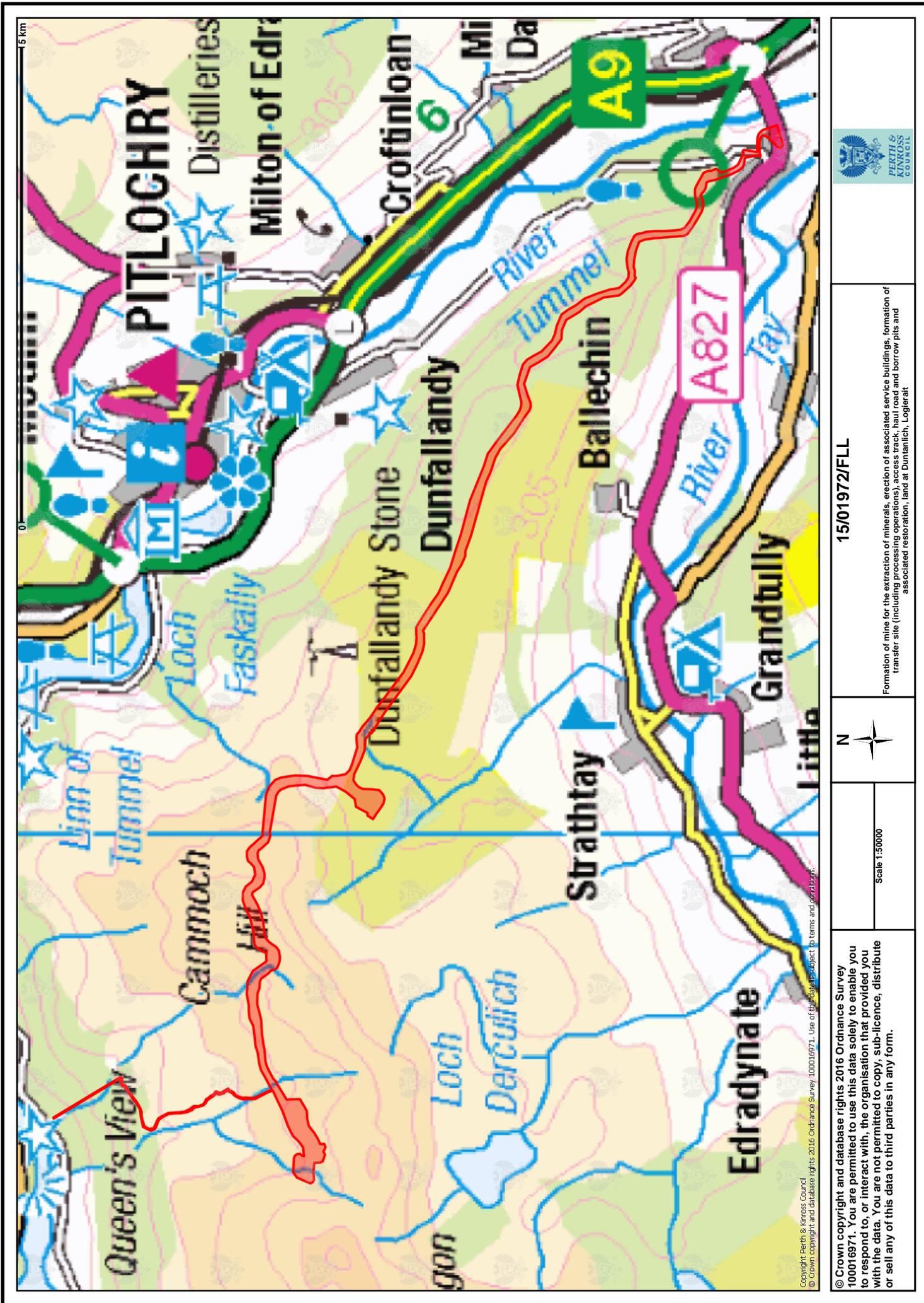


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Formation of mine for the extraction of minerals, erection of associated service buildings, formation of transfer site (including processing operations), access track, haul road and borrow pits and associated restoration, land at Duntanlich, Logierait





15/01972/FLL

Formation of mine for the extraction of minerals, erection of associated service buildings, formation of transfer site (including processing operations), access track, haul road and borrow pits and associated restoration, land at Dunfallandy, Logierait



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

**16/00996/FLL Erection of 8no dwellinghouses and associated works on Land
110 Metres South East Of Beaufield, Balado, Kinross**

Ref. No: 16/00996/FLL
Ward No: N8 - Kinross - Shire

Summary

This report recommends approval of the application for the erection of eight dwellinghouses and associated works as it is considered to comply with the relevant provisions of the Development Plan and there are no material considerations apparent which would outweigh the Development Plan.

BACKGROUND AND DESCRIPTION

- 1 This is a proposal for 8 detached dwellinghouses along with associated infrastructure including an access road, parking and turning areas and drainage arrangements including phosphorus mitigation to Loch Leven.
- 2 The application site extends to around 1.6 ha of flat open land most recently used as a paddock within the settlement of Balado approximately 1.5 km to the west of Kinross and accessed off the A977. The site is bounded by residential properties to the east, north and west and open agricultural land to the south where it is defined by a post and wire fence. This fence also marks the southern boundary of the Balado settlement in this location. The site is within the Loch Leven Catchment Area.
- 3 A previous application for a similar proposal was considered by the Development Management Committee on 14th October 2015. The application was refused by the Committee. An appeal was submitted to the DPEA which was subsequently dismissed by the Reporter due to uncertainties as to whether the proposed access road could be constructed to a standard that would be adopted by the Local Authority.
- 4 This new application is similar to the previous application with the exception of details relating to the access road. In relation to this the site boundary has been altered to include a width of 9 metres over the length of the existing private road in order to allow the road to be upgraded to meet standards required for adoption.

NATIONAL POLICY AND GUIDANCE

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

Scottish Planning Policy 2014

Of relevance to this application are:

- Paragraphs 109 – 134: Enabling Delivery of New Homes

Designing Streets: A Policy Statement for Scotland 2010

- 6 Streets have to fulfil a complex variety of functions in order to meet people's needs as places in which to live, to work and to move around. Their design requires a thoughtful approach that balances potential conflicts between different users and objectives.

Planning Advice Note 67 (Housing Quality)

- 7 Designing Places, published November 2001, sets out the Scottish Governments aspirations for design and the role of the planning system in delivering them. This Planning Advice Note explains how Designing Places should be applied to new housing.

DEVELOPMENT PLAN

- 8 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2012-2032 and the Perth and Kinross Local Development Plan 2014.

TAYplan Strategic Development Plan 2012 – 2032 - Approved June 2012

- 9 The overall vision of the Tay Plan states *“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 and visit and where businesses choose to invest and create jobs.”*

- 10 The principal policy, in summary is:

Policy 5: Housing

- 11 Ensure that the mix of housing type, size and tenure meets the needs and aspirations of a range of different households throughout their lives, including the provision of an appropriate level of affordable housing based on defined local needs. Local Development Plans (where applicable) will need to set affordable housing requirements for or within each housing market area.

Perth and Kinross Local Development Plan 2014

12 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. It is the most recent statement of Council policy and is augmented by Supplementary Guidance. Under the LDP the site is located within the Balado settlement boundary.

13 The principal policies are, in summary:

Policy PM1A: Placemaking

14 Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place. All development should be planned and designed with reference to climate change mitigation and adaptation.

Policy PM1B: Placemaking

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

Policy PM3: Infrastructure Contributions

16 Where new developments (either alone or cumulatively) exacerbate a current or generate a need for additional infrastructure provision or community facilities, planning permission will only be granted where contributions which are reasonably related to the scale and nature of the proposed development are secured.

Policy RD1: Residential Areas

17 In identified areas, residential amenity will be protected and, where possible, improved. Small areas of private and public open space will be retained where they are of recreational or amenity value. Changes of use away from ancillary uses such as local shops will be resisted unless supported by market evidence that the existing use is non-viable. Proposals will be encouraged where they satisfy the criteria set out and are compatible with the amenity and character of an area.

Policy RD4: Affordable Housing

18 Residential development consisting of 5 or more units should include provision of an affordable housing contribution amounting to 25% of the total number of units. Off-site provision or a commuted sum is acceptable as an alternative in appropriate circumstances.

Policy EP7A: Drainage within the Loch Leven Catchment

19 Total phosphorus from development must not exceed the current level permitted by the discharge consents for Kinross and Milnathort waste water treatment works together with the current contribution from built development

within the rural area of the catchment.

Policy EP7B: Drainage within the Loch Leven Catchment

- 20 Developments within the Loch Leven Catchment Area will be required to connect to a publicly maintained drainage system incorporating phosphorus reduction measures. Exceptions will only be permitted where they are in accordance with criteria set out.

Policy EP7C: Drainage within the Loch Leven Catchment

- 21 Where EP7A and EP7B cannot be satisfied, proposals will be refused unless they are capable of removing 125% of the phosphorus likely to be generated by the development from the catchment.

OTHER POLICIES

- 22 Perth and Kinross Council Developer Contributions Supplementary Guidance including Affordable Housing (April 2016)

SITE HISTORY

- 23 13/01379/FLL Erection of eight dwellings with associated access road, parking bays, turning areas and drainage arrangements. This application was refused at Development Management Committee on 14th October 2015 (Decision Notice dated 26 October 2015). An appeal to the DPEA (PPA-340-2099) was dismissed on 23rd March 2016.

CONSULTATIONS

EXTERNAL

- 24 **Scottish Environment Protection Agency** – No objections subject to suitable mitigation measures being put in place for phosphorus mitigation and CAR licencing being secured.
- 25 **Scottish Water** – No response has been received in relation to this application but Scottish Water did not object to the previous application as the development would not connect into the public drainage network. There has been no change to this part of the application.
- 26 **Kinross Community Council** – No comments to make on this application following discussion at its July meeting.

INTERNAL

- 27 **Local Flood Prevention Authority** – No objections subject to conditions with regard to detailed drainage design.
- 28 **Transport Planning** - No objections subject to conditions with regard to the roads and associated works being in accordance with the Council's specifications.
- 29 **Contributions Officer** - Developer contributions with regard to affordable housing and primary education provision are required.
- 30 **Environmental Health** - No adverse comments to make on the application. A search of the historic records did not raise any concerns regarding ground contamination.
- 31 **Biodiversity Officer** - No objections subject to conditions and informative notes being included with regard trees, protected species and wildlife habitats.
- 32 **Community Waste Advisor** – No objection subject to recommendation that the developer contact the Community Waste Team to discuss waste requirements for the site.

REPRESENTATIONS

- 33 Representations from ten households have been received relating to the following issues:
 - Flooding
 - Odour issues
 - Traffic and road safety – access issues
 - Roads adoption issues and landownership
 - Phosphorous mitigation and drainage issues
 - Lack of open space
 - Waste management
 - Housing supply – no demand for housing in area
 - Application is not changed from previous and should not have been validated
 - Should include land at Beaufield and be considered a major development
 - Residential amenity – overlooking and privacy issues
 - Contrary to Development Plan
 - Not in keeping with surroundings, detrimental to amenity

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

ADDITIONAL STATEMENTS

Environment Statement	Not required
Screening Opinion	Not required
Environmental Impact Assessment	Not required
Appropriate Assessment	Not required
Design Statement / Design and Access Statement	Submitted
Reports on Impact or Potential Impact	Not required

APPRAISAL

Policy Appraisal

- 34 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) requires the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The determining issues here are whether the proposals comply with Development Plan policy or if there are other material considerations, which justify a departure from policy. The most relevant policy considerations are outlined in the policy section above and will be considered in more detail below.

Principle

- 35 The site is located within the Balado settlement boundary as defined in the Perth and Kinross Local Development Plan 2014. The principle of residential development is acceptable in this area. The previous proposal was refused by the Committee due to it being contrary to various policies in the plan in particular PM1A and PM1B(c) and RD1(a) and (b), PM2 and EP2, TA1B and CF1B. However, following the publication of the Reporter's decision on the appeal against the refusal I would note that the only outstanding issues that need to be resolved through this application are concerned with vehicular and pedestrian access arrangements to the site. This is as a result of the Reporter restricting the refusal to the standard of the proposed access arrangements only and for no other reasons. The reporter's decision therefore represents a material consideration which should be given considerable weight.
- 36 As with the previous application, concerns have been raised through representations that there is no requirement for further housing within the Kinross housing market area as supply of housing already exceeds demand. However the Reporter agreed that this site could be considered a windfall site and that the addition of 8 houses would have little quantitative impact on housing land supply and certainly would not lead to a material oversupply of housing land in this area.
- 37 There was also a comment from an objector that land at Beaufield and particularly the site of the foul soakaway shown within the ground of Beaufield should be incorporated into the redline site boundary. This land is not

considered to be part of the development site and was not previously included in the site boundary. The foul soakaway shown will serve Beaufield not the application site. There is therefore no reason to include it within the site boundary.

Design and Layout

- 38 The proposal is for 8 detached dwellinghouses comprising a mixture of 2 storey house types with wall-head dormers and roof dormers allowing accommodation in the roof space. Garaging proposed includes a mixture of integral and detached garages. Materials proposed include white wet dash render, natural stone and treated larch to the external walls, natural slate to the roof and white painted timber windows and doors. Detached garage materials will match the dwellinghouses. Boundary treatment includes proposed and existing hedging and post and wire fencing.
- 39 The design and layout of the proposed houses is the same as previously submitted. There have been concerns from objectors that the proposed design is not in keeping with the surrounding development. I would disagree with this and would also note the comments in the Reporter's Decision Letter. The Reporter did not consider the design inappropriate for the site and noted that this part of Middle Balado has a fairly wide mix of suburban house types and that the proposed houses would not appear out of scale or character in this setting.
- 40 The Development Management Committee refused the previous application partly due to the lack of a design statement. A statement has been produced with this application although in the appeal decision the Reporter did not agree with the Council's reason for refusal. The Reporter was not persuaded that a lack of a design statement rendered the proposal unacceptable and that it was difficult to see what added value would be gained from the provision of a design statement.

Residential Amenity

- 41 This aspect was fully considered as part of the previous application and there have not been any changes to the layout or design of the dwellinghouses as part of this submission. There were concerns previously raised and in relation to this application that the proposed detached garages would cause overshadowing/daylighting issues to neighbours, in particular on plot 3. This objection has been reiterated by an objector to this application. However the position and orientation of the proposed new dwellinghouses was also considered in detail by the Reporter as part of the appeal process. In particular the Reporter noted that given its size and position, the proposed garage at plot 3 would not have any significant or adverse overshadowing or daylighting impact on the existing house to the west.
- 42 The Reporter also noted that three of the proposed houses would have a common boundary with existing houses at the Nurseries to the east but he was satisfied that the relationship of the proposed houses on plots 7 and 8,

including building orientation, overshadowing, window positions and separation distances, would not lead to any overlooking, overshadowing or privacy issues.

- 43 Similarly the Reporter was satisfied that the relationship of the proposed house at plot 1 with the house at 6 the Nurseries would not lead to any privacy or overlooking issues subject to the imposition of conditions to control the design of a rear balcony and the height of a fence on the mutual boundary if planning permission were to be granted. Overall the Reporter found the standard of development design and layout acceptable and met the objective of LDP polices RD1, PM1A and PM1B in relation to residential areas and placemaking.
- 44 There were objections previously and in connection with this application in terms of possible odour issues from the treatment plant. Objections with regard to this have also been received in relation to this new application. The applicant will require a CAR licence for the proposed development and any operational issues arising from the treatment plant will be dealt with through SEPA's CAR licencing regulations to ensure there are no amenity issues to neighbouring residential properties. A noise condition was previously recommended to protect neighbouring residential amenity from any noise generated by the private waste water treatment plant.
- 45 There was concern raised with the previous application and with this application that the proposal would have an impact on neighbours' right to the peaceful enjoyment of their property and that protection of the countryside falls within the interests of Article 8 of the Human Rights Act 1998. It is considered however that the site is not within the countryside but in the designated settlement of Balado and, as noted above, will not have any adverse impact on neighbouring residential amenity and on any individual's right to the peaceful enjoyment of their own home.

Landscaping and Visual Impact

- 46 The site has a number of mature trees around the boundary. These are generally outwith the site boundary and are not expected to be affected by the proposed development.
- 47 In terms of visual impact the site is contained with housing development on three sides and is not expected to create any additional adverse visual impact to the wider countryside. A condition on any consent is recommended for a detailed landscaping plan to be submitted to include hard and soft landscaping within the site for the approval of the Council.

48 Biodiversity

The Biodiversity Officer notes that the trees around the site are likely to provide habitats for wildlife and has suggested a number of conditions and informative notes that could be attached to any planning approval.

Open Space

- 49 Concerns were raised on the lack of open space provision within the development. It is considered that the number of houses proposed on this site does not generate a requirement for the provision of communal open space provision for the wider community. There is a requirement for open space provision for the village under the larger allocated housing site H51 to the west which is also within the settlement boundary.

Traffic and Transport

- 50 The application site is accessed off the end of an existing private road that currently serves four recently erected dwellinghouses. The proposals indicate that this access will be upgraded to enable it to meet the Council's standards for adoption. Whether or not such an upgrade could be achieved was considered by the Reporter as part of the appeal. It was noted by the Reporter that the applicant has stated that he has sufficient servitude rights over the private road to allow him to undertake residential development for such planning permission as may be granted. Whilst this is more a legal matter than a planning matter the Reporter was also concerned that the extent of the site boundary shown for the original application did not include sufficient land to upgrade the road as would be necessary to meet the Council's standards. It was therefore concluded by the Reporter that as any changes required to meet the Council's standards may require a change to the existing site boundary so could not be the subject of planning conditions. Coupled with the fact that third party agreement to the works may not be forthcoming the Reporter dismissed the appeal.
- 51 This new application includes an extended red line site boundary which demonstrates that sufficient land is within the site to enable the access road to be upgraded to meet the Council's standards for adoption. The Transport Planner notes that the applicant has submitted further details of the proposed upgrades to the existing private access along with the layout of the new development. This effectively forms a stage 1 Roads Construction Consent and demonstrates that adequate upgrades can be made to allow an adopted road to be formed.
- 52 The land that is currently a private access that requires to be upgraded to meet Council roads specification is known to be in third party ownership and is likely to require agreement of existing owners to upgrade it. There is currently a dispute between the applicant and objectors as to whether servitude rights would allow the works to be undertaken. I am of the view that whilst this could be a barrier to ultimate implementation of any consent this is primarily a legal matter that should be separated from any planning permission and is not a reason that would justify refusal of the application. In order to address the concerns of both the objectors and the Reporter with regard to this I consider it appropriate to attach a suspensive condition that requires the existing private access to be widened and constructed to a standard that demonstrates that sufficient land is available to the applicant to upgrade the private access to the required adoptable standard.

- 53 Objectors are also concerned about the increase in traffic that the development would generate related to road safety concerns including the lack of pavements, limited street lighting, crossing of and the impact on the A977. However the Transport Planner does not share this concern and has recommended that a condition be attached to any approval to agree all matters regarding access, car parking, road layout, design and specification, including the disposal of surface water.
- 54 There was previously a requirement for bus pick up and drop off areas to be provided on the A977. The Council had been concerned with this proposal in terms of road safety. The Reporter also expressed concern with this. After discussion with the Transport Planner it has been agreed that such a facility is not required as part of this proposal. It is understood that the school bus currently comes into the settlement and that in the longer term development at the western end of the village will allow a bus to come in and turn so that passengers would not need to cross the A977.

Waste Collection

- 55 There have been objections with regard to the practicalities of providing waste and recycling services to the new development if the issues with the roads adoption are not resolved. The Waste Services Advisor has been consulted on this application and recommends that the developer make contact with the Community Waste Team to discuss the waste requirements for the site.

Drainage and flooding

- 56 A private waste water treatment plant is proposed for foul drainage which will incorporate phosphorus stripping as required in the Loch Leven Catchment Area. SEPA had asked that the calculations be revised to reflect current values (150 litres per person per day, not 180 litres per person per day). Following this revision SEPA is satisfied that the applicant has demonstrated that sufficient phosphorus mitigation can be achieved. It is however noted by SEPA that further detail will have to be provided for the treatment system and point source discharge under CAR before a licence can be issued and the lack of objection to the planning permission does not guarantee the issue of a CAR licence.
- 57 Concerns have been raised by objectors with regard to the inclusion of the property Beaufield as one of the mitigating properties being upgraded. However this was previously discussed with SEPA who have no objection to this.
- 58 Concerns were previously raised and have been again with regard to possible flood risk. This would be from surface water rather than any watercourse. The Council's Flood Officer was consulted and after some discussion with the agent is satisfied that subject to agreeing the detailed design the proposals are acceptable. A condition will be attached to any permission concerning this.

Developer Contributions

Affordable Housing

- 59 The Council's Affordable Housing Policy requires that 25% of the total number of houses, above a threshold of 5 units, for which planning consent is being sought is to be in the form of affordable housing.
- 60 The affordable housing requirement for the proposal is 2 units (8 x 0.25). Due to the scale and location of the development a commuted sum is considered appropriate in lieu of onsite provision. The commuted sum level for the Kinross Housing Market Area is £15,000 per unit therefore a contribution of £30,000 (2 x £15,000) is required.

Education

- 61 The Council Developer Contributions Supplementary Guidance requires a financial contribution towards increased primary school capacity in areas where a primary school capacity constraint has been identified. A capacity constraint is defined as where a primary school is operating, or likely to be operating following completion of the proposed development and extant planning permissions, at or above 80% of total capacity.
- 62 This proposal is within the catchment of Kinross Primary School. Based on current information this school will reach the 80% capacity threshold. Contributions towards primary education are not required from affordable housing. The primary education contribution will be calculated on 6 units (8 - 2). A contribution of £38,760 (6 x £6,460) is required as a result.

LEGAL AGREEMENTS

- 63 It is likely that a section 75 legal agreement will be required if the applicant chooses to defer payment of the required developer contributions.

DIRECTION BY SCOTTISH MINISTERS

- 64 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, regulations 30 – 32 there have been no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in or notification relating to this application.

CONCLUSION AND REASONS FOR RECOMMENDATION

- 65 In conclusion, the application must be determined in accordance with the Development Plan unless material considerations indicate otherwise. In this respect, the proposal is considered to comply with the approved TAYplan 2012 and the adopted Local Development Plan 2014. I have taken account of material considerations, particularly the recent Reporters decision and find

none that would justify overriding the Development Plan. On that basis the application is recommended for approval subject to conditions.

RECOMMENDATION

A Approve the application subject to the following conditions:

- 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 planning permission.

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

- 2 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 residential amenity; to ensure a satisfactory standard of local environmental quality.

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

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 4 Prior to the commencement of any works to the dwellinghouses hereby approved, the existing private access shall be widened and constructed at least to the level of bottoming, kerbing and base coating, in accordance with the standards required by the Council as Roads Authority.

Reason - In the interests of road safety; to ensure that a satisfactory standard of road and footpath is provided timeously in the interest of the amenity of the residents.

- 5 The foul drainage infrastructure capable of achieving not less than 125% phosphorus mitigation associated with this development shall be undertaken in a phased manner:-

(a) No development shall commence on the approved development site until the mitigating foul drainage infrastructure at the remote properties at Beaufield, Middle Balado and Gardener's Cottage, Turfhill has been installed.

(b) Following the installation of the foul drainage infrastructure at the remote property/properties, the development site shall only be occupied once the foul

drainage infrastructure for the development site has been installed unless otherwise agreed in writing with the Council as Planning Authority.

For the avoidance of doubt the installed drainage infrastructure at the development site as approved shall be retained unless otherwise agreed in writing with the Council as Planning Authority.

Reason - To ensure appropriate drainage arrangements are installed and retained to remove phosphorus from the Loch Leven Catchment Area thereby ensuring compliance with Policy EP7A, B & C: Drainage within the Loch Leven Catchment Area of the Adopted Perth and Kinross Local Development Plan 2014.

- 6 Development shall not commence until the applicant has submitted approved CAR licence(s) under the Water Environment (Controlled Activities)(Scotland) Regulations 2011 for the drainage infrastructure associated with this project to the Council as Planning Authority and the Planning Authority has confirmed receipt of the documentation in writing.

Reason - To ensure appropriate drainage arrangements are installed and retained to remove phosphorus from the Loch Leven Catchment Area thereby ensuring compliance with Policy EP7A, B & C: Drainage within the Loch Leven Catchment Area of the Adopted Perth and Kinross Local Development Plan 2014.

- 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 25 between 2300 and 0700 hours daily, within any neighbouring residential property, with all windows slightly open, when measured and/ or calculated and plotted on a rating curve chart.

Reason - In order to safeguard the neighbouring residential amenity in the area.

- 8 Prior to the commencement of the development hereby approved, a detailed landscaping and planting scheme for the site shall be submitted for the further 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, unless otherwise agreed in writing with this Planning Authority 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 unless otherwise agreed in writing with the Council as Planning Authority.

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

- 9 Prior to the commencement of any works on site, all trees on site (other than those marked for felling on the approved plans) and those which have Root Protection Areas which fall within the site shall be retained and protected. Protection methods shall be strictly in accordance with BS 5837 2012: Trees in Relation to Design, Demolition and Construction. Protection measures, once in place, shall remain in place for the duration of construction unless otherwise agreed in writing by the Council as Planning Authority.

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 unless otherwise agreed in writing with the Council as Planning Authority.

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

- 11 No works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect animals from being trapped in open excavations and/or pipe and culverts are submitted to and approved in writing by the Council as Planning Authority. The measures should include: creation of sloping escape ramps for animals, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day; and open pipework greater than 150 mm outside diameter being blanked off at the end of each working day.

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

- 12 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 provide effective drainage for the site.

- 13 Concurrent with the initiation of the development hereby approved and for the duration of construction, a temporary surface water treatment facility shall be implemented on site and maintained for the duration of the approved development works. The temporary surface water treatment facility shall remain in place until the permanent surface water drainage scheme is implemented unless otherwise agreed in writing by the Council as Planning Authority.

Reason - To ensure the appropriate management of construction surface water run-off to minimise flooding and avoid discharge of sediment/pollution to the local water environment or neighbouring property, in the interests of residential and environmental amenity.

- 14 A street light system designed to EN 13201 / BS 5489 shall be provided. The type and standard of lighting shall be assessed using the zoning system outlined in 'The Institution of Lighting Engineers Guidance Notes for the Reduction of Light Pollution'. Details of the lighting system shall be submitted and agreed with the Council as Planning Authority prior to commencement of work.

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

- 15 Prior to commencement of development full details of the rear balcony on plot 1 and proposed fencing along its mutual boundary with house 6, The Nurseries, shall be submitted for the written approval of the Planning Authority. The approved scheme shall be implemented and maintained to the satisfaction of the Council as Planning Authority.

Reason - In the interests of residential amenity; in order to safeguard the privacy and amenity of the residents of the neighbouring dwellinghouse(s).

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

- 1 The planning permission decision notice shall not be issued until such time as the required Developer Contributions have been secured or paid in full.
- 2 In the event the applicant does not either make the required payment within 28 days from the date the agent/applicant is advised of the need for the contributions, or complete a legal agreement for delayed payment within a 4 month period from the date the agent/applicant is advised of the need for the contributions, the application may be refused under delegated powers without any further discussion with the applicant.

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 No work shall be commenced until an application for building warrant has been submitted and approved.
- 5 The applicant is advised that in terms of Sections 21 of the Roads (Scotland) Act 1984 he/she/they must obtain from the Council as Roads Authority consent to construct a new road prior to the commencement of roadworks. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environmental Protection Agency.
- 6 The applicant should note SEPA's regulatory requirements:

Proposed engineering works within the water environment will require authorisation under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended).

Details of regulatory requirements and good practice advice for the applicant can be found on the Regulations section of SEPA's website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulatory team in the local SEPA office at:

Pentland Court, The Saltire Centre, Glenrothes, KY6 2DA, Tel. 01592 776910

- 7 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.
- 8 The presence of protected species, and the extent to which they could be affected by the proposed development, should be established before works commence. Should protected species be identified within the site the developer should ensure that all appropriate measures required to comply with the relevant legislation are carried out.

- 9 The applicant should be aware of the requirements of the Council's Environment and Regulatory Services in relation to waste collection from the site and should ensure adequate measures are provided on site to allow for the collection of waste. It is recommended that the developer contact the Community Waste Team to discuss waste requirements for this site.

Background Papers: 19 letters of representation
Contact Officer: Persephone Beer – Ext 75354
Date: 29 August 2016

Nick Brian
Development Quality Manager

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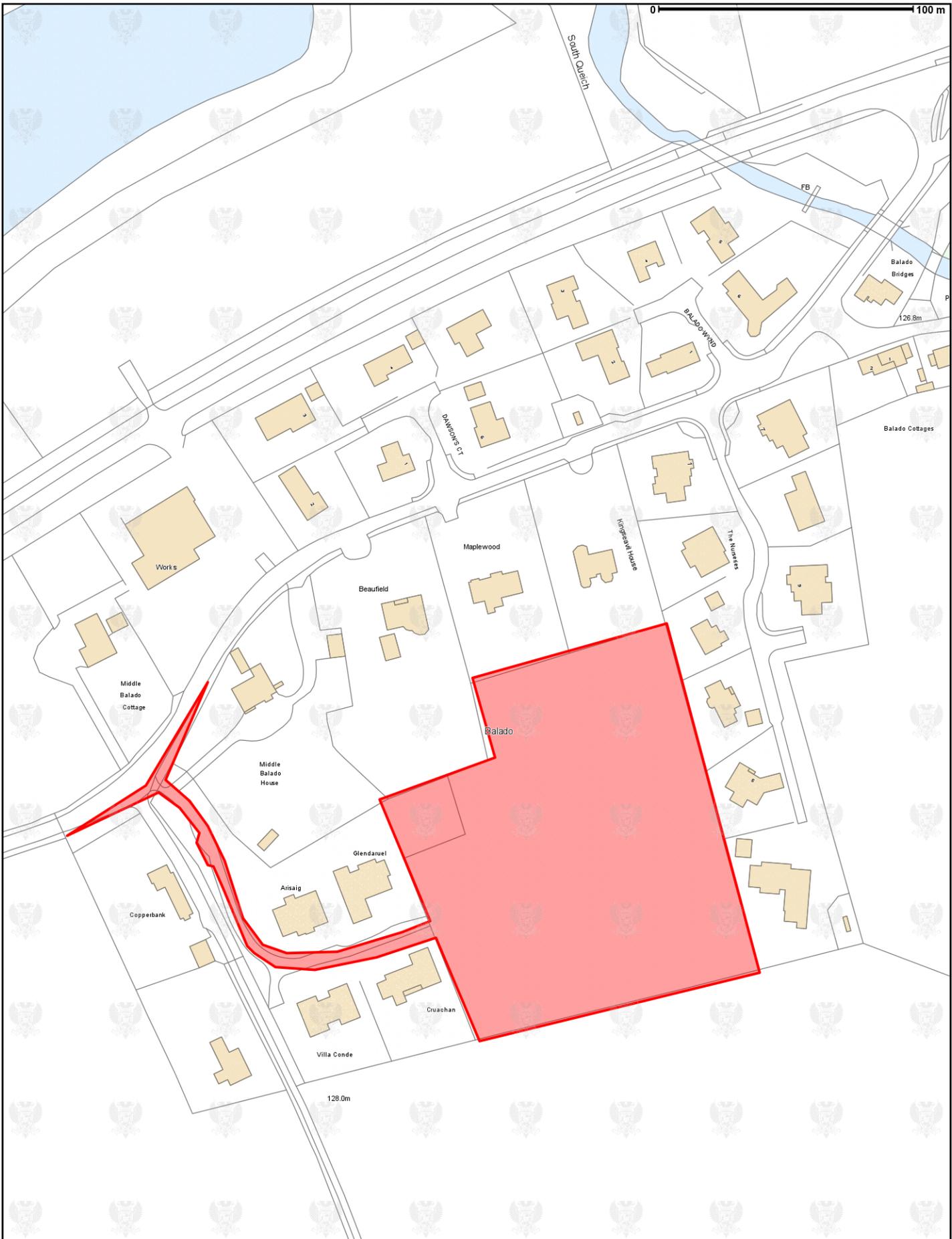
16/00996/FLL

Erection of 8 dwellings and associated works land SE of
Beaufield, Balado



Scale 1:25000

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16/0096/FLL
Erection of 8 dwellinghouses and associated works land SE of Beaufield, Balado



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

Erection of 12no. flats at Land 40 Metres West Of Elm Court
Atholl Road, Pitlochry

Ref. No: 16/01100/FLL
Ward No: N4– Highland

Summary

This report recommends approval of the application for erection of 12 flats as the development is considered to comply with the relevant provisions of the Development Plan.

BACKGROUND AND DESCRIPTION

- 1 The application site is located within the settlement boundary of Pitlochry in an area identified for town centre uses. The application site is also located within Pitlochry Conservation Area.
- 2 The site covers an area of approximately 0.4ha. It is bounded to the north by Scotland's Hotel, to the west by commercial/light industrial units and to the east by a funeral home office and flatted dwellings. To the south the site is screened from Atholl Road by a small knoll with mixed tree cover.
- 3 The proposal is to erect two, three storey blocks of flats with six, two bedroom flats contained within each. There is also associated parking for each flat.
- 4 The previous approval on this site ref 11/00248/FLL was for two, two storey blocks of holiday flats with access taken from the west of the site shared with the existing commercial/light industrial units. This proposal involved extensive works to the access to improve visibility by realigning kerbs, increasing the width of the footway and access width at the junction with Atholl Road.
- 5 The access for this proposal has been altered and moved to the east of the site from Elm Court. This new access utilises the existing access to the flatted dwellings and funeral home office and at this junction there is vastly improved visibility.

NATIONAL POLICY AND GUIDANCE

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

Scottish Planning Policy 2014

- 7 The Scottish Planning Policy (SPP) was published on June 23 2014. It sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:
- The preparation of development plans
 - The design of development, from initial concept through to delivery
 - The determination of planning applications and appeals.
- 8 Of relevance to this application are:
- Paragraphs 109 – 134: Enabling Delivery of New Homes

DEVELOPMENT PLAN

- 9 The Development Plan for the area consists of the Approved TAYplan Strategic Development Plan 2012 and the Adopted Perth and Kinross Local Development Plan 2014.

TAYplan: Strategic Development Plan 2012-2032

- 10 The principal relevant policy is in summary: -

Policy 5: Housing

- 11 Ensure that the mix of housing type, size and tenure meets the needs and aspirations of a range of different households throughout their lives, including the provision of an appropriate level of affordable housing based on defined local needs. Local Development Plans (where applicable) will need to set affordable housing requirements for or within each housing market area.

Perth and Kinross Local Development Plan 2014

- 12 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. It is the most recent statement of Council policy and is augmented by Supplementary Guidance
- 13 The principal relevant policies are, in summary:

Policy PM1A - Placemaking

- 14 Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place. All

development should be planned and designed with reference to climate change mitigation and adaptation.

Policy PM1B - Placemaking

- 15 All proposals should meet all eight of the placemaking criteria.

Policy RC1 Town and Neighbourhood Centres

- 16 Class 1 (retail) uses will be supported in identified town and neighbourhood centres commensurate with the role of the centre within the established retail hierarchy. Use Classes 2 & 3, leisure, entertainment, recreation, cultural and community facilities will also be encouraged in ground floor units provided they contribute to the character, vitality and viability of the retail core and satisfy the criteria set out.

Policy PM2: Design Statements

- 17 Design Statements should normally accompany a planning application if the development comprises 5 or more dwellings, is a non-residential use which exceeds 0.5 ha or if the development affects the character or appearance of a Conservation Area, Historic Garden, Designed Landscape or the setting of a Listed Building or Scheduled Monument.

Policy RD4 Affordable Housing

- 18 Residential development consisting of 5 or more units should include provision of an affordable housing contribution amounting to 25% of the total number of units

Policy HE3A Conservation Areas

- 19 Development within a Conservation Area must preserve or enhance its character or appearance. The design, materials, scale and siting of new development within a conservation area, and development out with an area that will impact upon its special qualities should be appropriate to its appearance, character and setting.

OTHER POLICIES

- 20 Pitlochry Conservation Area Appraisal
- 21 Developer Contributions and Affordable Housing Supplementary Guidance

SITE HISTORY

- 22 11/00248/FLL Erection of two blocks of 4 flatted dwellings for holiday letting purposes with associated car parking – approved at Development Management Committee 30th May 2011.

CONSULTATIONS

EXTERNAL

23 No external consultations required

INTERNAL

Flood Team

23 No objection, conditions required for SUDS

Environmental Health

24 No objection, no condition required

Transport Planning

25 No objection to access proposal, conditions required

Community Waste

26 No objection, requirements for bin collection outlined

REPRESENTATIONS

27 A total of 2 letters of representation including one from the Pitlochry Civic Trust were received and raised the following relevant issues: -

- Scale, materials and colour
- Land ownership

28 These issues are all raised in the Appraisal section of this report. The issue of land ownership is not considered to be a material planning consideration and is a matter to be resolved through the Legal process.

ADDITIONAL STATEMENTS

Environment Statement	Not required
Screening Opinion	Not required
Environmental Impact Assessment	Not required
Appropriate Assessment	Not required
Design Statement / Design and Access Statement	Submitted
Report on Impact or Potential Impact	None submitted

APPRAISAL

- 29 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 as amended by Planning Etc (Scotland) Act 2006 require that planning decisions be made in accordance with the Development Plan unless material considerations indicate otherwise. 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 policy. The most relevant policies of the Council's Local Development Plan (LDP) 2014 are outlined in the policy section above.

Policy

- 30 The site is located within the town centre of Pitlochry within an area zoned for town centre uses and within the conservation area.
- 31 A previous application for holiday lettings on the site was approved in 2011. This pre-dated the adopted LDP. In the previous Highland Area Local Plan the site was identified as TC1 where a variety of town centre uses, including residential, were supported subject to design. The policy position has now changed and in the adopted plan the site lies within Pitlochry Town Centre where policy RC1: Town and Neighbourhood Centres applies. Policy RC1 encourages uses within Class 1, 2 and 3 plus leisure, entertainment, recreation, cultural and community facilities on ground floors. Residential uses are encouraged on upper floors, particularly where property is under-utilised. The proposal for flats on the whole site is not therefore strictly fully in line with policy RC1 of the adopted Plan.
- 32 It would, however, be of benefit for this site to be brought back into use. Although it is within the town centre the site does not extend right down to Atholl Road the main commercial street through Pitlochry and as such, housing development on this site will have limited impact on the retail frontage along Atholl Road. As the site falls within the Conservation Area policy HE3A also applies and it is noted that the applicant has amended the design to take into account concerns over the height of the buildings previously proposed. It is also noted that these are proposed as affordable homes. Therefore, whilst the proposal for housing on this site is not strictly in line with policy RC1 there are a number of other factors to be taken into account and, on balance, the proposal is unlikely to have a significant adverse impact on the main aims of policy RC1 being behind the main commercial street frontage of Atholl Road.

Design and Layout

- 33 The proposal incorporates two identical L shaped three storey buildings. Each building containing six, two bedroom flats. The entrances and stairwells are located at the internal corner of each building with a tower feature enclosing the stairs. Following on from a previous application which was withdrawn due to concerns regarding the height, the buildings have been scaled down. This has been achieved by reducing the roof pitch, floor to floor heights and by introducing a coomb into the second floor. In addition the ground levels have been reduced.

- 34 The buildings are gable ended with smaller gabled bay projections. The proposed materials are a fine textured render in white/off white, with smaller bays in contrasting grey render. The stairwells are proposed to be finished in a strong contrasting yellow ochre and brick red render to add interest and to break up the mass of the building. The entrance doors are emphasised by vertical timber cladding. To add further visual interest small elements of zinc cladding are also proposed. The windows are timber pre-finished in grey, doors deep red and rainwater goods black uPVC.
- 35 The site is arranged to create a courtyard incorporating soft landscaping with a shared surface car park.

Conservation Area

- 36 The site is located within Pitlochry Conservation Area. The principle of developing the site has been previously established although the height of the development on the site has increased. Photomontages have been submitted to support the application in terms of the impact developing the site would have on the character and appearance of the Conservation Area.
- 37 The site is set back from Atholl Road with the rising knoll screening the development from the main viewpoints within the Conservation Area. It is considered therefore that the distance from Atholl Road and the intervening landscape features/buildings would reduce any impact on the character or appearance of the Conservation Area.
- 38 The design has been kept simple reflecting the character of development in the area with the use of gabled bays and traditional materials such as render and slate. Contemporary design elements have been added to provide visual variety and break up the elevations with coloured render on the tower feature entrance and elements of zinc and timber cladding. It is therefore considered that the proposed development in terms of the design is appropriate within the Conservation Area.

Trees

- 39 No tree survey report has been submitted with this application. The application has the same footprint as the previous approval on the site, although the access point has changed. Therefore one additional tree is to be removed from the site to accommodate the new access. I consider this to be acceptable as the access is more achievable than the upgrades previously approved and will enable the site to be developed. Two medium sized trees (Callery Pear) are shown on the landscaping plan as mitigation for the loss of the existing trees. The Conservation Officer has concerns regarding the tree loss but I consider the loss of one additional tree to accommodate an improved vehicular access to be acceptable.
- 40 The east end of Building B is close to one of a group of three trees shown as being retained at the north-east corner of the site. The excavation for a retaining wall may also have an impact on this tree group. A condition will be added to ensure that existing trees are protected during construction.

Residential Amenity

- 41 The site is located within the zoned town centre although the site would be considered edge of centre and is in a mixed use area. To the east of the site are residential dwellings in the form of flatted developments. The site has been designed with the location of the access and the orientation of the buildings to relate to these dwellings. Environmental Health has no objection and note that there are existing dwellings closer to the industrial estate and hotel than those proposed and they are not aware of any complaints being received.
- 42 The proposal incorporates a drying green, cycle and bin store for communal use.

Bin Collection

- 43 The Environment Service Operations will collect communal waste and recycling bins from the bin store as show on the plans by reversing along Elm Court.

Roads and Access

- 44 The site, in a previous application, was to be accessed via the commercial/industrial estate to the west. This access is poor in terms of the existing visibility at the junction with Atholl Road. As part of this approval the existing access was to be realigned and widened.
- 45 The access for this proposal is to be taken from Elm Court to the east of the site. Elm Court is currently used to access a flatted development and funeral parlour office. This access is acceptable and Transport Planning has no objection, recommending standard conditions.

Flooding and Drainage

- 46 This application will increase the amount of impermeable surface in the vicinity of the proposed flats. The application for planning permission states that SUDS form part of the design however there is no information on this or any drainage arrangements in the design statement. The Flood Team have no objection to this application but request conditions related to the drainage arrangements for the site.

Affordable Housing

- 47 The Council's Affordable Housing Policy requires that 25% of the total number of houses, above a threshold of 5 units, for which planning consent is being sought is to be in the form of affordable housing.
- 48 The proposed flats are all affordable. Further discussions will be required between the applicant and the Council's Affordable Housing Enabler to secure the satisfactory delivery of these affordable units.

Primary Education

- 49 The Council Developer Contributions Supplementary Guidance requires a financial contribution towards increased primary school capacity in areas where a primary school capacity constraint has been identified. A capacity constraint is defined as where a primary school is operating, or likely to be operating following completion of the proposed development and extant planning permissions, at or above 80% of total capacity.
- 50 This proposal is within the catchment of Pitlochry Primary School. Education & Children's Services have no capacity concerns in this catchment area at the present time and in any event, as affordable houses, there is no requirement for an education contribution.

Economic Development

- 51 With the exception of works associated with the construction phase of the development, which may or may not be carried out by local tradesmen, the proposal will have little economic impact on the local area other than generating more local spend by the residents of the flats.

LEGAL AGREEMENTS

- 52 None required

DIRECTION BY SCOTTISH MINISTERS

- 53 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, regulations 30 – 32 there have been no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in or notification relating to this application.

CONCLUSION AND REASONS FOR RECOMMENDATION

- 54 In conclusion, the application must be determined in accordance with the adopted Development Plans unless material considerations indicate otherwise. In this respect, despite the previous refusal of the Council, I remain of the view that the proposal complies with the adopted Perth and Kinross Local Development Plan 2014 and TAYplan 2012. I have taken account of material considerations and find none that would justify overriding the adopted Development Plan. On that basis the application is recommended for approval subject to conditions.

RECOMMENDATION

A Approve the application subject to the following conditions:

- 1 The proposed development must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed on the planning permission.

Reason - To ensure that the development is carried out in accordance with the plans approved.

- 2 The dwellinghouses hereby approved shall be used for the purposes of affordable housing as defined in Perth & Kinross Council's Developer Contributions and Affordable Housing Supplementary Guidance 2016.

Reason - In order to clarify the terms of the permission granted.

- 3 Prior to the commencement of the development hereby approved, a sample of render shall be submitted to and agreed in writing by the Council as Planning Authority. The render 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.

- 4 Prior to the occupation or use of the approved development a secure waterproof cycle parking facility for a minimum of 12 cycles shall be provided within the site to the satisfaction of the Planning Authority.

Reason – In order to provide cycle storage

- 5 A full Drainage Impact Assessment is submitted to PKC as Planning Authority in consultation with PKC Flood Team for review and approval.

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

- 6 Concurrent with the initiation of the development hereby approved and for the duration of construction, a temporary surface water treatment facility shall be implemented on site and maintained for the duration of the approved development works. The temporary surface water treatment facility shall remain in place until the permanent surface water drainage scheme is implemented unless otherwise agreed in writing by the Council as Planning Authority.

Reason - In the interests of best practise surface water management; to avoid undue risk to public safety and flood risk.

- 7 Storm water drainage from all paved surfaces shall be disposed of by means of suitable sustainable urban drainage systems to meet the requirements of best management practices.

Reason - In the interest of vehicle and pedestrian safety and in accordance with the policies of the adopted development plan

- 8 Prior to the commencement of any works on site, all trees on site (other than those marked for felling on the approved plans) and those which have Root Protection Areas which fall within the site shall be retained and protected. Protection methods shall be strictly in accordance with BS 5837 2012: Trees in Relation to Design, Demolition and Construction. Protection measures, once in place, shall remain in place for the duration of construction unless otherwise agreed in writing by the Council as Planning Authority.

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

B JUSTIFICATION

The proposal is considered to comply with the Development Plan and there are no other material considerations that would justify a departure there from.

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 The applicant is advised that in terms of Sections 56 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environment Protection Agency.

- 5 No work shall be commenced until an application for building warrant has been submitted and approved.

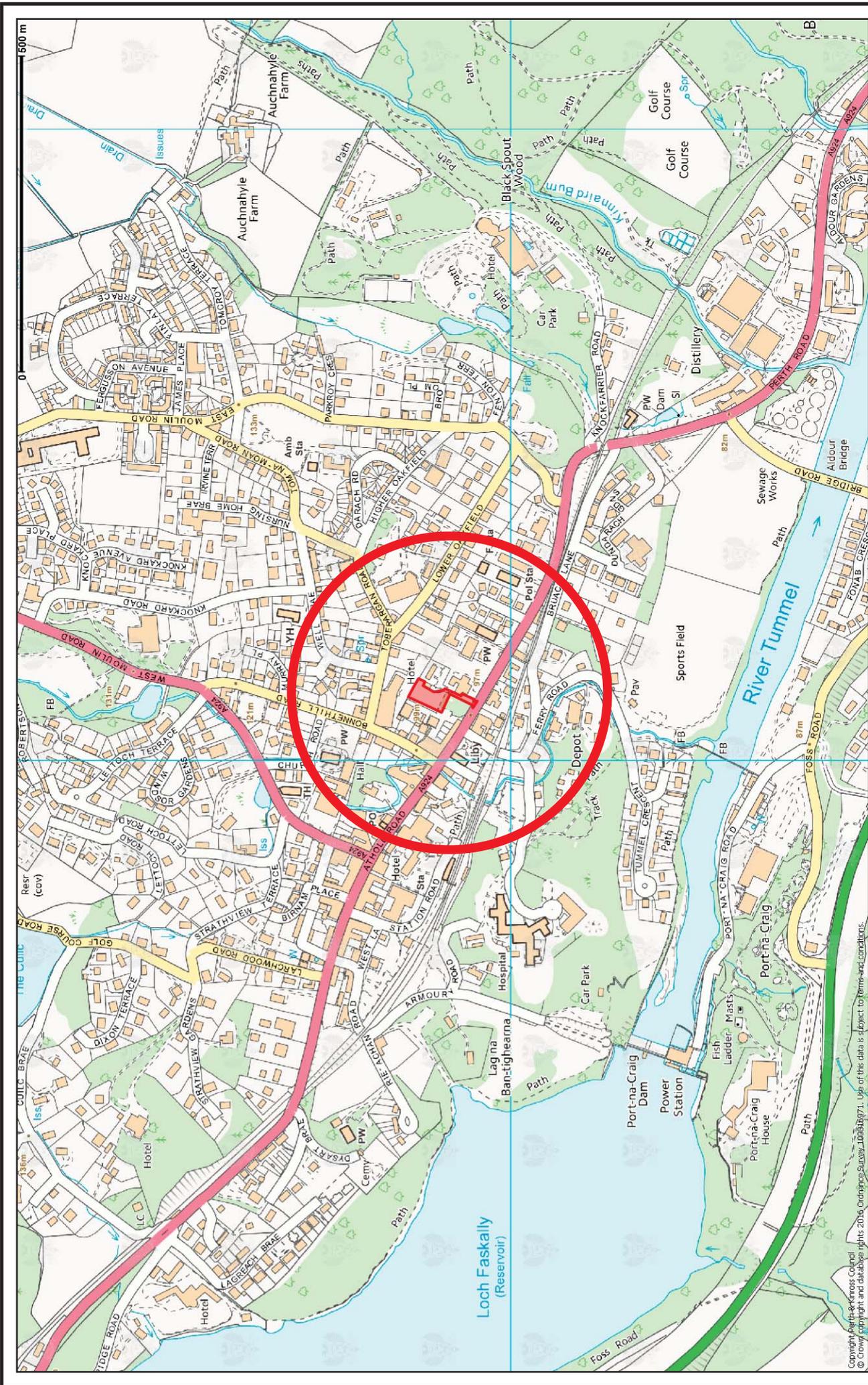
Background Papers: 2 letters of representation
Contact Officer: Joanne Ferguson
Date: 26 August 2016

Nick Brian
Development Quality Manager

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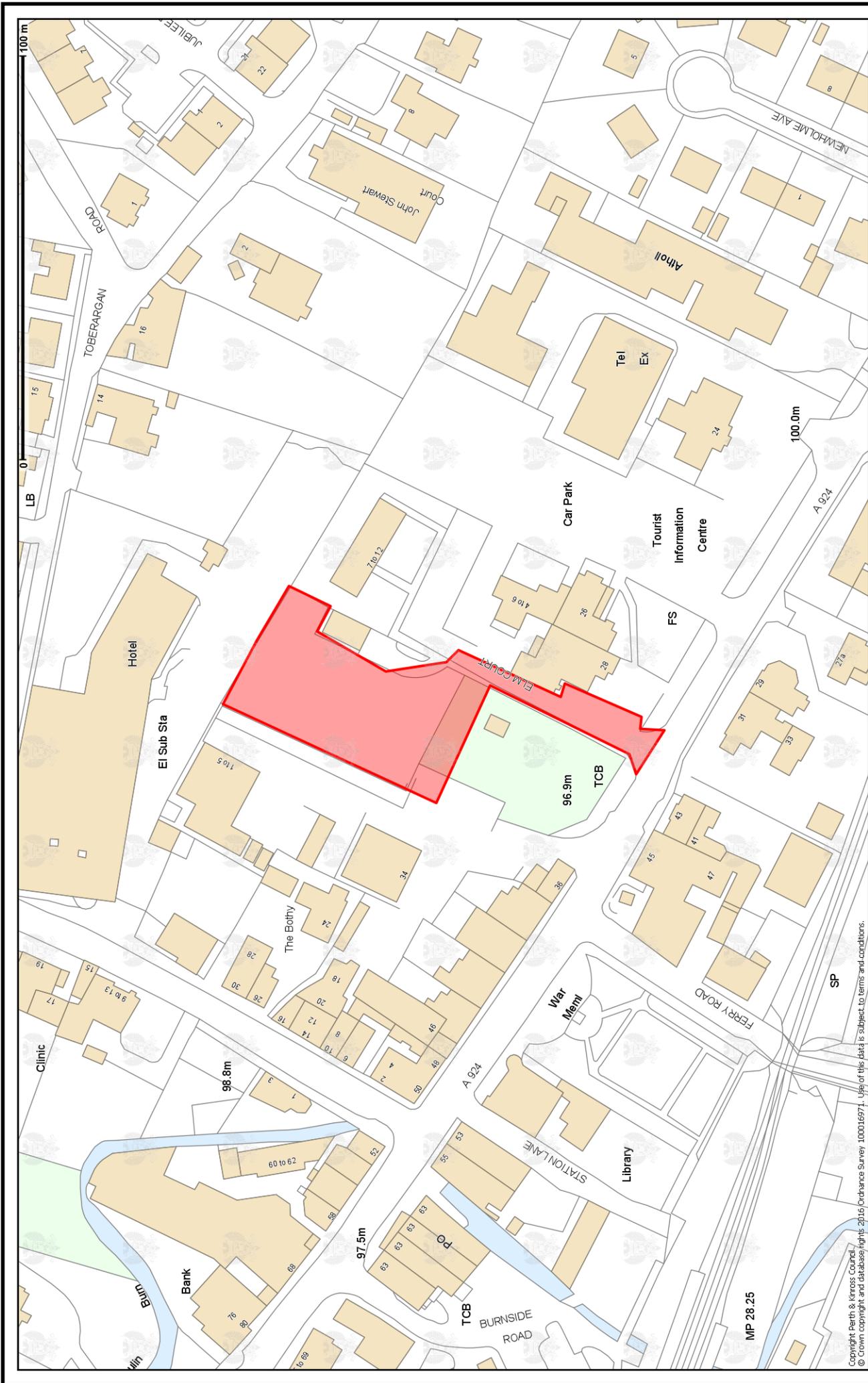
Erection of 12 flats on land west of Elm Court, Atholl Road, Pitlochry



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Erection of 12 flats on land west of Elm Court, Atholl Road, Pitlochry



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