

Perth and Kinross Council
Planning & Development Management Committee – 15 December 2020
Report of Handling by Head of Planning & Development (Report No. 20/245)

PROPOSAL: Erection of 49 dwellinghouses and associated works (LDP2 allocated site E340)

LOCATION: Land to the west of Cherrybank Gardens Perth

Ref. No: [20/00505/FLL](#)

Ward No: P10 - Perth City South

Summary

This report recommends approval of the application, subject to receipt of or other means of securing identified developer contributions. Although the development is not considered to fully comply with the relevant provisions of the Development Plan, there are material considerations which outweigh the position of the Development Plan and justify a recommendation of approval.

BACKGROUND AND DESCRIPTION OF PROPOSAL

- 1 The application site is located to the western edge of Perth and extends to some 1.9 Hectares (ha). It was previously scrub land that has recently had significant land engineering works undertaken, raising ground levels in some parts by several metres. To the east is the 'Charlotte Gate' residential development, whilst to the west is the Broxden Service Area and Park & Ride facility. Beyond the southern boundary, across a landscaped area, is the M90 motorway; whilst to the north, again across landscaped areas is the A93 Glasgow Road, from which access would ultimately be taken, via Charlotte Gate – specifically Kirkton Road.
- 2 Site topography sees a fall in ground levels from the M90 down to the Glasgow Road. Whilst a watercourse runs alongside the western boundary on a north/south axis, detention ponds (part of the Perth Flood Defence scheme) are within the landscaped area to the north.
- 3 The application site historically formed part of an allocation in the 2014 Perth and Kinross Local Development Plan (LDP) for both residential and employment use (MU1), and now forms part of LDP2 allocation (E340) but only allowing for employment use. It also formed part of a wider area where Planning Permission in Principle (PPP) was approved for residential and employment uses (Ref: 12/01692/IPM). Thereafter 234 dwellings were approved via related Approval of Matters Specified in Conditions applications (15/00809/AMM and 17/00204/AMM), and construction of the final phase is ongoing at the time of writing.
- 4 Full Planning Permission for a further residential development is now sought, as an effective continuation of the adjacent and ongoing Charlotte Gate development. With the detailed layout and house types proposed largely reflecting that development.

- 5 Various house types are proposed, mainly detached but also semi-detached, both set over 2 stories. The proposed mix is:
- 3 bed semi-detached: 8 dwellings
 - 3 bed detached: 11 dwellings
 - 4 bed detached: 30 dwellings
- 6 The palette of materials consists of: a brick basecourse, dry dash render to walls and concrete roof tiles. This reflects previous phases within Charlotte Gate, although solar panels are proposed on each roof to help meet sustainable energy planning policies and current Building Standards regulations.

ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

- 7 The proposal is of a type listed within Schedule 2 of the EIA Regulations and has been subject of EIA screening related to the 'PPP' permission 12/01692/IPM. It is not proportionate to fully repeat this process, with the proposal following the overall environmental parameters previously considered. Thus, having considered the proposal's characteristics, location and likely significant environmental effects, the Planning Authority has adopted an opinion that the proposal is not EIA development.

PRE-APPLICATION CONSULTATION

- 8 The proposed development is not classed as a 'Major' development, in terms of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. Therefore, the applicant was not required to undertake formal pre-application consultation with the local community.

NATIONAL POLICY AND GUIDANCE

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

National Planning Framework

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

Scottish Planning Policy 2014

- 11 The Scottish Planning Policy (SPP) sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of

policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:

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

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

- Sustainability: 24 – 35
- Placemaking: 36 – 57
- Supporting Business and Employment 92 -108
- Valuing the Natural Environment: 193 – 218
- Maximising the Benefits of Green Infrastructure: 219 – 233
- Managing Flood Risk and Drainage: 254 – 268
- Promoting Sustainable Transport and Active Travel: 269 – 291

Planning Advice Notes

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

- PAN 1/2011: Planning and Noise
- PAN 40: Development Management
- PAN 51: Planning, Environmental Protection and Regulation
- PAN 60: Planning for Natural Heritage
- PAN 61: Planning and Sustainable Urban Drainage Systems
- PAN 68: Design Statements
- PAN 69: Planning & Building Standards Advice on Flooding
- PAN 75: Planning for Transport
- PAN 77: Designing Safer Places
- PAN 79: Water and Drainage
- PAN 83: Masterplanning

Designing Streets 2010

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

Creating Places 2013

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

National Roads Development Guide 2014

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

DEVELOPMENT PLAN

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

TAYPlan Strategic Development Plan 2016-2036

- 18 TAYPlan sets out a vision for how the region will be in 2036 and what must occur to bring about change to achieve this vision. The vision for the area as set out in the plans states that:

“By 2036 the TAYplan area will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice where more people choose to live, work, study and visit, and where businesses choose to invest and create jobs.”

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

Policy 1: Locational Priorities
Policy 2: Shaping Better Quality Places
Policy 3: A First Choice for Investment
Policy 8: Green Networks
Policy 9: Managing TAYplans Assets
Policy 10: Connecting People, Places and Markets

Perth and Kinross Local Development Plan 2019

- 20 The Local Development Plan 2 (2019) (LDP2) was adopted by Perth and Kinross Council on 29 November 2019. The LDP2 sets out a vision statement for the area and states that, *“Our vision is of a Perth and Kinross which is dynamic, attractive and effective which protects its assets whilst welcoming population and economic growth.”* It is the most recent statement of Council policy and is augmented by Supplementary Guidance. The principal relevant policies are, in summary;

Policy 1: Placemaking
Policy 2: Design Statements
Policy 5: Infrastructure Contributions
Policy 6: Settlement Boundaries
Policy 7: Employment and Mixed Used Areas
Policy 14: Open Space Retention and Provision
Policy 15: Public Access
Policy 17: Residential Areas
Policy 20: Affordable Housing
Policy 23: Delivery of Development Sites

Policy 24: Maintaining an Effective Housing Land Supply
 Policy 25: Housing Mix
 Policy 26: Scheduled Monuments and Archaeology
 Policy 32: Embedding Low & Zero Carbon Generating Technologies in New Development
 Policy 34: Sustainable Heating & Cooling
 Policy 40: Forestry, Woodland and Trees
 Policy 41: Biodiversity
 Policy 42: Green Infrastructure
 Policy 52: New Development and Flooding
 Policy 53: Water Environment and Drainage
 Policy 55: Nuisance from Artificial Light and Light Pollution
 Policy 56: Noise Pollution
 Policy 57: Air Quality
 Policy 58: Contaminated and Unstable Land
 Policy 59: Digital Infrastructure
 Policy 60A: Transport Standards and Accessibility Requirements

LDP2 Allocation - E340 Broxden 4.5ha employment uses

Site-Specific Developer Requirements

- The servicing of this employment land must be fully serviced before the occupation of 50% of the residential dwellings associated with phase 4 of the in-principle planning permission.
- Provision of landscape framework: retain and reinforce planting on southern boundary, creation of a linear landscaped park along the westernmost watercourse incorporating a viewing point and neighbourhood park and landscaping on the north boundary to create a 'green corridor' along the Glasgow Road.
- Green Travel Plan.
- Access from new signal controlled junction on the A93 Glasgow Road.
- A robust landscape framework maximising the potential to enhance biodiversity, protection of habitats, and retention and enhancement of woodland screening.
- Updated Flood Risk Assessment

OTHER POLICIES

- 21 The following supplementary guidance and documents are of particular importance in the assessment of this application;
- Developer Contributions Supplementary Guidance including Affordable Housing July 2020
 - Flood Risk and Flood Risk Assessments – Developer Guidance June 2014

RELEVANT SITE HISTORY

- 22 The following planning history is relevant:

[11/00010/PAN](#): A Proposal of Application Notice (PAN) related to a 'Mixed use development comprising of residential and employment uses, landscaping and

associated infrastructure' saw the approach to be taken in relation to pre-application consultation with the local community set out in a decision letter issued by PKC on 12 October 2011.

[12/01692/IPM](#): Planning Permission in Principle (PPP) was approved on 29 August 2013 for a 'Mixed use development incorporating housing, employment land (Class 4) new vehicular access and pedestrian access, open space, landscaping and associated infrastructure'.

[15/00809/AMM](#): A Matters Specified in Conditions (MSC) application, associated to 12/01692/IPM was approved on 13 May 2016 allowing the 'Erection of 164 dwellinghouses and associated works

[17/00204/AMM](#): A second MSC application associated to 12/01692/IPM was approved on 4 January 2018 for the 'Erection of 70 dwellinghouses'.

[18/00480/FLL](#): An application was made and then subsequently withdrawn on 3 September 2018, it had proposed the erection of 48 dwellinghouses.

[18/00988/FLM](#): An application under Section 42 of the Town and Country Planning (Scotland) Act 1997 to modify Condition 24 (acoustic insulation of windows) of planning permission 15/00809/AMM was approved on 30 August 2018.

[19/02129/FLL](#): Planning permission was approved on 25 May 2020 for land engineering (land raise) operations (in part retrospect) of the application site.

[20/01046/FLL](#): Planning permission was granted on 3 November 2020 for the 'Installation of a culvert and associated works for a minor watercourse next to the application site.

CONSULTATIONS

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

External

- 24 **Scottish Environment Protection Agency:** No objection, following submission of additional information related to flood risk and drainage.
- 25 **Scottish Water:** No objection. Advise that there is currently both water and waste water capacity available.
- 26 **Transport Scotland:** No objection. Confirm no additional strategic transport contribution will be required following contributions of £260,000 secured at PPP stage.
- 27 **Perth And Kinross Heritage Trust:** No objection as no archaeology records in area.

Internal

- 28 **Planning and Housing Strategy:** Supportive of the departure from LDP2 from employment land to residential, based on material considerations.

- 29 **Development Negotiations Officer:** Advise that no contributions are required in relation to primary school education as Craigie Primary School is currently below capacity. However as no affordable housing is to be delivered within the development off-site contributions of £343,000 are required. In addition, Transport Infrastructure contributions of £179,193 are required as the site is located within the Perth Core Area.
- 30 **Transport Planning:** No objection.
- 31 **Structures and Flooding:** No objection, following submission of additional information related to flood risk and drainage.
- 32 **Environmental Health:** No objection. No conditions required in relation to noise or air quality.
- 33 **Land Quality (Contaminated Land):** No objection.
- 34 **Enterprise:** Supportive of the proposal.
- 35 **Community Waste:** No objection as enough room for bin lorries and space within plots and on kerb to accommodate bins.
- 36 **Community Greenspace:** No objection as there is no public open space proposed.
- 37 **Biodiversity/Tree Officer:** No objection and recommends the provision of a planting plan should be added as a condition

REPRESENTATIONS

- 38 No representations were submitted within the relevant timescale. However, a late representation expresses concern over flooding further downstream from the site and the watercourses that connect with the Scourie Burn. Surface water drainage and flood risk issues are discussed below.

ADDITIONAL STATEMENTS

39	Screening Opinion	Yes
	Environmental Impact Assessment (EIA): Environmental Report	Not required
	Appropriate Assessment	Not Required
	Design Statement or Design and Access Statement	Submitted
	Report on Impact or Potential Impact eg Flood Risk Assessment	<ul style="list-style-type: none"> • Flood Risk Assessment; • Drainage Assessment; • Noise Assessment; • Transport Statement submitted

APPRAISAL

- 40 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) require the determination of the proposal to be made in accordance

with the provisions of the Development Plan, unless material considerations indicate otherwise. The adopted Development Plan comprises the TAYplan Strategic Development Plan 2016–2036 (TAYplan) and the Perth and Kinross Local Development Plan 2019 (LDP2). The relevant policy considerations are outlined in the policy section above and are considered in more detail below. In terms of other material considerations, this involves considerations of the Council's other approved policies, supplementary guidance, employment land audits and other sites in Perth Core Area.

Principle

- 41 TAYplan Policy 1 - Locational Priorities, sets out that the majority of new development should be accommodated within the Plan's principal settlements and the Core Areas that are identified in the Plan. The Councils Strategy and Policy (S&P) team advise that the application site is in the Perth Core Area and within the Perth settlement boundary.
- 43 TAYplan Policy 3 - A First Choice for Investment, refers to the need to identify and safeguard at least five years supply of employment land to support the growth of the economy and a diverse range of industrial requirements in local development plans. S&P advise that the application site forms 1.9ha of a 2.89ha site allocated within LDP2 – as site E340 for employment use.
- 44 S&P further advise that the principle of development of the site is not therefore at question. However, the policy issue is whether housing would be acceptable instead of the allocated employment use. This therefore requires the consideration of other material considerations beyond the Development Plan as the current proposal represents a departure from LDP2.

PKC Employment Land Audit (ELA) 2020

- 45 The ELA highlights that there are over 213ha of employment use sites identified within the Perth Core Area, with over 36ha immediately available and 174ha with just minor constraints and capable of coming forward during the current Plan period, the remainder being 2.4ha which sees significant constraints. Although the applications site is identified as only having minor constraints, further exploration of this sees the view taken that the constraints are significant, so as to move it towards being ineffective for employment development purposes. These issues are discussed below.
- 46 The application site extends to 1.9ha and represents 0.89% of the identified employment land within the 2020 Employment Land Audit. In this sense its loss to housing use is not considered to be significant. The availability of over 200ha of better employment sites mitigates for the loss of 1.9ha at this location. In addition, it is located immediately adjacent to 234 approved and largely recently constructed dwellings and would share an access.

Perth Area Strategy

- 47 The Perth Area Strategy within LDP2 concentrates on the delivery of key strategic sites in the Perth Core area. An area at the west/north-west of Perth (referred to as 'Perth West') the primary source of employment and housing land during and

beyond the LDP2 period. Such strategic sites are highlighted in LDP2 because the concentration of development at those locations would create economies of scale around major infrastructure projects and would maximise the potential for active travel and public transport links. S&P consider that the strategic sites are overall better locations for significant employment land development when compared than the application site itself. These constraints are discussed in detail below, but include: topography, access difficulties, viability, etc.

- 48 The application provides supporting information that points to the relative difficulties of developing the site for employment uses and contrasts this to the merits of developing strategic sites in the Perth Core Area, which are likely to be more effective and are identified in the LDP2. These matters are discussed more detail below.

Demand for Employment Use

- 49 The site has been marketed for a number of years with little interest expressed by the development industry, perhaps reflective of the issues which limit its effectiveness as an employment site. Although there has been interest in a small part of it to be used as a hydrogen fuelling facility, related to and immediately adjacent to the Broxden service station. The applicant has confirmed this interest has not progressed and will form part of the nearby strategic site known as Perth West. It is considered that this provides demonstrable marketable evidence that there is a lack of demand for the site to be developed for employment purposes, justifying departing from the land use allocation in LDP2 and the related policy framework

Site Constraints

- 50 Access to the site, other than through the 'Charlotte Gate' housing area, is challenging due to the topography and surrounding uses. Together these represent significant constraints to the site coming forward for employment uses. As an example, vehicular access from Glasgow Road would require significant engineering works to navigate the slope and not impact on the Perth flood defence scheme detention ponds. The Council's Structures and Flooding team have consistently recommended that a minimum buffer of 10m is provided. This access option is extremely challenging to viably achieve and not considered deliverable.
- 51 Access from the southern end of the site is also problematic due the steeply sloping topography and narrowness of route between the park and ride site and M90 motorway.
- 52 These collective access difficulties are considered to be a significant factor affecting the viability of the site for its allocated purpose and have resulted in it not being an attractive or realistically deliverable site for employment uses. Indeed, the only access that would appear to be deliverable is via connecting to the existing access through the immediately adjacent housing area – as is proposed. However, this is not considered to be an appropriate option for employment uses at the site, from both a placemaking and transport perspective, as it would see employment use related traffic passing through a housing development.

Conclusion

- 53 The proposed use is contrary to the land use allocation within the Development Plan and, as such if approved, the decision would represent a departure. However, for the reasons set out above there are other material considerations to be fully considered. On the basis of these considerations, it is considered that the lack of market interest resulting from the constraints associated to the site and likely ineffectiveness of it for employment use, all justify a departure from that allocation and consideration of the merits of an alternative use. This departure is not considered to be significant as the loss of employment land represents a marginal (-1%) loss of available land within the Perth Core Area. The principle of considering the development of the site for housing is therefore accepted.
- 54 TAYplan policy 2 - Shaping Better Quality Places, refers to the Planning Authority's role in balancing competing interests to make optimum use of the land. In this regard it is considered that development of the site for employment purposes is now not the optimum use of the land. Whilst the principle of residential development is contrary to LDP2, the loss of 1.9ha of employment land is considered as able to be absorbed by other allocated strategic sites identified in LDP2. As such the principle of 49 dwellings immediately next to a development of 234 dwellings is now considered to be acceptable.

Design, Scale and Layout

- 55 The proposed layout broadly follows on from the first four phases and takes account of the site's importance as a gateway into Perth. The design parameters have been guided by existing planting, watercourses and natural features. Whilst the layout takes satisfactory cognisance of Designing Streets and the National Roads Development Guide.
- 56 The proposal consists of two-storey detached, and semi-detached dwellings providing a mixture of house types for the current market. The street layout is considered to be acceptable and reflects Designing Streets (2010) policy objectives.
- 57 The proposed layout and travel linkages ensure the site's connectivity with all modes of transport, especially pedestrians and cyclists. Particularly a footpath connection to Glasgow Road and the Broxden Park and Ride is proposed, linking with public transport connections to Glasgow, Edinburgh and Aberdeen (Condition 8).
- 58 The massing and scale of the dwellings can be accommodated within the plots, without having an adverse impact on residential (i.e. overlooking or overshadowing) or other amenity and works within the parameters of the established landscape framework. The proposed density of 24.5 per ha is acceptable and most dwellings will benefit from garden sizes in excess of the Councils Placemaking Supplementary Guidance 2020.
- 59 In terms of house design and finish, the elevations and external finishes are consistent with Phases 1 to 4 of Charlotte Gate, as such the material composition is considered acceptable.

- 60 Overall the proposal is considered appropriate in terms of design, scale and form and satisfies the policy objectives of Designing Places, Designing Streets and Council Placemaking Policy. It is considered that the proposed density of development represents an efficient use of the site whilst still respecting the surrounding environment. Overall, the design, density and layout is acceptable and complies with LDP2 Policy 1 – Placemaking.

Landscape

- 61 No public open space (POS) or children's play area is proposed. However, a good quality play area is already in place 300m from the proposed development, near the south-eastern boundary and site entrance to Charlotte Gate. This provision is considered to adequately meet the requirements for the combined developments. However, planting will be required on the northern boundary embankment to help screen the site. (Condition 4).

Residential Amenity

Noise

- 62 A Noise Impact Assessment (NIA) was submitted to support the application, which has been reviewed by Environmental Health. The NIA assessed the predicted noise levels, from road traffic on the M90 and adjacent roads and includes all 'committed' developments. The road traffic flows used were based on pre Covid-19 conditions.
- 63 The predicted road traffic noise at the proposed residential properties were assessed in line with the relevant British Standards (BS8233:2014) for internal daytime (0700 to 2300) and night time (2300 to 0700) criteria noise levels. Further, assessment against WHO guidelines and TAN/PAN 1/2011 for nighttime noise outside from road traffic and outdoor living area daytime noise was also undertaken. .
- 64 The NIA concluded that further mitigation is required to ensure that outdoor living areas and internal rooms during both daytime and nighttime periods, at the most exposed elevations, comply with the established criteria. The report therefore recommends that a 1.8 metre high acoustic barrier be installed along the southern boundary of the gardens for plots 418 to 431 and on the northern boundary for plots 401 to 411. In addition the installation of acoustic glazing (to achieve 33dB Rw) and trickle vents (to achieve 35dB Dn,e) are recommended for all ground floor and first floor habitable room windows on the most exposed elevations.
- 65 Environmental Health are in agreement with the NIA and that the proposed mitigation will ensure that the residential amenity of future residents is not adversely affected by traffic noise. With these mitigations in place the proposed development will be compatible with LDP2 Policy 56 – Noise Pollution (Conditions 11 to 13).

Air Quality

- 66 An Air Quality Assessment (AQA) was originally requested by Environmental Health (EH), due to the proximity to an approved hydrogen fuelling development

immediately west of the proposed site. However, following confirmation that this development will not be taking place, but rather forming part of the Perth West (20/00667/IPM) proposal, EH have confirmed that an AQA is no longer required.

- 67 Environmental Health also confirm that an AQA is not required to consider traffic, following further traffic information being submitted which indicated that the predicted traffic flow from the development would not exceed air quality guidance criteria. The proposed development is therefore considered to comply with LDP2 Policy 57 – Air Quality.

Visual Amenity

- 68 The visual impacts of the development will be quite limited, appearing as a continuation of the more expansive first four phases of residential development. As per the previous phases, additional planting on the northern edge of the site will be required to integrate the development visually, when viewed from Glasgow Road and beyond (Condition 4).

Roads and Access

- 69 The proposal sees the continuation of the road from Charlotte Gate - Phase 4 and will loop back on itself. Access and egress will therefore be through Phases 1-4 and the existing junctions on Glasgow Road and Necessity Brae.
- 70 A Transport Statement (TS) submitted has been reviewed by both Transport Scotland and the Council's Transport Planning team and neither have raised any issues.
- 71 In terms of access to sustainable forms of transport, plans have also been submitted for an off-site path connection between Phase 3 of Charlotte Gate and the Broxden Park and Ride. This path will run to the south of the application site and the proposed layout shows that the 49 units will benefit from a connection to this path, so as to ensure a sustainable travel connection with the Park and Ride. Whilst the path is outwith the application site boundary, it is within the ownership of one of the applicants and the agent has confirmed it is deliverable. Condition 8 will ensure this path will be delivered.
- 72 Overall, the proposal does not raise any unacceptable transport issues and complies with LDP2 Policy 60 - Transport Standards and Accessibility Requirements and Policy 15 – Public Access.

Drainage and Flooding

- 73 A Flood Risk Assessment (FRA) has been submitted and assessed by both SEPA and the Council's Structures and Flooding Team. Following the submission of an updated FRA and other information, both are content that there is no flood risk in the vicinity of the site, or further downstream.
- 74 SEPA requested additional information to address information related to water-crossings and any additional information on the watercourse that will be crossed to access this development, including whether it would remain open or be culverted. It was confirmed that a 450mm culvert will be developed, being the

same size as the culvert entering the site. It is recommended that the road deck is set so that if water were to overtop the road it would flow across it and into the open channel downstream of the road before flooding any properties. (Condition 19)

- 75 SEPA confirm that the finished floor levels of the dwellings are above the culverted watercourse on the lower part of the site, but on the upper part of the site, closer to the M90, the ground levels on top of the culvert will be higher than the adjacent properties. A filter drain and overflow channel has thus been included within the proposals which would contribute towards mitigating the residual flood risk should the culvert block or capacity be exceeded. Maintenance of the culvert and overflow channel is important to ensure the culvert and overflow channel operates as designed. (Condition 17)
- 76 SEPA also advise that it is important that the nearby ponds, which form part of the Perth Flood Scheme, operate as designed. Structures and Flooding are satisfied that the ponds will continue to operate as designed, especially as significant works under the Flood Act have recently been carried out around the ponds and sediment removed, thereby increasing their capacity. Structures and Flooding are also satisfied with the culvert design and will help prevent any future flood risk further downstream such as that experienced during the thunderstorm event in August 2020.
- 77 In terms of water supply and waste water connection, Scottish Water have confirmed there are currently no capacity issues.
- 78 Conditions 7, 15, 17, 18 and 19 will ensure there will be no drainage or flood risk at the site or further downstream. With these conditions, the proposal complies with LDP2 Policies Policy 52 - New Development and Flooding and 53 - Water Environment and Drainage Conditions

Contaminated Land

- 79 The Council's Land Quality Officer has advised that searches of historical mapping have not identified any contamination that may cause a constraint to the proposed development and ensure compliance with LDP2 Policy 58 – Contaminated and Unstable Land.

Waste Collection

- 80 No issues have been expressed by the Council's Waste Services team other than advise that the developer should ensure that the width of road, particularly around corners is adequate for the refuse collection vehicle to manoeuvre safely.

Conservation Considerations

- 81 Perth and Kinross Heritage Trust (PKHT) have confirmed there are no areas of archaeological interest within the proposed site. The proposal therefore complies with LDP2 Policy 26: Scheduled Monuments and Archaeology.

Natural Heritage and Biodiversity

- 82 The Council's Biodiversity Officer has confirmed there is limited biodiversity value in the area of land that has been raised by the developer. They have requested that the land along the northern boundary will be required to be planted to help soften the visual impact when travelling along Glasgow Road (Condition 4). To enhance the biodiversity value, tree and hedge species native to Scotland are encouraged to ensure compliance with LDP2 Policy 41 – Biodiversity.
- 83 In terms of protected species, the Council will seek to protect and enhance all wildlife and habitats, whether formally designated or not, and consider natural processes in the area. Planning permission will not be granted for development likely to have an adverse effect on protected species unless clear evidence can be provided that the ecological impacts can be satisfactorily mitigated.
- 84 LDP 2 Policy 41 – Biodiversity also promotes measures to enhance developments for biodiversity. This could be realised by the inclusion of bat roosting bricks, boxes or tubes and bird nesting bricks or boxes integrated into the homes. Tree and house sparrows are red listed as birds of conservation concern and providing nest bricks or boxes for these species would enhance the biodiversity value of the site (Conditions 10).
- 85 Swifts are a Tayside Local Biodiversity Action Plan and Scottish Government priority species, protected under the Environmental Liability Directive and as an amber rated species, are noted on the Scottish Biodiversity List as in decline with Conservation Action required. This development could positively contribute towards swift conservation by incorporating swift bricks into the new dwelling houses (Condition 10).

Developer Contributions

- 86 The Council's Developer Contributions Officer has confirmed that no financial contributions are required towards primary education as the school within this catchment (Craigie Primary School) is not at capacity.
- 87 The site is located within the Transport Infrastructure contributions zone, a financial contribution towards the cost of delivering the transport infrastructure improvements is required for the release of all development sites in and around Perth. This contribution equates to £179,193 (49 x £3,657).
- 88 On-site affordable housing is not proposed, on the basis that a high number of units have already been constructed and occupied within Phase 2. Instead, an off-site financial contribution will be required to ensure the proposal does not conflict with LDP2 Policy 5 – Developer Contributions. The proposal is for 49 units and this sets a requirement for 12.25 affordable units (49 x 0.25) and equates to a contribution of £343,000 (12.25 x £28,000).
- 89 Previously, a Section 75 legal agreement was required to deal with the required developer contributions, but the agent has advised the landowner wishes to pay the required contribution up front. This will also ensure an earlier release of the decision notice. The decision notice shall not be issued until payment of £522,193 is made.

- 90 This does not prejudice other potential site-specific mitigation which may be sought by other consultees.

Economic Impact

- 91 There will effectively be a continuation of construction related employment from Charlotte Gate -Phase 4, into this development and once occupied the residents will add to the available expenditure in the area.

LEGAL AGREEMENTS

- 92 The applicant has confirmed the required developer contributions of £522,193 towards affordable housing provision and transport infrastructure will be paid up front rather than require a legal agreement as per previous phases. Planning permission cannot be released until these contributions have been received.

DIRECTION BY SCOTTISH MINISTERS

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

CONCLUSION AND REASONS FOR RECOMMENDATION

- 94 To conclude, the application must be determined in accordance with the adopted Development Plan, unless material considerations indicate otherwise. In this respect, account has been taken of LDP2 and several other material considerations, such as the ineffectiveness of the site and the marginal loss of allocated employment land. In this case, it is considered that there are sufficient material considerations present that justify setting Development Plan policy, in particular the Site E340 allocation in LDP and related Policy 7.
- 95 This departure is not considered to be significant as the area of the employment land lost, when considered against the overall allocation within LDP2, is marginal within the context of the available employment land within the Perth Core Area. Having established the loss of employment land is justified, regard has been given to the alternative residential development propose here. Given the residential development on the immediate neighbouring land use of the east and south, the proposed residential use would be complementary in land use and placemaking terms. The principle of developing the site for housing is now considered to be acceptable. The new land use is now regarded as being the most deliverable and optimum use of the land at this location.
- 96 Accordingly, the proposal is recommended for approval subject to receipt of the required developer contributions, which the applicant has indicated will be paid prior to issue of any planning permission, and the following conditions.

RECOMMENDATION

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 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 and to the satisfaction of the Planning Authority.

Reason: In the interest of vehicle and pedestrian safety and in accordance with the policies of the adopted Perth and Kinross Local Development Plan 2 2019.

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

Reason: In the interest of pedestrian safety.

4. Prior to the commencement of development, authorised by this permission, a landscape strategy and plan addressing the following shall be submitted for the further approval of this Planning Authority;
 - a detailed planting scheme of the northern embankment (off-site), and
 - a detailed plan including planting associated to the path connection with Phase 3 and the Broxden Park and Ride (off-site)

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, as well as paths and hard landscaping elements, and the scheme as subsequently approved shall be implemented fully within one calendar year of the commencement of development and thereafter maintained to the satisfaction of the Council as Planning Authority.

Any planting failing to become established within five years shall be replaced in the following planting season with others of similar sizes and species and 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 2 2019.

5. Prior to commencement of development, an updated and detailed Construction Environmental Management Plan (CEMP) detailing environmental mitigation measures and construction method statements, including specific measures for environmental monitoring during construction, shall be submitted to and approved in writing by the 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 approved CEMP shall thereafter be fully respected and adhered to through the construction phase of the development.

Reason: To ensure the construction phase is carefully managed to minimise landscape impacts and mitigate for any associated impacts on ecology, neighbours, general public and the wider environment.

6. For the duration of all construction activities, where site boundaries affect trees, the development shall fully comply with, respect and remain in full accordance with BS5837 2012: 'Trees in relation to construction, demolition and construction. Recommendations'.

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

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 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.

8. The occupation of the first dwelling hereby approved shall not occur until the proposed off-site footpath connection linking this site to both Phase 3 of the 'Charlotte Gate' residential development and the Broxden Park and Ride site, as shown in drawing number 20/00505/33 and 20/00505/35, has been delivered to the satisfaction of the Planning Authority.

Reason: In the interest of sustainable transport.

9. The occupation of the first dwelling hereby approved shall not occur until the proposed off-site land embankment along the northern boundary, as shown in drawing number 20/00505/33 and 20/00505/34, is completed to satisfaction of the Planning Authority.

Reason: In the interest of structural integrity and visual amenity.

10. Within the development hereby approved, 25% of two storey-dwellings shall contain a bird nesting brick or box. Prior to the commencement of development hereby approved, details a scheme that details the location and specification of the bird nesting bricks or boxes; bat bricks, boxes or tubes shall be submitted for the further written agreement of the Council as Planning Authority. Thereafter, the bird nesting bricks or boxes shall be installed in accordance with the agreed details prior to the occupation of the relevant residential unit.

Reason: In the interest of enhancement of biodiversity.

11. Prior to the occupation of Plots 418 to 431 (inclusive), a 1.8-metre-high acoustic barrier shall be installed along the southern boundary of the gardens adjacent to these plots to accord with the fencing scheme and specifications set out in Figure 6 of the approved Noise Impact Assessment (document reference 'AS0788 Broxden Noise rev04' dated 21 October 2020) and drawing number 20/00505/32.

Reason: In the interests of residential and environmental amenity.

12. Prior to the occupation of Plots 401 to 411 (inclusive), a 1.8-metre-high acoustic barrier shall be installed along the northern boundary of the gardens adjacent to these plots to accord with the fencing scheme and specifications set out in Figure 6 of the approved Noise Impact Assessment (document reference 'AS0788 Broxden Noise rev04' dated 21 October 2020) and drawing number 20/00505/32.

Reason: In the interests of residential and environmental amenity.

13. Prior to the occupation of the relevant houses, acoustic glazing with a sound reduction index of 33dB R_w and a trickle vent reduction index of 35dB $D_{n,e}$ shall be installed in all ground floor and first floor habitable room windows on the most exposed elevation of dwellings within the plots as detailed in Figures 5.1 and 5.2 of the approved Noise Impact Assessment (document reference 'AS0788 Broxden Noise rev04' dated 21 October 2020) and drawing number 20/00505/32. The glazing and trickle vents as installed shall be retained.

Reason: In the interests of residential and environmental amenity.

14. Prior to commencement of the development, a detailed Construction Management Plan (CMP) detailing mitigation measures for dust and noise controls and specific measures for monitoring during construction, shall be submitted to and approved in writing by the Planning Authority. Thereafter the approved CMP shall be fully respected and adhered to through the construction phase of the development.

Reason: In the interests of residential and environmental amenity.

15. The discharge of any surface water drainage shall be limited to a greenfield betterment runoff rate of 50%. All discharge rates shall be agreed in writing with the Planning Authority, in consultation with the Flood Risk Team, prior to the commencement of works on site and thereafter implemented to the agreed rate.

Reason: To reduce flood risk.

16. No works shall take place within 10m of any flood apparatus constructed as part of the Perth Flood Prevention Scheme without the prior written approval of the Perth & Kinross Flooding Team.

Reason: Maintain the integrity of the Perth Flood Prevention Scheme defences.

17. Prior to the completion of the development, Watercourses 1, 2 and 3 (as referred to in the Flood Risk Assessment dated 2 August 2012 KC485) 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 proposed development; all to the satisfaction of the Council as Roads Authority.

Reason: In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality and in accordance with LDP2.

18. 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, as contained in the SUDS Manual (C697) and Site Handbook for the Construction of SUDS (C698) published by CIRIA, all to the satisfaction of the Council as Flood Authority.

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

19. 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 drainage policies of LDP2.

B JUSTIFICATION

There are material considerations that result in a recommendation to depart from the approved Development Plan.

C PROCEDURAL NOTES

Decision should not be issued until after the developer contributions are paid.

D INFORMATIVES

1. The development hereby permitted shall be commenced no later than the expiration of two years from the date of this consent or from the date of subsequent approval of matters specified in conditions, or three years from the date of planning permission in principle, whichever is the later.
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 to enable any remaining negative suspensive conditions associated with the 20/00505/FLL planning approval to be fulfilled development may have to be undertaken outwith the application site. These works themselves may require the submission of a planning application.
5. 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.
6. 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 Scottish Water and the Scottish Environment Protection Agency.
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, Pullar House, 35 Kinnoull Street, Perth PH1 5GD.
8. The applicant is advised that the granting of planning consent does not guarantee a connection to Scottish Water's assets. The applicant must make a separate application to Scottish Water Planning & Development Services team for permission to connect to the public wastewater system and/or water network and all their requirements must be fully adhered to.
9. The applicant is advised that the works are likely to need a license under the Water (Controlled Activities) Regulations 2005 (CAR). The applicant should contact SEPA's Perth Environmental Protection and Improvement Team (Tel: 01738 627989) in regard to this. The applicant should ensure that all works on site comply with the best practice guidelines laid out in SEPA's published Pollution Prevention Guidance, found at www.sepa.org.uk.
10. Please consult the Street Naming and Numbering Officer, The Environment Service, Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth PH1 5GD.
11. Hedgehogs are a key species in the Tayside LBAP and enhancing connectivity is an objective. There are records of hedgehogs in the area and the urban habitat and gardens will provide a suitable resource for hedgehogs. Commuting should be made possible by creating access gaps in wooden fences 13cm x 13cm at ground level.

12. Developer should note that refuse collection vehicles will only enter the site during development where there is clear access and suitable turning; this means that Waste Services may not be able to provide a full kerbside recycling service to residents whilst the build is ongoing and bins may have to be emptied from a specified collection point until full access is made available for refuse collection vehicles.
13. The developer should contact the Community Waste Team to discuss bin collections as the site progresses.
14. The road and pavement from the bin collection point to the refuse collection vehicle must be at maximum 10 metres and a hard-standing surface. It must have a level gradient and a smooth surface; use dropped kerbs where appropriate.
15. All domestic properties require an appropriate storage area for a minimum of 3 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.

Background Papers: 1 letter of representation
Contact Officer: Steve Callan 01738 475337
Date: 3 December 2020

DAVID LITTLEJOHN
HEAD OF PLANNING & DEVELOPMENT

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