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Council Building
2 High Street
Perth
PH1 5PH

4 February 2019

A Meeting of the **Planning and Development Management Committee** will be held in the **Council Chamber, 2 High Street, Perth, PH1 5PH** on **Wednesday, 13 February 2019** at **10:00**.

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

KAREN REID
Chief Executive

Those attending the meeting are requested to ensure that all electronic equipment is in silent mode.

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

Planning and Development Management Committee

Wednesday, 13 February 2019

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**
- 2 DECLARATIONS OF INTEREST**
- 3 DEPUTATIONS**
- 4 MINUTE OF THE MEETING OF THE PLANNING AND DEVELOPMENT MANAGEMENT COMMITTEE OF 16 JANUARY 2019 FOR APPROVAL AND SIGNATURE (copy herewith) 5 - 20**
- 5 APPLICATIONS FOR DETERMINATION**
- 5(1) MAJOR APPLICATION**
- 5(1)(i) 18/01800/IPM - PERTH - APPLICATION UNDER SECTION 42 OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 TO AMEND CONDITION 1 (TIMESCALES FOR SUBMISSION OF APPROVAL OF MATTERS SPECIFIED BY CONDITIONS APPLICATIONS) AND CONDITION 2 (PHASING OF DEVELOPMENT) OF PLANNING PERMISSION 15/01112/IPM (RESIDENTIAL DEVELOPMENT WITH COMMUNITY FACILITIES, EMPLOYMENT LAND, OPENSACE, LANDSCAPING AND ASSOCIATED INFRASTRUCTURE (IN PRINCIPLE)), LAND AT BERTHA PARK, PERTH 21 - 50**
Report by Handling by Interim Development Quality Manager
(copy herewith 19/40)
- 5(2) LOCAL APPLICATIONS**
- 5(2)(i) 18/01807/IPL - KINROSS - RESIDENTIAL DEVELOPMENT (IN PRINCIPLE), LAND 20 METRES SOUTH WEST OF 16 CURATE WYND, KINROSS 51 - 72**
Report of Handling by Interim Development Quality Manager

(copy herewith 19/41)

- 5(2)(ii) 18/01908/FLL - ARDLER - ERECTION OF A FREE RANGE EGG PRODUCTION UNIT AND ASSOCIATED WORKS, LAND 800 METRES SOUTH WEST OF EAST ARDLER FARM, MAIN STREET, ARDLER** **73 - 98**

Report of Handling by Interim Development Quality Manager
(copy herewith 19/42)

- 5(3) PROPOSAL OF APPLICATION NOTICE (PAN)**

- 5(3)(i) 18/00014/PAN - MILNATHORT - RESIDENTIAL DEVELOPMENT, LAND AT PITDOWNIES FARM, MASE ROAD, MILNATHORT** **99 - 114**

Report of Handling by Interim Development Quality Manager
(copy herewith 19/43)

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PLANNING AND DEVELOPMENT MANAGEMENT COMMITTEE

Minute of meeting of the Planning and Development Management Committee held in the Council Chamber, Ground Floor, Council Building, 2 High Street, Perth on Wednesday 16 January 2019 at 10.00am.

Present: Councillors R McCall, B Brawn, H Anderson, B Band, H Coates, E Drysdale, T Gray, D Illingworth (substituting for Councillor I James), C Ahern (substituting for Councillor A Jarvis), X McDade (substituting for Councillor M Barnacle), L Simpson, R Watters and W Wilson.

In Attendance: A Condliffe, D Niven, A Belford, D Littlejohn, D Salman and L Reid (all Housing and Environment); C Elliott, D Williams and M Willis (all Corporate and Democratic Services).

Apologies: Councillors M Barnacle, I James and A Jarvis

Councillor R McCall, Convener, Presiding.

. WELCOME AND APOLOGIES

The Convener welcomed everyone present to the meeting.

. DECLARATIONS OF INTEREST

There were no Declarations of Interest in terms of the Councillors' Code of Conduct.

. MINUTES

- (i) The minute of meeting of the Planning and Development Management Committee of 24 October 2018 (Arts. 601-605) was submitted, approved as a correct record and authorised for signature, subject to the following amendments:

Art. 605 – Line presently reading “(vi) for both applications it was accepted that a Species Protection Plan for bats had previously been requested by officers”, be replaced by “(vi) for both applications it was accepted that a Species Protection Plan for bats had not previously been requested by officers”.

Art. 605(1)(iii) – In the first line, “Team Leader” be replaced with “Interim Development Quality Manager”.

Art. 605(2)(i) – In the first line of the Motion “Councillor” be replaced by “Councillors”.

In the first line of the Amendment “Councillor” be replaced by “Councillors”.

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Art. 605(2)(iii) – In the first line of the Motion “Councillor” be replaced by “Councillors”.

In the first line of the Amendment “Councillor” be replaced by “Councillors”.

- (ii) The minute of meeting of the Planning and Development Management Committee of 21 November 2018 (Arts. 699-673) was submitted, approved as a correct record and authorised for signature, subject to the following amendments:

“Councillor B Brawn, Vice-Convener, Presiding”, be replaced by “Councillor R McCall, Convener, Presiding”.

Art. 671 – ‘26 September 2018’, be replaced by ‘24 October 2018’.

- (iii) The minute of meeting of the Planning and Development Management Committee of 18 December 2018 (Arts. 703-707) was submitted, approved as a correct record and authorised for signature subject to the following amendment:

Under Minutes (i) – “25 October 2018”, be replaced by “24 October 2018”.

DEPUTATIONS

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

Planning Application No.	Art. No.
18/01591/AMM	*(1)(i)
18/01592/AMM	*(1)(ii)

UPDATE

A Condliffe, Interim Development Quality Manager, delivered a verbal update to members on Planning Application 18/00094/IPM, Residential development (in principle) for up to 70 dwellings, former Murray Royal Hospital, Muirhall Road, Perth, and Planning Application 18/00408/FLM, Change of use, alterations and selective demolition to former hospital building to form 58 flats and associated works, former Murray Royal Hospital, Muirhall Road, Perth, both of which were deferred by the Planning and Development Management Committee at its meeting of 24 October 2018, to allow for further information and a site visit. A Condliffe informed members that the Council as planning authority were advised on 21 December 2018 that the Applicant had appealed both applications to the Planning and Environment Appeals Division (DPEA) on the grounds of non-determination, and that the applications would now be determined by the DPEA. C Elliott, Legal Adviser, advised members that the Council’s response to the appeals was submitted on 14 January 2019, and that the Committee’s reasons for deferring the applications were included.

APPLICATIONS FOR DETERMINATION

(1) Major Applications

- (i) 18/01591/AMM – AUCHTERARDER – Erection of 116 dwellinghouses, formation of vehicular accesses, open spaces and associated works (approval of matters specified in conditions 16/01809/IPM) (Phase 2), land east of Stewart Milne Homes, Hunter Street, Auchterarder – Report 19/7 – Stewart Milne Homes Central Scotland Ltd**

A Condliffe, Interim Development Quality Manager, delivered an update on proposed conditions, which were circulated to members prior to the meeting.

Mrs Hill, on behalf of an objector to the application, followed by Ms Donald and Mr Henderson, on behalf of the applicant's agent and applicant respectively, addressed the Committee, and following their representations, withdrew to the public gallery.

Resolved:

Grant, subject to the following terms, conditions and informatives, including amendments to conditions as above and additional condition 14:

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 decision notice.
Reason: To ensure the development is carried out in accordance with the approved drawings and documents.
2. For clarification and in association with construction phasing plan 18/01591/149, the link road between Hunter Street and the A824 referred to as 'the spine road' shall be constructed to an adoptable standard and open to public traffic prior to Friday 1 November 2019.
Reason: In the interests of pedestrian and traffic safety and in the interests of free traffic flow.
3. Prior to occupation of units 60 - 71 of the development, provision of a pedestrian footway along the A824 shall be provided, to a design and specification agreed in writing by the Council as Planning Authority.
Reason: In the interests of pedestrian and traffic safety and in the interests of free traffic flow.
4. No removal of vegetation, including trees and shrubs will be permitted between 1 March and 31 August inclusive, unless a competent ecologist has undertaken a careful and detailed check of vegetation for active birds' nests immediately before the vegetation is to be cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to

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protect nesting birds on site. Any such written confirmation must be submitted to the Planning Authority for approval prior to commencement of works.

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).

5. Prior to the commencement of development hereby approved, details of the location and specification of swift brick(s) or swift nest box(s) shall be submitted for the further written agreement of the Council as Planning Authority. Thereafter, the swift brick(s) or swift nest box(s) shall be installed in accordance with the agreed details prior to the occupation of the relevant residential unit.

Reason: In the interests of enhancing biodiversity.

6. All road gullies within 500m of a SUDS pond shall have a wildlife kerb installed adjacent to it to allow amphibians to pass safely. Details of the specification of the affected kerbing shall be submitted for the further written agreement of the Council as Planning Authority prior to its installation. Thereafter, the wildlife kerbing shall be installed in accordance with the agreed details, prior to the completion of the development.

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).

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

Reason: In order to prevent animals from being trapped within any open excavations.

8. Construction work shall be limited to Monday to Friday 07:00 to 19:00 and Saturday 08:00 to 13:00 with no noisy works out with these times or at any time on Sundays or Bank Holidays.

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

9. 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

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daily, within any neighbouring residential property, with all windows slightly open, when measured and/ or calculated and plotted on a rating curve chart.

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

10. The detailed landscaping and planting proposal specifications as approved shall be undertaken and delivered commensurate with the residential development elements, in accordance with the approved phasing delivery plan and thereafter maintained. 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 satisfying placemaking policy criteria of the adopted LDP.

11. 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 (SAMP), 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. Thereafter the development shall be fully undertaken in accordance with the CEMP.

Reason: In the interest of protecting environmental quality and existing residential amenity.

12. 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.

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

13. Prior to the commencement of the development hereby approved, details of the specification and colour of the proposed external finishing materials to be used on each plot shall be submitted to and agreed in writing by the Council as Planning Authority. The scheme as agreed

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shall be implemented prior to the completion or bringing into use of each individual plot, whichever is the earlier.
Reason - In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.

14. In addition to the requirements of condition 10, prior to the commencement of development, details of the revised boundary treatment between Plots 39 & 40 and 37 The Feus shall be submitted to and agreed in writing by the Council as Planning Authority. Thereafter the scheme as approved shall be implemented to the satisfaction of the Council as Planning Authority prior to the occupation of either Plot 39 or Plot 40.
Reason: In the interests of the residential amenity of the existing property at 37 The Feus, Auchterarder.

Justification

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

Informatives

1. The development hereby permitted shall be commenced no later than the expiration of two years from the date of this permission 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. This development will require the 'Display of notice while development is carried out', under Section 27C (1) of the Town and Country Planning Act 1997, as amended, and Regulation 41 of the Development Management Procedure (Scotland) Regulations 2013. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. According to Regulation 41 the notice must be:

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- 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 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 Environment Protection Agency.
 6. The applicant is advised that the detailed design of all SUDS shall conform to 'PKC Flooding and Flood Risk Guidance Document (June 2014)', or any subsequent update.
 7. Please consult the Street Naming and Numbering Officer, The Environment Service, Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth PH1 5GD for a new postal address. The form is downloadable from www.pkc.gov.uk and should be returned to snn@pkc.gov.uk.
 8. The applicant is advised that the granting of planning permission does not guarantee a connection to Scottish Water's assets. The applicant must make a separate application to Scottish Water Planning & Development Services team for permission to connect to the public wastewater system and/or water network and all their requirements must be fully adhered to.
 9. No work shall be commenced until an application for building warrant has been submitted and approved.
 10. The applicant is reminded that, should any protected species be present a licence may be required from Scottish Natural Heritage to disturb a protected species. Failure to obtain a licence may constitute a criminal act under the Habitats Regulations and penalties are severe for non-compliance.
 11. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended, it is an offence to remove, damage or destroy the nest of any wild birds while that nest is in use or being built. Planning permission for a development does not provide a defence against prosecution under this act.
 12. The applicant is encouraged to provide for hedgehog shelter, hibernation in, and commuting through the development, through the design of gardens, decking and access to gardens and greenspace. Access gaps in wooden fences should be 13cm x 13cm. Advice and assistance is available directly from the Tayside Biodiversity Partnership. Further guidance is available on <https://www.hedgehogstreet.org/>

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13. The applicant 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.
14. 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
15. The applicant should note that road and pavement from the bin collection point to the refuse collection vehicle must be at a maximum of 10 metres on a hard standing surface. It must have a level gradient and a smooth surface; using dropped kerbs where appropriate.
16. The applicant is advised to contact the area [Community Waste Adviser](#) to incorporate a suitable location(s) for the provision of recycling facilities to complement the existing kerbside recycling services offered in the area.
17. The applicant is reminded that this site is still subject to a Section 75 Legal Agreement, securing Developer Contribution requirements and other matters, as secured as part of planning permission 16/0189/IPM. This permission continues to be tied by this legal agreement and the associated requirements will continue to apply. The terms of the obligation can be viewed via PKC [Public Access](#) or at the Registers of Scotland (www.ros.gov.uk).
18. The applicant is recommended to contact PKC Environmental Health Team to establish if the Tipperwhy Well serves directly or indirectly as a private water supply. If it is a current private water supply, the applicant should thereafter make contact with SEPA to discuss.

(ii) 18/01592/AMM – AUCHTERARDER – Erection of 12 dwellinghouses, landscaping and associated works (approval of matters specified by conditions 16/01809/IPM) (Phase 3A), land north east of Stewart Milne Homes, Hunter Street, Auchterarder – Report 19/8 – Stewart Milne Homes Central Scotland Ltd

A Condliffe, Interim Development Quality Manager, delivered an update on proposed conditions, which were circulated to members prior to the meeting.

Additionally, paragraph 79 (Page 107) should refer to Conditions 7 & 8 not Conditions 8 & 9 and paragraph 98 (Page 109) should refer to Conditions 3, 4 & 5 not Conditions 4, 5 & 6.

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Ms Donald and Mr Henderson, on behalf of the applicant's agent and applicant respectively, addressed the Committee, and, following their representation, withdrew to the public gallery.

Resolved:

Grant, subject to the following terms, conditions and informatives, including amendments to conditions as above:

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 decision notice.
Reason - To ensure the development is carried out in accordance with the approved drawings and documents.
2. For clarification and in association with construction phasing plan 18/01592/62, the link road between Hunter Street and the A824 referred to as 'the spine road' shall be constructed to an adoptable standard and open to public traffic prior to Friday 1 November 2019.
Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.
3. No removal of vegetation, including trees and shrubs will be permitted between 1 March and 31 August inclusive, unless a competent ecologist has undertaken a careful and detailed check of vegetation for active birds' nests immediately before the vegetation is to be cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting birds on site. Any such written confirmation must be submitted to the Planning Authority for approval prior to commencement of works.
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).
4. Prior to the commencement of development hereby approved, details of the location and specification of swift brick(s) or swift nest box(s) shall be submitted for the further written agreement of the Council as Planning Authority. Thereafter, the swift brick(s) or swift nest box(s) shall be installed in accordance with the agreed details prior to the occupation of the relevant residential unit.
Reason - In the interests of enhancing biodiversity.
5. All road gullies within 500m of the SUDS pond shall have a Wildlife Kerb installed adjacent to it to allow amphibians to pass safely.
Reason - In the interests of employing best practice ecology and to ensure there is no adverse impact on any

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protected species as identified under the Wildlife and Countryside Act (1981).

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

Reason - In order to prevent animals from being trapped within any open excavations.

7. Construction work shall be limited to Monday to Friday 07:00 to 19:00 and Saturday 08:00 to 13:00 with no noisy works out with these times or at any time on Sundays or Bank Holidays.

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

8. 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 the interests of public health and to prevent noise pollution.

9. The detailed landscaping and planting proposal specifications as approved shall be undertaken and delivered commensurate with the residential development elements and thereafter maintained. 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 satisfying placemaking policy criteria of the adopted LDP.

10. 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.

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

11. Prior to the commencement of development, further clarification on detailed matters of the proposed surface water drainage strategy shall be provided for further written approval by the Council as Planning Authority. The approved surface water drainage strategy shall thereafter be installed in accordance and association with the approved phasing plan. All works shall be carried out in accordance with the agreed scheme and be operational prior to the completion of this phase of the development.

Reason - To ensure the provision of effective drainage for the site.

12. Prior to the commencement of the development hereby approved, details of the specification and colour of the proposed external finishing materials to be used on each plot 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 each individual plot, whichever is the earlier.

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

Justification

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

Informatives

1. The development hereby permitted shall be commenced no later than the expiration of two years from the date of this permission 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

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- (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.
4. This development will require the 'Display of notice while development is carried out', under Section 27C (1) of the Town and Country Planning Act 1997, as amended, and Regulation 41 of the Development Management Procedure (Scotland) Regulations 2013. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. According to Regulation 41 the notice must be:
 - Displayed in a prominent place at or in the vicinity of the site of the development.
 - Readily visible to the public.
 - Printed on durable material.
 5. The applicant 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 Environment Protection Agency.
 6. The applicant is advised that the detailed design of all SUDS shall conform to 'PKC Flooding and Flood Risk Guidance Document (June 2014)', or any subsequent update.
 7. Please consult the Street Naming and Numbering Officer, The Environment Service, Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth PH1 5GD for a new postal address. The form is downloadable from www.pkc.gov.uk and should be returned to snn@pkc.gov.uk.
 8. The applicant is advised that the granting of planning permission does not guarantee a connection to Scottish Water's assets. The applicant must make a separate application to Scottish Water Planning & Development Services team for permission to connect to the public wastewater system and/or water network and all their requirements must be fully adhered to.
 9. No work shall be commenced until an application for building warrant has been submitted and approved.
 10. The applicant is reminded that, should any protected species be present, a licence may be required from Scottish Natural Heritage to disturb a protected species. Failure to obtain a licence may constitute a criminal act under the Habitats Regulations and penalties are severe for non-compliance
 11. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended, it is an offence to remove, damage or destroy the nest of any wild birds while that nest is in use or being built. Planning

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permission for a development does not provide a defence against prosecution under this act.

12. The applicant is encouraged to provide for hedgehog shelter, hibernation in, and commuting through the development, through the design of gardens, decking and access to gardens and greenspace. Access gaps in wooden fences should be 13cm x 13cm. Advice and assistance is available directly from the Tayside Biodiversity Partnership.
13. The applicant 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.
14. 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.
15. The applicant should note that road and pavement from the bin collection point to the refuse collection vehicle must be at a maximum of 10 metres on a hard standing surface. It must have a level gradient and a smooth surface; using dropped kerbs where appropriate.
16. The applicant is reminded that this site is still subject to a Section 75 Legal Agreement, securing Developer Contribution requirements and other matters, as secured as part of planning permission 16/0189/IPM. This permission continues to be tied by this legal agreement and the associated requirements will continue to apply. The terms of the obligation can be viewed via PKC [Public Access](#) or at the Registers of Scotland (www.ros.gov.uk).

(2) Proposal of Application Notice (PAN)

- (i) **18/00012/PAN – PERTH – Low carbon energy park including solar, heat pump, biomass and combined heat and power generation, power distribution and storage with associated vehicle access and service infrastructure, land at Cotton Wood, Lamberkine Wood, Coldwells Wood, Broxden Wood, Gallowspark Wood and East Lamberkin Farm, Perth – Report 19/9 – Dupplin Estate Renewable Energy Company**

A Condliffe, Interim Development Quality Manager, advised that with regards to Paragraph 4 of Report 19/9, the public exhibition due to be held on 15 January 2019 had been cancelled with no revised date. It would be likely that a revised PAN will have to be

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submitted in due course, however, any comments members had would still be noted.

Councillor Coates commented on the visual amenity of the surrounding area, requesting that consideration be given to this when an application comes forward.

Councillor Simpson requested that vibration issues be considered.

Councillor Anderson requested that consideration be given to construction access, and also an agreement be put in place for roads to be made good following the completion of works.

Councillor Wilson requested that consideration be given to Policies NE2A, NE2B, NE3, NE4, NE5, ER1A, EP3C, EP11 of the Perth and Kinross Local Development Plan 2014.

Members also noted the issues identified by the Interim Development Quality Manager.

(ii) 18/00013/PAN –KINROSS – Residential development (density and re-mix of Phase 2), land north west of Lathro Farm, Kinross – Report 19/10 – Persimmon Homes North Scotland

Councillor McCall informed members of a request to circulate information by the Kinross-shire Civic Trust. However, as that is part of an ongoing formal complaint which is an alternative process, this information would not be brought to Committee.

Anne Condliffe, Interim Development Quality Manager advised that with regards to Paragraph 4 of Report 19/10, the public exhibition was held on 10 December 2018 and not 10 November 2018.

Councillor McCall noted that a local councillor had asked that education and health matters be taken into account.

Councillor Watters asked that consideration be given to (i) the play area, which was temporarily moved, be returned to its permanent location; (ii) that planting due in phase 1 was moving ahead; and (iii) that full engagement with the Roads Authority take place regarding traffic modelling.

Councillor Wilson added that consideration be given to (i) engagement with Transport Scotland on motorway links, and (ii) social infrastructure.

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Councillor McDade asked that consideration be given to the increase in density in the re-mix.

Councillor Simpson added concern that responses from statutory consultees was not matching the speed of development.

Members also noted the issues identified by the Interim Development Quality Manager.

Perth and Kinross Council
Planning & Development Management Committee – 13 February 2019
Report of Handling by Interim Development Quality Manager (Report No. 19/40)

PROPOSAL: Application under Section 42 of the Town and Country Planning (Scotland) Act 1997 to amend condition 1 (timescales for submission of Approval of Matters Specified by Conditions applications) and condition 2 (phasing of development) of planning permission 15/01112/IPM (residential development with community facilities, employment land, open space, landscaping and associated infrastructure (in principle)).

LOCATION: Land at Bertha Park, Perth.

Ref. No: [18/01800/IPM](#)
 Ward No: P5 - Strathtay

Summary

This report recommends approval of the application as the proposal complies with the Development Plan and there are no contrary material considerations which would outweigh the Development Plan.

BACKGROUND AND DESCRIPTION OF PROPOSAL

- 1 The planning application site, known as Bertha Park, is allocated in the Perth and Kinross Local Development Plan (LDP) as site H7 for 3,000 dwelling houses and in excess of 25 ha employment land. The site extends to an area of 333ha of agricultural land and woodland. The site is located at Bertha Park farm, elevated above the River Almond and Inveralmond Industrial estate to the south and contained by Bertha Wood and Bertha Loch to the north. To the east, the site is contained by the A9, the Inverness railway line and the River Tay beyond. The Gelly Burn watercourse defines the southern and southwestern boundaries, with Almondbank village beyond the burn to the southwest.
- 2 Planning permission in principle was originally approved for the whole site on the 12 December 2016, following the satisfactory conclusion of a Section 75 agreement. The approved development consists of residential development with community facilities, employment land, open space, landscaping and associated infrastructure (ref 15/01112/IPM). Full Planning permission also exists, independently of the In Principle permission, for part of Phase 1 (ref 15/01109/FLM). Fundamentally, this detailed permission does not cover Phase 1.2, as identified in plans 18/01800/4, 5 and 6.
- 3 At present, under the In Principle permission, application(s) for Phase 1 of the Approval of Matters Specified in Conditions was required within 2 years of the approval. This Section 42 Application now seeks to amend the required timing

for the submission of these applications within Phase 1 (which Condition 1 of 15/01112/IPM refers) and the related phasing of the development thereafter (Condition 2 of 15/01112/IPM refers). Specifically, for the employment use areas within Phase 1.2 (the second serviced employment area), up to 9 years from the date of any permission granted through this application is being sought.

- 4 Section 42 of the Town and Country Planning (Scotland) Act 1997 allows applications for Planning Permission to be made to develop land without complying with conditions previously attached. Annex I within the Scottish Government Circular 3/2013: Development Management Procedures provides advice on dealing with Section 42 applications. It confirms in paragraph 2a) that the effect of granting permission for a Section 42 application is such that a new and separate permission exists for the development with different (or no) conditions attached. The previous planning permission remains unaltered and would not be varied by the decision on any Section 42 application. Authorities may direct that a longer or shorter period for any approval may apply. In this case the applicant is seeking to extend the time period to 2028 for the submission of all applications for the Approval of Matters Specified in Conditions for Phase 1.
- 5 The principle of development is clearly established through the LDP allocation and the extant consents and this cannot be considered directly as part of this application. The determining issue in this application is, therefore, whether: the amendment of Condition 1 and 2 of planning permission 15/01112/IPM would be reasonable and consistent with the relevant provisions of the Development Plan; or if an exception to these provisions is justified by other material considerations.
- 6 Physical development for Phase 1.2 is therefore not being sought here and would require consideration through an application for Approval of Matters Specified in Conditions (or be subject of a further standalone detailed application and associated legal agreement). It is anticipated that subsequent Matters Specified applications would follow from any permission granted here. The applicant indicates in their current planning statement (plan reference 18/01800/17) that development would take place over 3 principal phases, based on approximately 100 dwellings per annum being completed.

ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

- 7 An Environmental Statement (ES) was submitted and assessed as part of the 15/01112/IPM application. The applicant has submitted an up-to-date EIA Addendum for this S42 application, which assesses the implications of the proposals. The original ES, the 2016 Supplementary Environmental Information and this Addendum cumulatively form the EIA Report for considering this EIA development. This assessment concludes that the impacts arising from this development have not changed from the original EIA development.

PRE-APPLICATION CONSULTATION

- 8 The Pre-Application Consultation (PAC) requirements have been fulfilled in relation to the submission of planning application 15/01112/IPM. There is no further PAC required for Section 42 applications.

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. 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

- 11 The Scottish Planning Policy (SPP) was published in June 2014 and sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:
- The preparation of development plans;
 - The design of development, from initial concept through to delivery; and
 - The determination of planning applications and appeals.
- 12 The following sections of the SPP will be of particular importance in the assessment of this proposal:
- Sustainability: paragraphs 24 – 35
 - Placemaking: paragraphs 36 – 57

Planning Advice Notes

- 13 The following Scottish Government Planning Advice Notes (PANs) and Guidance Documents are of relevance to the proposal:
- PAN 40 Development Management
 - PAN 51 Planning, Environmental Protection and Regulation

DEVELOPMENT PLAN

- 14 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2016-2036 and the Perth and Kinross Local Development Plan 2014.

TAYPlan Strategic Development Plan 2016-2036

- 15 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.”

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

Policy 2: Shaping Better Quality Places

- 17 Seeks to deliver distinctive places by ensuring that the arrangement, layout, design, density and mix of development are shaped through incorporating and enhancing natural and historic assets, natural processes, the multiple roles of infrastructure and networks, and local design context.

Policy 8: Green Networks

- 18 Seeks to protect and enhance green and blue networks by ensuring that:
- i. development does not lead to the fragmentation of existing green networks;
 - ii. development incorporates new multifunctional green networks (that link with existing green networks) of appropriate quantity and quality to meet the needs arising from the nature of the development itself; and,
 - iii. the provision of networks of green infrastructure is a core component of any relevant design framework, development brief or masterplan

Perth and Kinross Local Development Plan 2014

- 19 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. 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.”* It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
- 20 The principal relevant policies are, in summary;

Bertha Park H7

- 21 This site covers allocated development site 'Bertha Park H7' for 3,000 dwellings and in excess of 25 ha employment land.

Policy PM1A - Placemaking

- 22 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 adaption.

Policy PM1B - Placemaking

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

Policy PM1C - Placemaking

- 24 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.

Proposed Perth and Kinross Local Development Plan 2 (LDP2)

- 25 Perth & Kinross Council is progressing with preparation of a new Local Development Plan to provide up-to-date Development Plan coverage for Perth & Kinross. When adopted, the Perth & Kinross Local Development Plan 2 (LDP2) will replace the current adopted Perth & Kinross Local Development Plan (LDP). The Proposed Local Development Plan 2 (LDP2) was approved at the Special Council meeting on 22 November 2017.
- 26 The representations received on the Proposed LDP2 and the Council's responses to these were considered at the Special Council meeting on 29 August 2018. The unresolved representation to the Proposed Plan after this period is likely to be considered at an Examination by independent Reporter(s) appointed by the Scottish Ministers, later this year. The Reporter(s) will thereafter present their conclusions and recommendations on the plan, which the Council must accept prior to adoption. It is only in exceptional circumstances that the Council can elect not to do this.
- 27 The Proposed LDP2 represents Perth & Kinross Council's settled view in relation to land use planning and as such it is a material consideration in the determination of planning applications. It sets out a clear, long-term vision and planning policies for Perth & Kinross to meet the development needs of the area up to 2028 and beyond. The Proposed LDP2 is considered consistent with the Strategic Development Plan (TAYplan) and Scottish Planning Policy (SPP) 2014. However, the outcome of the Examination could potentially result in modifications to the Plan. As such, currently limited weight can be given to its content where subject of a representation, and the policies and proposals of the

plan are only referred to where they would materially alter the recommendation or decision.

SITE HISTORY

- 28 [14/00001/PAN](#) Proposed housing development. PAN Decision Issued 10 February 2014.
- 29 14/01318/SCRN Residential development. Application Withdrawn.
- 30 [14/01767/SCOP](#) Housing development. Scoping decision issued 24 November 2014.
- 31 [15/01079/SCRN](#) Erection of primary and secondary school, associated road infrastructure and landscaping. Screening Decision Issued 15 July 2015.
- 32 [15/01109/FLM](#) Erection of residential units, commercial units (Classes 1,2,3 and 10), formation of allotments/open space, landscaping and associated infrastructure works. Approved by Development Management Committee September 2016 (Decision Issued 12 December 2016).
- 33 [15/01112/IPM](#) Residential development with community facilities, employment land, open space, landscaping and associated infrastructure (in principle) Approved by Development Management Committee September 2016 (Decision Issued 12 December 2016).
- 34 [17/00198/FLM](#) Erection of school, biomass/energy plant, formation of playground areas, sports pitches, landscaping, car parking, vehicular accesses and associated works. Approved by Development Management Committee May 2017 (Decision Issued 25 May 2017).
- 35 [17/00919/FLM](#) Erection of residential units, commercial units (Classes 1,2,3 and 10), formation of allotments/open space, landscaping and associated infrastructure works (revised site layout and change of house types) Approved by Development Management Committee August 2017 (Decision Issued 30 August 2017).
- 36 [17/01232/FLL](#) Re-contouring of land. Approved under delegated powers 18 August 2017.
- 37 [17/02242/FLL](#) Erection of 2no. dwellinghouses and 8no. flats (revised design and layout). Approved under delegated powers 20 February 2018.
- 38 [18/00357/ADV](#) Display of a sign. Approved under delegated powers 27 April 2018.
- 39 [18/00358/ADV](#) Display of a sign. Approved under delegated powers 27 April 2018.

- 40 [18/00430/FLM](#) Erection of 62no. dwellinghouses and associated works (change of house type to include sunrooms for plots 10001-10043, 10070-10071 and 10075-10091). Approved by Development Management Committee (Decision Issued 6 June 2018)
- 41 [18/01487/ADV](#) Display of signs and flag poles. Approved under delegated powers 2 October 2018.

CONSULTATIONS

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

EXTERNAL

Transport Scotland

- 43 Do not support the granting of consent without additional conditions and confirm that they have no response to the EIA Report.

Methven Community Council

- 44 No comments received.

The Scottish Government

- 45 No comments made.

Tay Salmon Fisheries Board

- 46 No comments received.

R S P B

- 47 No comments received.

Forestry Commission Scotland

- 48 No objection, subject to an additional condition to secure further consultation for the details of the compensatory tree planting.

Perth and Kinross Heritage Trust

- 49 No objection, acknowledging work undertaken through initial construction elements. PKHT clarified that re-applying archaeological conditions remained applicable with the work still to be undertaken in various phases.

Historic Environment Scotland

- 50 Acknowledged the consultation request with no comments to offer.

Luncarty, Redgorton and Moneydie Community Council

- 51 Objection received, summarised in the representation section of the report.

Scottish Natural Heritage

- 52 No comments to make based on proposals.

National Grid Plant Protection Team

- 53 No comments received.

Scottish Water

- 54 No objection to proposals.

Scottish Environment Protection Agency

- 55 No comments received.

INTERNAL

Strategy and Policy

- 56 No direct objection to the principle of an extended timescale, but urged that, notwithstanding the delivery plan, serviced employment land is brought forward at an earlier date than the full timescale being sought.

Biodiversity Officer

- 57 No objection subject to ensuring appropriate compliance with the associated suspensive conditions relating to the original permission, including conditions 3 (p) and 24, relating to further ecological survey work and monitoring respectively. The additional timescales are the biggest factor in requiring appropriate detail to come in and support any associated phase of the development, including that within Phase 1.2 to which this relates.

Transport Planning

- 58 No objection.

Environmental Health (Noise Odour)

- 59 No objection to the application.

Structures and Flooding

- 60 No objection.

Development Negotiations Officer

61 No objection.

Community Greenspace

62 No comment received.

Community Waste Advisor - Environment Service

63 No comment received.

REPRESENTATIONS

64 Luncarty, Redgorton and Moneydie Community Council submitted a comprehensive consultation response, objecting to the application, which is summarised as follows:

- Challenged that a new provision of the permission is being sought whilst permission for this element has now lapsed and does not benefit from a current EIA.
- Reference made to a Park and Ride, which is not identified in the LDP or the terms of planning permission 15/01112/IPM.
- Contrary to site specific developer requirements of the LDP in relation to integrating into the existing landscape framework and protecting ancient woodland.
- Premature to consider in advance of the full consideration of LDP2 by the DPEA.
- Unexplained gaps in delivery between the development phasing plan, masterplan and land area consented under planning permission 15/01112/IPM.
- Failure to identify cumulative impacts with other developments.
- Questioned accuracy of statements made and information submitted including what was set out in the assessment of 15/01112/IPM permission.

The applicant volunteered a response to the points set out in the Community Council response, which has been uploaded publicly as part of the planning submission.

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

ADDITIONAL STATEMENTS

66	Environment Statement	Update EIA information and original ES Submitted
	Screening Opinion	Not Required
	Environmental Impact Assessment	Updated EIA Information (where required) Submitted

Appropriate Assessment	Not Required – previously undertaken
Design Statement / Design and Access Statement	Not Required
Reports on Impact or Potential Impact	Not Required

APPRAISAL

- 67 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) require the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The adopted Development Plan comprises the TAYplan Strategic Development Plan 2016–2036 and the Perth and Kinross Local Development Plan 2014. The relevant policy considerations are outlined in the policy section above and are considered in more detail below. In terms of other material considerations, this involves considerations of the Council’s other approved policies and supplementary guidance as set out.

Principle

- 68 The Proposed LDP2 identifies the site within the settlement boundary as an area of major development, acknowledging that the site has an in principle permission for the full site, a detailed permission for Phase 1, and that development has started as part of detailed permission 15/01109/FLM.
- 69 There were objections to the site received through the LDP2 consultation, relating to tree loss and the Habitats Regulations Appraisal and the River Tay SAC. The site is, however, already confirmed in the existing LDP and it has the benefit of an extant planning permission, and its status as such cannot be altered by the Examination of the Proposed LDP2.
- 70 In terms of ensuring a sustainable neighbourhood, in line with placemaking policy objectives and delivering employment land, there are the following commitments:
- 71 The delivery plan submitted (approved in March 2018) identified the following timescales in relation to the second serviced employment land (in Phase 1.2):
- Marketing to commence January 2023
 - Available May 2024
 - Phase 1 PPP area to commence January 2024
- 72 The S75 agreement also sets out requirements in relation to the phased delivery of the site. Specifically, for the second serviced employment area the trigger for servicing it remains no “... later than the sale of 50% of the Residential Units within the first phase of Development”. This planning application does not propose to alter the original S75 in terms of its trigger for the delivery of serviced employment land. Clarification with the applicant has in fact confirmed that the servicing requirements for this second area have already been met, ahead of schedule.
- 73 Strategy and Policy colleagues originally recommended that Phase 1.2 should continue to be conditioned to be ‘made available’ by May 2024. This was the commitment set out in the approved March 2018 Delivery Plan submitted by the applicant. It was considered appropriate to re-visit what the term ‘made available’ constitutes. The key objective for the Planning Authority is to secure

- an appropriate interim commitment, ensuring sufficient information and certainty for prospective commercial operators as early as possible.
- 74 Since defining what will be delivered in Phase 1.2, and acknowledging the timing is not wholly within the applicant's control, some flexibility on the original obligation is considered acceptable. There has been a commitment from the applicant that a comprehensive marketing plan will be provided by March 2019, which should assist in progressing this element as the market allows. Notwithstanding, to ensure ongoing commitment to pursuing and enabling serviced employment land at the earliest reasonable opportunity, it is considered appropriate to request an updated Delivery Plan for approval. A requirement for an updated Delivery Plan is therefore recommended through Condition 2, which includes a requirement for an application for the Approval of Matters Specified in Conditions by May 2024 for the layout and plot definition with associated site servicing specific to Phase 1.2. This will give more certainty and should assist in attracting commercial interest as early as possible, whilst still acknowledging that the applicant is unlikely to know the details of how this area will be developed. Ultimately, this still provides the applicant with the longer term flexibility of up to 9 years sought to submit all Approval of Matters Specified in Conditions applications within Phase 1 of the site.
- 75 Overall, there is no Development Plan impediment to the flexibility sought as reasonable efforts are being made to progress the employment uses alongside the delivery of residential uses, and assurances have been made with regards to marketing and availability of employment opportunities.

Natural Heritage and Biodiversity

- 76 The proposal requests that the timing of Phase 1 be split into two; to enable part of the development to come forward at a later date. The EIA Addendum concludes that the change in timing for delivery of Phase 1.2 does not alter the conclusions of the 2015 ES or 2016 Supplementary Environmental Information. No further surveys have been submitted or have been required to support this conclusion, however. The conditions of the original permission, which support the phased enhancement of biodiversity, alongside the appointment of an independent Ecological Clerk of Works, remains applicable.
- 77 These requirements can be secured through the re-application of the associated suspensive conditions (Condition 3 (p) and Condition 24). Condition 3(p), which also applied to 15/01102/IPM, requires that further surveys shall be undertaken to inform preparation and implementation of corresponding phases. It is acknowledged that the long timeframes associated with the phasing of the development mean many of the conclusions of the original ES will be out of date by the time the phases are introduced. These conditions will redress this. Condition 24 requires a biodiversity monitoring strategy. The strategy will identify that a report will be provided on an annual basis.
- 78 In summary, the re-application of the original conditions, in relation to biodiversity and environmental impacts, are considered to adequately cover any concerns to support a longer timescale for the submission of approval of matters specified applications pertaining to Phase 1.2.

Trees

- 79 In response to the Forestry Commission Scotland's response (FCS), they were advised that, in light of reviewing the extant permission and the current application, there was no original consultation response from Forestry Commission Scotland. As a consequence, no condition requiring FCS consultation on the compensatory planting to be agreed on the original permission. It was clarified to FCS that their request has been appropriately covered through an approved woodland management plan (condition 3(o)) which was reviewed and approved by a tree officer in the Community Greenspace team. On this basis, it is not considered necessary to add the additional suspensive condition they had sought.

Economic Impact

- 80 The socio-economic assessment within the 2015 ES considered that the project will have a positive effect in terms of job creation in the area both during the construction period and once the proposed employment lands is developed and operational.
- 81 Supporting this application, and allowing reasonable time for the approval of matters specified applications pertaining to Phase 1.2, is beneficial in facilitating the employment land which will form part of the centre of Bertha Park village, supporting other associated infrastructure such as public transport, consistent with the original impacts forecast in the ES.

Other Site Circumstances

- 82 There has been a change to site circumstances since the previous 'In Principle' planning approval was assessed, given the partial build out of the development approved in application 15/01109/FLM, which was originally submitted in tandem with application 15/01112/IPM. Furthermore, the delivery of the A9/A85 junction improvements and associated site access are now open to the public. Further, Bertha Park High School is also now in the final stages of completion, intended to open in the new school year (August 2019).
- 83 The original report on application 15/01112/IPM comprehensively covered a number of topics including Affordable Housing, Employment Land, Education, Traffic, Drainage and Flooding, Air Quality, District Heating, Developer Contributions, Residential Amenity, Design, Layout and Landscaping, Built and Natural Heritage and Sustainability. It is considered that these matters have been satisfactorily addressed or covered via the earlier in principle application and are not changing as a consequence of this application. Accordingly, it is appropriate to recommend that planning conditions relating to these matters be included for this application and applied to any permission granted here.

LEGAL AGREEMENTS

- 84 If planning permission be granted here, a variation of the existing S75 legal agreement will be required in order to make reference to the new planning permission. In the interests of ensuring no delay to the development's delivery, an application for the Modification of Planning Obligation (MPO) has already

been submitted in tandem with this application and is pending determination (Ref: 18/02270/MPO).

85 In relation to the associated developer contributions and infrastructure provision, the S75 legal agreement in place covers the following areas:

- Secondary school provision
- Primary school delivery
- Transport and transport infrastructure
- Park and ride land provision
- Public transport
- Delivery of serviced employment land
- Delivery of affordable housing
- Delivery of open space, paths and associated maintenance
- Delivery of community facilities
- Community fund contribution
- Minerals extraction

SUMMARY

86 Approval of this Section 42 application will amend the timing of the construction of the commercial uses within Phase 1.2, while continuing to secure its delivery in the longer term as a part of the overall Bertha Park development. Through the proposed amended wording of Condition 2, the commitment to a finalised layout and site servicing seeks to secure this at an earlier date, providing additional assurance to the Planning Authority and improving site and plot marketability for affected areas within Phase 1.2.

DIRECTION BY SCOTTISH MINISTERS

87 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

88 To conclude, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, I have taken account of the Local Development Plan and material considerations and in this case, subject to conditional control, with the aforementioned amendments, I am content that the development proposed does not conflict with the Development Plan.

89 Accordingly this Section 42 application is recommended for approval, subject to the addition of an appropriately worded direction in place of original condition 1 and all relevant conditions, which includes appropriate revisions or additions of conditions. This recommendation will ensure continued commitment of Phase 1.2 and its appropriate phased delivery.

RECOMMENDATION

A DIRECTION

The Council as Planning Authority hereby directs that formal application(s) for the Approval of Matters Specified in Conditions as specified below shall be submitted to, and approved by, the Planning Authority before the commencement of development. All application(s) for Phase 1 of the Approval of Matters Specified in Conditions shall be made no later than 9 years from the date of this permission, the application(s) for Phase 2 of the Approval of Matters Specified in Conditions shall be made no later than 11 years from the date of original planning permission 15/01112/IPM and the application(s) for Phase 3 of the Approval of Matters Specified in Conditions shall be made no later than 21 years from the date of original planning permission 15/01112/IPM or, if later, within 6 months from when an earlier approval for the same matters was refused or dismissed at appeal.

Conditions and Reasons for Recommendation

1. Application for the approval required by a condition imposed on this Planning Permission in Principle shall conform with the requirements of Regulation 12 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 and of Section 59 (2) and (3) of the Town and Country Planning (Scotland) Act 1997 as amended by Section 21 of the Planning etc. (Scotland) Act 2006 and, in particular, must be made before whichever is the latest of the following:
 - (i) the expiration of 6 months from the date on which an earlier application for the requisite approval was refused, or
 - (ii) the expiration of 6 months from the date on which an appeal against such refusal was dismissed.

Reason: To ensure that the matters referred to are given full consideration and to accord with Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006. This is an application in principle.

- 2 Within 12 months of the date of this decision notice, a revised delivery plan confirming the updated phased delivery of the site and construction works has been submitted and approved in writing by the Planning Authority. A revised delivery plan shall include a commitment to the submission of an application for the approval of matters specified no later than May 2024, covering (as a minimum) the road layout and associated plot servicing for Phase 1.2. 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 No development shall commence on each phase of the development until formal application(s) for the Approval of Matters Specified in Conditions has been submitted to the Planning Authority in respect of the following matters to coincide with the delivery plan:-
- a) The delivery of the development in phases associated with the character areas prescribed in Bertha Park's masterplan.
 - b) Details of all cut and fill operations.
 - c) Details on the removal of mineral resource from the site or on-site use of the mineral resource to ensure the resource is not sterilised.
 - d) Full details of the proposed means of disposal of foul water to serve the development.
 - e) Full details of the disposal of surface water from the development by means of a Sustainable Urban Drainage System.
 - f) The siting, design, height and external materials of all buildings or structures.
 - g) Measures to maximise environmental sustainability through design, orientation and planting or any other means.
 - h) Details of any screen walls/fencing to be provided.
 - i) Details of all landscaping, planting, screening, open space and allotments associated with the development.
 - j) Details of play areas and the equipment to be installed.
 - k) Details regarding access, car parking, public transport facilities, walking and cycling facilities, the 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 (as detailed in the National Roads Development Guide).
 - l) The detailed specification of all street and footpath lighting.
 - m) Further supplementary noise surveys shall be undertaken to inform the preparation and implementation of corresponding phases and include noise mitigation measures where necessary.
 - n) A detailed plan of public access across the site (existing, during construction & upon completion).
 - o) A Woodland Management Plan for all woodland areas and timescales for implementation.
 - p) Further supplementary ecological surveys for protected species shall be undertaken to inform the preparation and implementation of corresponding phases. The supplementary surveys shall be of an appropriate type for the above habitats and/or species and survey methods shall follow national good practice guidelines.

The development shall be implemented in accordance with the planning application(s) and the approved details.

Reason: permission for the development has been granted in principle only and subsequent approval is required for the reserved matters in accordance with sections 58 and 59 of the Town and Country Planning (Scotland) Act 1997.

- 4 In pursuance of condition 3 c) removal of mineral resource from the site or on-site use of the mineral resource:-
- a) Prior to the extraction of the economic mineral resource to be won on site, the extent of the economic mineral resource shall be quantified to ensure it is not sterilised. Details of which shall be submitted to and approved in writing by the Planning Authority.
 - b) Prior to the extraction of the economic mineral resource a mineral working programme and phasing plan 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.
 - c) 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.

- 5 In pursuance of condition 3 d), foul drainage for each phase of the development shall be drained to the mains sewerage system or instillation by means of an adoptable sewerage and plant 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 prior to the completion of the development.

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

- 6 In pursuance of condition 3 e), disposal of surface water:-
- a) 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 associated with each development phase. 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.
 - b) 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.
 - c) Development shall not commence on each phase 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.

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.

- d) Development shall not commence on each phase until the design of all new and existing culverts/bridges and associated features (such as screens) for that phase have 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 phase into use.
- e) 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, bio-diversity, to avoid undue risks to public safety and flood risk.

- 7 In pursuance of condition 3 g), measures to maximise environmental sustainability through design, orientation and planting or any other means, each development phase shall also include:-
 - a) The submission of sustainability checklists.
 - b) Full details of the proposed energy efficiency measures and/or renewable technologies to be incorporated into that phase of the development.
 - c) Details on sustainability label of the domestic and non-domestic buildings to be erected to ensure it complies with Silver Active from 2016 and Gold Active from 2020 as per the 'Building Standards Technical Handbook Section 7 - Sustainability'.

Following written approval from the Planning Authority the development phase shall be undertaken in accordance with the approved details.

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.

- 8 In pursuance of condition 3 k) future application(s) for development areas within the masterplan shall include a transport statement scoped to include the means of access to the site from the wider public road network to include all modes of transport (walking, cycling, public transport and private car).

Reason: In the interest of sustainable transportation.

- 9 In pursuance of condition 3 i), landscaping, planting, screening, open space and allotments shall be submitted as part of the matters specified by condition application for each phase of development. 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.

- 10 In pursuance of condition 3 n), a detailed plan of public access across the site (existing, during construction & upon completion), for each phase of development, will 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.

- 11 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.

- 12 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.

- 13 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.

- 14 No development shall commence until a Construction Traffic Management Plan (CTMP) 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.

- 15 Prior to approval of further detailed applications for the eastern portions of the application site (Phase 3), details of lighting within the site likely to impact on the trunk road shall be submitted for written approval 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 trunk road, and that the safety of the traffic on the trunk road will not be diminished.

- 16 Prior to approval of further detailed applications for the eastern portions of the application site (Phase 3), details of the barrier / boundary fencing and frontage landscaping treatment along the A9 trunk road boundary shall be submitted for written approval and thereafter installed all to the satisfaction of the Planning Authority in consultation with Transport Scotland.

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

- 17 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.

- 18 Prior to the completion of each phase of the development, all watercourses on the site Gelly, unnamed watercourse and unnamed drains 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.

- 19 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.

- 20 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 (Gelly, unnamed watercourse and unnamed drains 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.

- 21 Prior to the commencement of each phase 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 phases of the 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 of that phase shall be fully undertaken in accordance with the agreed CEMP.

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

- 22 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 phases. 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 phase of development being constructed. The ECOW shall undertake a watching brief throughout the construction of the development phase 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 suitably qualified and has a suitable job description and powers.

- 23 No development shall take place on the development phase 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 in the 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 phase 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.

- 24 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.

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.

- 25 No development shall take place on the development phase 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.

- 26 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.

- 27 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.

- 28 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.

- 29 For each phase 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) (mm)	Width (mm)	Height (mm)	Depth
240	580	1100	740

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

- 30 Prior to the commencement of development of each phase a detailed noise impact assessment must be prepared by a suitably qualified consultant and shall be submitted to and approved in writing by the Planning Authority. This assessment should include proposed mitigation measures such that an acceptable level of amenity is ensured for the proposed development. Before any residential unit is occupied the measures agreed to mitigate noise shall be fully implemented as approved by the Planning Authority.

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

- 31 Any plant and equipment, such as air conditioning, mechanical extraction, air receivers etc., must be designed and installed so as to prevent noise disturbance to adjoining properties.

Reason: To prevent disturbance from noise.

- 32 Prior to the commencement of development of each phase, 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.

- 33 Prior to the completion or bringing into use of any part of the development phase 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 phase of 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.

- 34 Prior to 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.

- 35 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

The decision notice shall not be issued until the Section 75 Agreement relating to In Principle permission 15/01112/IPM has been varied taking account of this application. The legal agreement shall be updated and registered within 4 months of the date of any Committee approval.

D INFORMATIVES

- 1 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.
- 2 The developer is advised to contact Mr David Strachan, Archaeologist to discuss terms of reference for work required Tel 01738 477080.
- 3 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.
- 4 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.
- 5 Please consult the Street Naming and Numbering Officer, The Environment Service, Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth PH1 5GD.
- 6 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.
- 7 No work shall be commenced until an application for building warrant has been submitted and approved.
- 8 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.
- 9 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.
- 10 Where protected species have been identified the ecologist shall provide guidance and advice to site staff on how to avoid disturbance of protected species.

- 11 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.
- 12 The applicant is advised to pay full cognisance to PKC Flooding and Flood Risk Guidance Document (June 2014).
- 16 The applicant is reminded that this site is still subject to a Section 75 Legal Agreement, securing Developer Contribution requirements and other matters, as secured as part of planning permission 15/01112/IPM. This permission continues to be tied by this legal agreement (or any agreed amendment thereof) and the associated requirements will continue to apply. The terms of the obligation can be viewed via PKC Public Access or at the Registers of Scotland (www.ros.gov.uk).

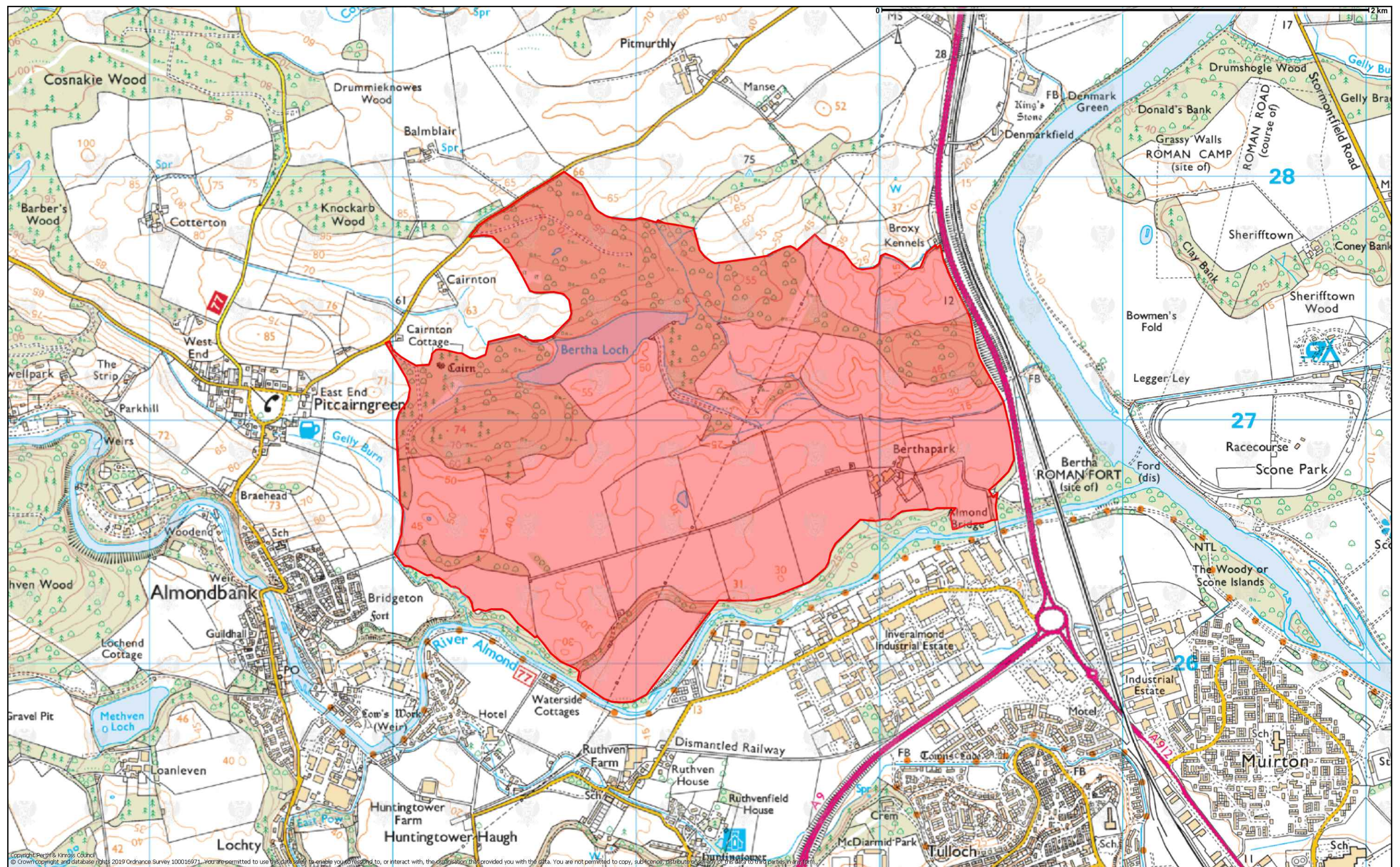
Background Papers: 1 letter of representation
Contact Officer: Callum Petrie – 01738 475353
Date: 31 January 2019

ANNE CONDLIFFE
INTERIM DEVELOPMENT QUALITY MANAGER

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Scale 1:15000



18/01800/IPM

Application under Section 42 of the Town and Country Planning (Scotland) Act 1997 to amend condition 1 (timescales for submission of Approval of Matters Specified by Conditions applications) and condition 2 (phasing of development) of planning permission 15/01112/IPM (residential development with community facilities, employment land, open space, landscaping and associated infrastructure (in principle)) - Land at Bertha Park, Perth



Perth and Kinross Council
Planning & Development Management Committee – 13 February 2019
Report of Handling by Interim Development Quality Manager (Report No. 19/41)

PROPOSAL: Residential development (in principle).

LOCATION: Land 20 Metres South West of 16 Curate Wynd, Kinross.

Ref. No: 18/01807/IPL
 Ward No: P8- Kinross-shire

Summary

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

BACKGROUND AND DESCRIPTION OF PROPOSAL

- 1 This is an in principle application for the erection of a residential development at Curate Wynd in Kinross. The site is a vacant area of land located within the settlement boundary that extends to 0.14 hectares.
- 2 Plans have been submitted with the application and the agent has confirmed that these are indicative in nature. These illustrate a potential layout comprising two 2 storey dwellinghouses with associated curtilages, car parking, an access road and 6 car parking spaces for nearby residents to the north of the site. The majority of the site falls out with the Kinross Conservation Area. However a small proportion of the new access road between 2 Curate Wynd and 16/18 Curate Wynd lies within the Conservation Area.
- 3 There are residential properties and garden ground to the north, east, south and west of the site. Curate Wynd has bollards which restricts vehicular access to the site from the south. Vehicular access to the proposed site would therefore be from Bowton Road to the north.

ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

- 4 Directive 2011/92/EU (as amended) requires the 'competent authority' (in this case Perth and Kinross Council) when giving a planning permission 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.
- 5 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. The EIA Report 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.

- 6 An EIA Report was not required to be submitted with the proposal as the scale of development falls below the EIA thresholds.

NATIONAL POLICY AND GUIDANCE

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

National Planning Framework

- 8 NPF3 is a long-term strategy for Scotland and is a spatial expression of the Government's Economic Strategy and plans for development and investment in infrastructure. 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

- 9 The Scottish Planning Policy (SPP) was published in June 2014 and sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:
 - The preparation of development plans;
 - The design of development, from initial concept through to delivery; and
 - The determination of planning applications and appeals.

- 10 The following sections of the SPP will be of particular importance in the assessment of this proposal:
 - Sustainability : paragraphs 24 – 35
 - Placemaking : paragraphs 36 – 57

Planning Advice Notes

- 11 The following Scottish Government Planning Advice Notes (PANs) and Guidance Documents are of relevance to the proposal:
 - PAN 61 Planning and Sustainable Urban Drainage Systems

Creating Places 2013

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

Designing Streets 2010

- 13 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, alongside Creating Places, which sets out Government aspirations for design and the role of the planning system in delivering these.

National Roads Development Guide 2014

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

DEVELOPMENT PLAN

- 15 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2016-2036 and the Perth and Kinross Local Development Plan 2014.

TAYPlan Strategic Development Plan 2016-2036

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

Policy 1: Locational Priorities

- 19 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. Tier 2 settlements also have the potential to make a major contribution but will

accommodate a smaller share of the additional development. Tier 3 settlements play an important but more modest role and will therefore accommodate a small share of the growth.

- 20 The release of land shall be based on the sequential approach: within principal settlements; edge of principal settlements; expansion of other settlements.
- 21 Outwith principle settlements, development may be supported where it genuinely contributes to the outcomes of the Plan however suburbanisation of the countryside and unsustainable travel and development patterns should be avoided.

Policy 9: Managing TAYplans Assets

- 22 Seeks to ensure responsible management of TAYplan's assets by: using the locational priorities of the Plan to identify and protect finite resources (mineral deposits and important soils); Protecting Natura 2000 sites; and 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.

Perth and Kinross Local Development Plan 2014

- 23 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. 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."* It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
- 24 The principal relevant policies are, in summary;

Policy PM1A - Placemaking

- 25 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 adaption.

Policy PM1B - Placemaking

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

Policy PM3 - Infrastructure Contributions

- 27 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

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

Policy RD1 - Residential Areas

- 29 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 TA1B - Transport Standards and Accessibility Requirements

- 30 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 HE3A - Conservation Areas

- 31 Development within a Conservation Area must preserve or enhance its character or appearance. The design, materials, scale and siting of a new development within a Conservation Area, and development outwith an area that will impact upon its special qualities should be appropriate to its appearance, character and setting. Where a Conservation Area Appraisal has been undertaken the details should be used to guide the form and design of new development proposals.

Policy NE2A - Forestry, Woodland and Trees

- 32 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

- 33 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

- 34 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 EP2 - New Development and Flooding

- 35 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

- 36 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

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

Policy EP12 - Contaminated Land

- 38 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.

Proposed Perth and Kinross Local Development Plan 2 (LDP2)

- 39 Perth & Kinross Council is progressing with preparation of a new Local Development Plan to provide up-to-date Development Plan coverage for Perth & Kinross. When adopted, the Perth & Kinross Local Development Plan 2 (LDP2) will replace the current adopted Perth & Kinross Local Development Plan (LDP). The Proposed Local Development Plan 2 (LDP2) was approved at the Special Council meeting on 22 November 2017.

- 40 The representations received on the Proposed LDP2 and the Council's responses to these were considered at the Special Council meeting on 29 August 2018. The unresolved representation to the Proposed Plan after this period is likely to be considered at an Examination by independent Reporter(s) appointed by the Scottish Ministers, later this year. The Reporter(s) will thereafter present their conclusions and recommendations on the plan, which the Council must accept prior to adoption. It is only in exceptional circumstances that the Council can elect not to do this.
- 41 The Proposed LDP2 represents Perth & Kinross Council's settled view in relation to land use planning and as such it is a material consideration in the determination of planning applications. It sets out a clear, long-term vision and planning policies for Perth & Kinross to meet the development needs of the area up to 2028 and beyond. The Proposed LDP2 is considered consistent with the Strategic Development Plan (TAYplan) and Scottish Planning Policy (SPP) 2014. However, the outcome of the Examination could potentially result in modifications to the Plan. As such, currently limited weight can be given to its content where subject of a representation, and the policies and proposals of the plan are only referred to where they would materially alter the recommendation or decision.

SITE HISTORY

- 42 [99/00696/OUT](#) Erection of 2 houses (in outline) at Decision Issued 2 September 1999 Application Refused and dismissed at appeal P\PPA\340\172.
- 43 [05/00926/OUT](#) Erection of 2 no detached houses with integral garages with access and parking (in outline) Decision Issued 15 September 2005 Application Approved.

CONSULTATIONS

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

External

Scottish Water

- 45 No objection

Internal

Environmental Health (Contaminated Land)

- 46 No objection subject to conditional control to secure further contamination survey work and remediation of the land.

Transport Planning

- 47 No objection subject to conditional control.

Development Negotiations Officer

- 48 No objection if contributions are secured.

Structures and Flooding

- 49 No objection if conditional control is secured to undertake ground survey work as well as further details on the SUDS arrangement for the site.

REPRESENTATIONS

- 50 The following points were raised in the ten representations received:
- Concerns with the loss of sunlight and daylight to neighbouring property and curtilages.
 - Impact on amenity, loss of privacy and overlooking.
 - Loss of car parking spaces.
 - Concerns with traffic safety, increase in traffic, access, pedestrian safety, construction traffic and refuse vehicular access to the site.
 - Loss of open space.
 - Impact on Conservation Area.
 - Light Pollution.
 - Noise Pollution.
 - Contaminated Land.
 - Impact on underground watercourses and flood risk.
- 51 The above matters are addressed in the Appraisal section of the report.
- 52 The following matters are also raised in representation however they are not material planning considerations:
- 53 Landownership/access rights – this is not a planning matter any legal rights of access over the site and landownership is a private/civil matter. In any case clarity has been sought on how ownership certificates have been served and the agent has confirmed that the land ownership certificates are correct.
- 54 Structural risk to neighbouring buildings - Impact from the way construction works are undertaken and how this relates to boundary structures, foundations and buildings would be a civil matter to resolve between the parties affected, it is not a planning consideration.
- 55 Property Prices – This is not a planning matter.

ADDITIONAL STATEMENTS

56	Environment Statement	Not Required
	Screening Opinion	Not Required
	Environmental Impact Assessment	Not Required
	Appropriate Assessment	Not Required
	Design Statement / Design and Access Statement	Not Required
	Reports on Impact or Potential Impact	Not Required

APPRAISAL

- 57 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) require the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The adopted Development Plan comprises the TAYplan Strategic Development Plan 2016–2036 and the Perth and Kinross Local Development Plan 2014. The relevant policy considerations are outlined in the policy section above and are considered in more detail below.
- 58 In addition section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 is pertinent which requires the Planning Authority to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

Principle

- 59 TAYplan Policy 1 (Location Priorities) seeks to focus the majority of development in the region's principal settlements. Kinross is identified as a Tier 2 principal settlement which has the potential to make a major contribution to the regional economy but will accommodate a smaller share of the additional development in comparison to Tier 1 Settlements. The provision of residential development on this site satisfies this TayPlan Policy.
- 60 The site is located within the settlement boundary of Kinross where Policy RD1 of the adopted Local Development Plan 2014 applies. This recognises that residential development within existing settlements can often make a useful contribution to the supply of housing land, but acknowledges the potential conflicts new development can have within the existing built environment. Proposals will be encouraged where they satisfy the criteria set out in the policy in particular criteria a) Infill residential development at a density which represents the most efficient use of the site while respecting its environs and c) proposals which will improve the character and environment of the area. The proposed residential use is located in a residential area within the settlement of Kinross accordingly the principle of residential dwellinghouses on this site is considered to be appropriate in this location. It is also worth noting that the site historically benefited from a residential permission.

Residential Amenity

- 61 The formation of residential developments within the urban environment has the potential to result in overlooking and overshadowing to neighbouring dwellings and garden ground. There is a need to secure privacy and amenity for all the parties to the development those who would live in the new dwelling and those that live in adjoining dwellings.

Privacy

- 62 As a rule of thumb a minimum 18 metres window to window distance at 90 degrees is usually sought between properties to achieve a reasonable level of

residential amenity however this requires to be applied flexibly taking account of site specific circumstances. This distance is reduced as the angle between the windows change and become more acute.

- 63 In this regard I consider that the proposed site can accommodate residential development without resulting in an unacceptable level of overlooking. However the final layout and scale of the residential development will need to be refined to take account of site constraints and this matter can be conditioned and assessed in detail through the matters specified by condition application. A landscaping scheme should also be sought by condition to reinforce the existing site boundary with planting and to maintain privacy at the site entrance (Condition 1 and 3).

Overshadowing

- 64 Although not a matter specifically referred to in ministerial guidance, the protection of neighbouring developments from unreasonable loss of light is a well-established proper planning consideration. 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.
- 65 As the plans submitted are indicative in nature there is scope for the developer/designer to review the layout and massing of the buildings through the detailed application process and include detailed shadow cast diagrams based on topographical information. I am content that this matter can be controlled by condition and reviewed as part of the detailed design however in an urban environment such as this I would expect an element of overshadowing and loss of light to occur (Condition 1).

Private amenity space

- 66 The extent in which private amenity space is used relates specifically to the dwellings occupant. It is therefore particularly difficult to forecast the extent of garden ground required and ultimately overtime this will change with any new inhabitant. 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.
- 67 In this regard I consider that an adequate level of private amenity space can be achieved to cater for the recreational and privacy needs of any potential residential development. However, this matter will be considered upon the submission of a detailed application when detailed plans are submitted illustrating the design and layout of the development.

Noise and Light Pollution

- 68 Representation has highlighted concern with noise and light pollution. I do not consider that the provision of housing in this urban area will result in a

significant adverse impact on neighbouring land uses from noise or light pollution. However, once again this is an application in principle and full details will require to be assessed at a later stage.

Impact from Construction activity

- 69 It is noted that concerns regarding construction activity have been expressed in the representations received however this will likely be a short term change to the status quo and it is not considered that conditional control is required in this case given the scale of the development. If issues did arise it is considered that this could be addressed satisfactorily through the use of existing powers under the Environmental Protection Act 1990.

Roads and Access

- 70 Policy TA1B is concerned with providing safe access and appropriate car parking. Representations have raised concerns with the loss of parking, turning arrangements, construction traffic, refuse traffic, pedestrian safety as well as the potential impact the development will have on road safety and traffic congestion.
- 71 The provision of residential accommodation at the site will result in a small increase in traffic movement to and from the site. Vehicular access to the site via Curate Wynd can only be taken from Bowton Road.
- 72 Consultation has been undertaken with Transport Planning and they offer no objection subject to conditional control (Condition 1). On this basis it is considered that there will be no significant impact in relation to pedestrian safety, traffic congestion or road safety.
- 73 I am content that an appropriate level of parking can be accommodated within the site for residential development along with turning in the site to enable access and egress in a forward gear.
- 74 From my site inspection I noted that on street parking on Curate Wynd is limited. However, there are two car parks in close proximity, the School Wynd Car Park and the Curate Wynd Car Park.
- 75 Taking the above into account there is not a conflict with Policy TA1B.

Design, Layout and Conservation Considerations

- 76 The site lies between the historic core of Kinross to the east which exhibits traditional stone buildings and a denser urban form in comparison to more modern layouts and housing to the west. I note in the earlier assessment of application 05/00926/OUT the officer considered that the scale and footprint of the houses were on the large side. While the indicative design and external finishes (slate roofs, white render and timber sash and case windows) was generally acceptable.

- 77 The Local Plan has changed since the earlier approval and the application is required to be assessed against the 'Placemaking' policies of the current LDP. Although this application is in principle I have sufficient information before me in the form of an indicative block plan to confirm that residential development can be accommodated on the site.
- 78 Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 is also pertinent due to the proximity of the Kinross Conservation Area. This requires the Planning Authority to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. I do not consider that the formation of a new access has a detrimental impact on the Conservation Area while a residential scheme outwith the Conservation Area will be able to come forward and be assessed under the matters specified by conditions application to ensure it will not have a detrimental impact on the setting of the area.
- 79 Overall, with the ability to condition (Condition 1 and 2) the development to enable an appropriate detailed design to come forward I am of the view that the proposal can contribute positively to the quality of the surrounding built and natural environment. In light of this the proposal is not considered to be contrary to policy PM1A, PM1B and HE3B.

Landscape

- 80 This development is within the settlement boundary of Kinross. The development of this urban site is not considered to conflict with the landscape aims of the LDP. However during the assessment of the application it was noted that the applicant had wrongly stated in the application form that there are no trees within the site. This omission has been corrected and further public consultation was undertaken following the submission of updated application forms.
- 81 Whilst this application is only seeking to establish the principle of residential development it is considered that there is a need to take account of the tree resource and hedging on the boundaries of the site and this can be controlled by condition (Condition 1 and 3) to ensure a tree survey and appropriate landscape proposals come forward as part of any detailed proposals.

Drainage and Flooding

- 82 The applicant has confirmed that the foul drainage will be connected to the sewer and a condition can be imposed to ensure this connection is achieved (Condition 1). A developer would need to secure a connection from Scottish Water and if there is a capacity problem this is a matter between the developer and network operator to resolve prior to development proceeding on the site.
- 83 The site is not in an area subject to river flooding. Concerns have been raised regarding an underground watercourse running through the site. Consultation with the Council's Flooding Section confirms that they have no record of a water course. They note that ground investigation should be undertaken to

inform the disposal of surface water and this matter can be checked at that time. Disposal of surface water should be via a sustainable urban drainage system and this would need to be incorporated into the site layout to comply with policy EP3C and this can be controlled by condition (Condition 1).

Contaminated Land

- 84 Historical records are unclear in this specific area and potentially contaminating activities remain unrecorded. The centre of Kinross is typical where due to the lack of detailed information it is difficult to ascertain specific site conditions and if they have been impacted upon by a past historical land use that could cause constraint to the redevelopment potential.
- 85 One specific issue identified within this geographic area is the potential for ground gasses such as carbon dioxide and methane. Certain geological conditions such as those encountered in the Loch Leven basin catchment can give rise to high levels of these naturally produced ground gasses which can be a constraint to development. These risks are easily mitigated if this can be identified through ground investigation.
- 86 The development will require a geotechnical assessment to ascertain foundation design for the construction of the buildings and this risk assessment can be undertaken during this time.
- 87 Environmental Health has no objection in principle to the development. However in the interest of ensuring the applicant delivers residential units that are suitable for the proposed use conditional control is recommended to secure a contaminated land survey with an associated remedial strategy (Condition 1 and 4). With conditional control applied there is no conflict with policy EP12.

Developer Contributions

- 88 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.
- 89 This proposal is within the catchment of Kinross Primary School.
- 90 As this application is only “in principle” it is not possible to provide a definitive answer at this stage however it should be noted that the Developer Contributions Policy would apply to all new residential units with the exception of those outlined in the policy. The determination of appropriate contribution, if required, will be based on the status of the school when the full application is received. Conditional control has been applied (Condition 5).

Economic Impact

- 91 The economic impact of the proposal is likely to be minimal and limited to the construction phase of the development. Employment opportunities will exist during the construction phase and consequently achieve increased available expenditure through net growth in residential occupation, resulting in a positive but minor impact on consumer spend within the Kinross Market Area.

LEGAL AGREEMENTS

- 92 Not required.

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, I have taken account of the Local Development Plan and material considerations and in this case I am content that the development proposed does not conflict with the Development Plan.
- 95 Accordingly the proposal is recommended for approval subject to the following conditions.

RECOMMENDATION

Approve the application

Conditions and Reasons for Recommendation

1. The development shall not commence until the following specified matters have been the subject of a formal planning application for the approval of the Council as Planning Authority: (a) the siting, design and external appearance of the development, (b) the hard and soft landscaping of the site (including retention of trees), (c) all means of enclosure, (d) means of access to the site, (e) vehicle parking and turning facilities, (f) detailed levels survey (existing and proposed), (g) foul and surface water drainage (h) waste management provision and (i) a survey on site contamination and associated remedial strategy.

Reason - In accordance with the terms of Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended by Section 21 of the Planning etc (Scotland) Act 2006.

2. In pursuance of condition 1a) the residential development shall be limited to a maximum one storey in height (but allowing accommodation in the roof space). For the avoidance of doubt the indicative footprints and plans submitted with this application are not approved.

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 the site.

3. In pursuance of condition 1b) the scheme shall include:
- (i) A tree survey and tree constraint plans to accord with BS58S7:2012 'Trees in relation to construction'.
 - (ii) Details of existing hedging and boundary treatment to be retained
 - (iii) The location of new trees, shrubs hedges, grassed areas and water features.
 - (iv) A schedule of plants to compromise species, plant sizes and proposed numbers and density.
 - (v) The location design and materials of all hard landscaping works.

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, or such date as may be agreed in writing with the Planning Authority.

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

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

4. In pursuance of condition 1(i) a survey of on-site contamination and associated remedial strategy shall include:
- (i) the nature, extent and type(s) of contamination on the site
 - (ii) measures to treat/remove contamination to ensure the site is fit for the use proposed
 - (iii) measures to deal with contamination during construction works
 - (iv) condition of the site on completion of decontamination measures

Development shall not begin until a scheme to deal with contamination on the site has been submitted to and approved in writing by the planning authority. Before any residential unit is occupied the measures to decontaminate the site shall be fully implemented as approved by the planning authority.

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

5. The development shall be in accordance with the requirements of Perth & Kinross Council's Developer Contributions and Affordable Housing Supplementary Guidance 2016 in line with Policy PM3: Infrastructure Contributions of the Perth & Kinross Local Development Plan 2014 with particular regard to primary education infrastructure, or such subsequent Guidance and Policy which may replace these.

Reason - To ensure the development is in accordance with the terms of the Perth and Kinross Council Local Development Plan 2014 and to comply with the Council's policy on Developer Contributions and Affordable Housing Supplementary Guidance 2016.

B JUSTIFICATION

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

C PROCEDURAL NOTES

None.

D INFORMATIVES

1. Application for the approval of matters specified in conditions shall be made before the expiration of 3 years from the date of the grant of planning permission in principle, unless an earlier application for such approval has been refused or an appeal against such refusal has been dismissed, in which case application for the approval of all outstanding matters specified in conditions must be made within 6 months of the date of such refusal or dismissal.

The approved development shall be commenced not later than the expiration of 3 years from the date of grant of planning permission in principle or 2 years from the final approval of matters specified in conditions, whichever is later.

2. Applicants are advised that should their application for Approval of Matters specified be refused and/or their appeal against such refusal dismissed outwith the three year time limit 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.
3. Application for a new postal address should be made via the Street Naming and Numbering page on the Perth & Kinross Council website at www.pkc.gov.uk/snn.
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 Environmental Protection Agency.

5. No work shall be commenced until an application for building warrant has been submitted and approved.
6. For information, foul flows only will be allowed to discharge to the public system. The Developer should arrange to dispose of surface water privately, to the satisfaction of the statutory drainage Authority.
7. The applicant is advised that the granting of planning permission 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.
8. Please be aware that your Planning Permission in Principle may be invalidated by the felling of trees which are required to be retained, prior to gaining Approval of Matters Reserved by Condition.
9. Please note that all matters regarding access, car parking, public transport facilities, walking and cycling facilities, the road layout, design and specification (including the disposal of surface water) should be in accordance with the standards required by the Council as Roads Authority (as detailed in the National Roads Development Guide).

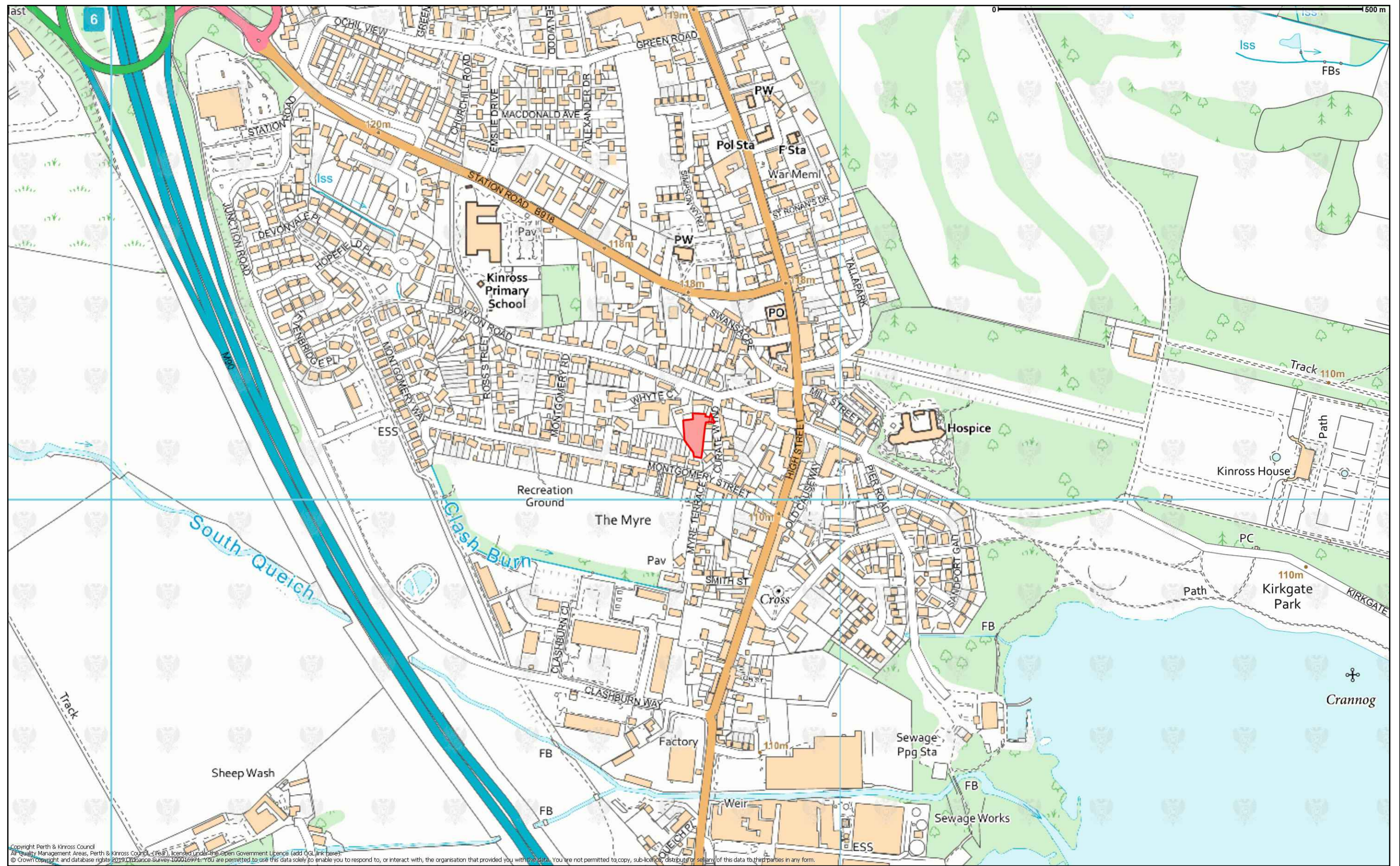
Background Papers: 10 letters of representation
Contact Officer: John Russell 01738 475346
Date: 31 January 2019

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INTERIM DEVELOPMENT QUALITY MANAGER

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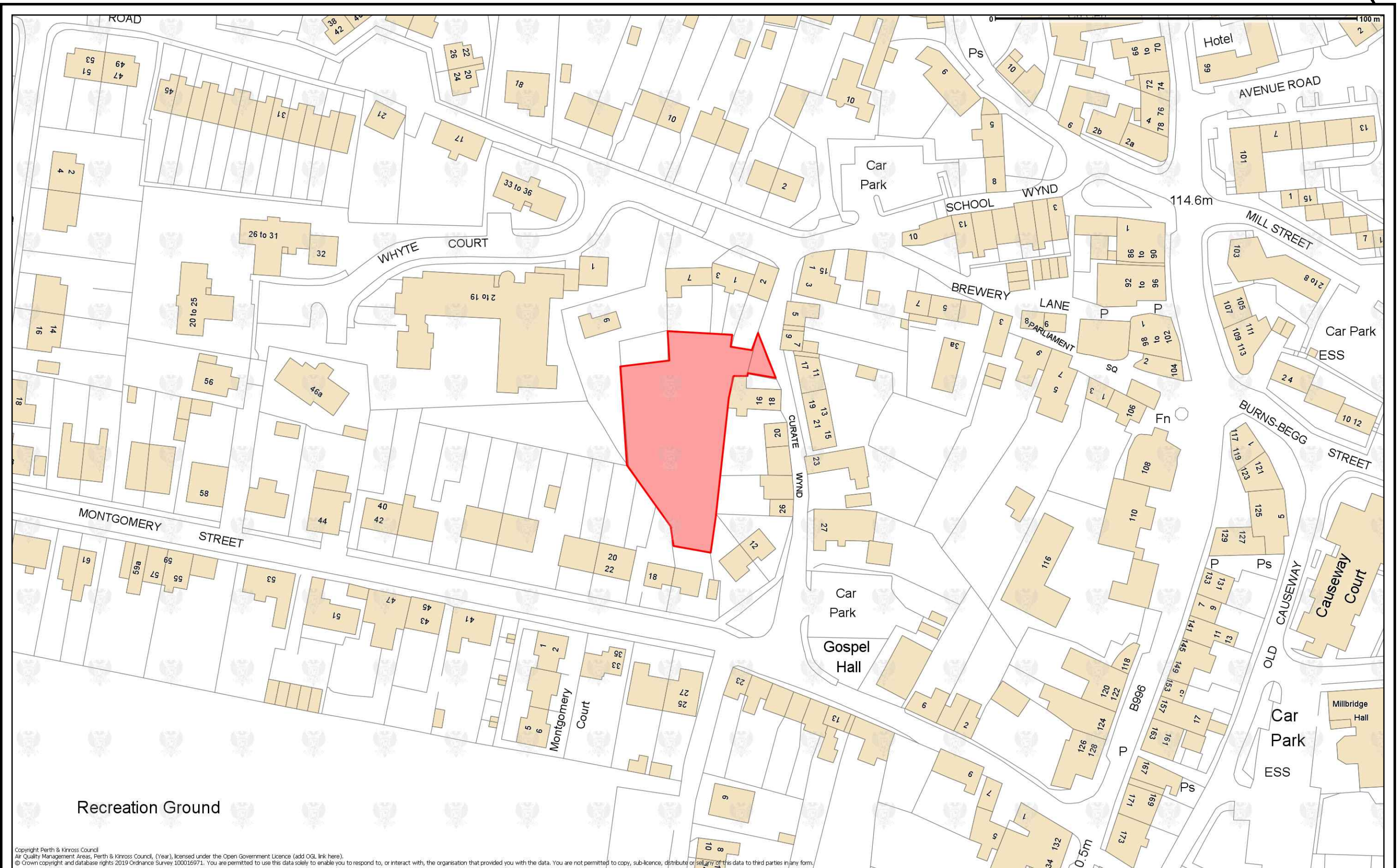
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Scale 1:1000



18/01807/IPL

Residential development (in principle) - Land 20 Metres South West of 16 Curate Wynd, Kinross



Perth and Kinross Council
Planning & Development Management Committee – 13 February 2019
Report of Handling by Interim Development Quality Manager (Report No. 19/42)

PROPOSAL:	Erection of a free range egg production unit and associated works.
LOCATION:	Land 800 metres south west of East Ardler Farm, Main Street, Ardler.

Ref. No: 18/01908/FLL
Ward No: P2- Strathmore

Summary

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

BACKGROUND AND DESCRIPTION OF PROPOSAL

- 1 Full planning consent is sought for the erection of an agricultural building which will house a free range egg laying unit which is proposed to accommodate 32,000 free range laying hens at land owned by Ardler Farms, Ardler Blairgowrie. The proposed building is to be sited in an existing arable field approximately 700m east of the existing farm buildings. The site extends to approximately 1.85 hectares and the building is proposed to be 175.5m x16.9m with a height of 6.2m. The building is proposed to be clad in composite panels coloured in Juniper Green. The supporting statement indicates that the building will house two separate flocks of 16,000 free range laying hens with a central packing room.
- 2 The site sits against a backdrop of mature woodland which is located to the south of the site. Access is proposed from the public road in the south west corner of the site. An access track will serve the building and a turning area for vehicles is proposed to the immediate south of the building. An area for a Sustainable Urban Drainage System (SUDS) is marked in the north east corner of the site.
- 3 The proposed building will operate on a 72 week production cycle with birds purchased at point of lay (16-17 weeks) and will remain in the shed producing eggs until the end of their economic egg laying life at approximately 72 weeks old.
- 4 The bird housing area is proposed to include tiered perches which are located over manure belts. The manure belts will allow manure to be removed from the building either once or twice a week directly into lorries or farm trailers for

removal from the site in order to limit odour and to be utilised as fertilizer on the remainder of East Ardler Farm.

- 5 The nest boxes for birds will be located adjacent to the perch areas and angled towards an egg conveyor which leads to the packing area mentioned above. There is a computer controlled mechanical ventilation system proposed.
- 6 There will be lighting within the building on a time-switch providing lighting 14 hours per day. There is also a ventilation system proposed within the building with roof inlet vents and fans.

ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

- 7 Directive 2011/92/EU (as amended) requires the 'competent authority' (in this case Perth and Kinross Council) when giving a planning permission 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.
- 8 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. The EIA Report 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.
- 9 Due to the scale and type of the proposal it was required to be screened as to whether the proposal is an Environmental Impact Assessment (EIA) development under the EIA 2017 regulations. A screening opinion of the application determined that the proposal was not EIA development (17/00293/SCRN). The proposal qualifies as schedule 2 development as the floor space exceeds 500 square metres, however it is concluded that, having taken account of the characteristics of the potential impact of the development, in terms of extent, magnitude, complexity, probability, duration, frequency and reversibility that it is unlikely to have a significant effect on the environment and therefore a detailed study through an EIA is not required.

NATIONAL POLICY AND GUIDANCE

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

National Planning Framework

- 11 NPF3 is a long-term strategy for Scotland and is a spatial expression of the Government's Economic Strategy and plans for development and investment in infrastructure. 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

- 12 The Scottish Planning Policy (SPP) was published in June 2014 and 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.
- 13 The following sections of the SPP will be of particular importance in the assessment of this proposal:
- Sustainability : paragraphs 24 – 35

Planning Advice Notes

- 14 The following Scottish Government Planning Advice Notes (PANs) and Guidance Documents are of relevance to the proposal:
- PAN 40 Development Management
 - PAN 51 Planning, Environmental Protection and Regulation
 - PAN 61 Planning and Sustainable Urban Drainage Systems
 - PAN 68 Design Statements
 - PAN 75 Planning for Transport

National Roads Development Guide 2014

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

DEVELOPMENT PLAN

- 16 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2016-2036 and the Perth and Kinross Local Development Plan 2014.

TAYPlan Strategic Development Plan 2016-2036

- 17 TAYPlan sets out a vision for how the region will be in 2036 and what must occur to bring about change to achieve this vision. The vision for the area as set out in the plans states that:
- 18 *“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 2: Shaping Better Quality Places

- 20 Seeks to deliver distinctive places by ensuring that the arrangement, layout, design, density and mix of development are shaped through incorporating and enhancing natural and historic assets, natural processes, the multiple roles of infrastructure and networks, and local design context.
- 21 Proposals should demonstrate that they contribute to infrastructure that supports active and healthy communities and incorporate design which is adaptable and resilient to a changing climate. There is also an emphasis on resource efficiency which should be achieved through renewable energy generation, high quality design and providing solutions for waste management.

Policy 3: Managing TAYplan’s Assets

- 22 Seeks to identify and safeguard at least 5 years supply of employment land within principle settlements to support the growth of the economy and a diverse range of industrial requirements.

Policy 6: Developer Contributions

- 23 Seeks to ensure suitable infrastructure is in place to facilitate new development. Developer contributions shall be sought to mitigate any adverse impact on infrastructure, services and amenities brought about by development. This may include contributions towards schools, the delivery of affordable housing, transport infrastructure and facilities (including road, rail, walking, cycling and public transport), green infrastructure and other community facilities in

accordance with the Scottish Government Circular 3/2012: Planning Obligations and Good Neighbour Agreements.

Perth and Kinross Local Development Plan 2014

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

- 25 The principal relevant policies are, in summary;

Policy PM1A - Placemaking

- 26 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 adaption.

Policy PM1B - Placemaking

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

Policy PM3 - Infrastructure Contributions

- 28 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 TA1A - Transport Standards and Accessibility Requirements

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

Policy TA1B - Transport Standards and Accessibility Requirements

- 30 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 NE2A - Forestry, Woodland and Trees

- 31 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

- 32 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

- 33 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 EP2 - New Development and Flooding

- 34 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

- 35 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

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

Policy EP3D - Water, Environment and Drainage

- 38 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 EP5 - Nuisance from Artificial Light and Light

- 39 Permission will not be granted for proposals where the lighting would result in obtrusive and / or intrusive effects.

Policy EP8 - Noise Pollution

- 40 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 CF2 - Public Access

- 41 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.

Proposed Perth and Kinross Local Development Plan 2 (LDP2)

- 42 Perth & Kinross Council is progressing with preparation of a new Local Development Plan to provide up-to-date Development Plan coverage for Perth & Kinross. When adopted, the Perth & Kinross Local Development Plan 2 (LDP2) will replace the current adopted Perth & Kinross Local Development Plan (LDP). The Proposed Local Development Plan 2 (LDP2) was approved at the Special Council meeting on 22 November 2017.
- 43 The representations received on the Proposed LDP2 and the Council's responses to these were considered at the Special Council meeting on 29 August 2018. The unresolved representation to the Proposed Plan after this period is likely to be considered at an Examination by independent Reporter(s) appointed by the Scottish Ministers, later this year. The Reporter(s) will thereafter present their conclusions and recommendations on the plan, which the Council must accept prior to adoption. It is only in exceptional circumstances that the Council can elect not to do this.
- 44 The Proposed LDP2 represents Perth & Kinross Council's settled view in relation to land use planning and as such it is a material consideration in the determination of planning applications. It sets out a clear, long-term vision and planning policies for Perth & Kinross to meet the development needs of the area up to 2028 and beyond. The Proposed LDP2 is considered consistent with the Strategic Development Plan (TAYplan) and Scottish Planning Policy (SPP) 2014. However, the outcome of the Examination could potentially result in modifications to the Plan. As such, currently limited weight can be given to its content where subject of a representation, and the policies and proposals of the

plan are only referred to where they would materially alter the recommendation or decision.

SITE HISTORY

- 45 17/00293/SCRN Proposed free-range poultry development - Decision Issued 27 April 2017 – No EIA required
- 46 [17/01806/FLL](#) Erection of a free range egg production unit and associated works Application Withdrawn 21 November 2017

CONSULTATIONS

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

Internal

Transport Planning

- 48 No objection

Environmental Health (Noise Odour)

- 49 No objection subject to conditions to control odour and noise from development which are considered in more detail within the appraisal section below.

Structures & Flooding

- 50 No objection

External

Scottish Water

- 51 There is sufficient capacity for development in relation to water provision but a separate application to Scottish Water will be required.

Meigle Community Council

- 52 The Community Council have advised that they neither support nor object to the application but have wished for a condition to be applied relating to screening of the development if it is approved.

Dundee Airport Ltd

- 53 Given the position and height of the development it would have no impact on the safeguarding surfaces of Dundee Airport.

REPRESENTATIONS

- 54 A total of 68 letters of representation have been received which includes a letter from Meigle and Ardler Community Council.
- 55 Of the 68 letters received 66 objected to the application and 2 supported the application. The following points were raised in the letters of objection:
- Visual impact/height
 - Noise pollution
 - Out of character
 - Odour
 - Traffic increase (traffic management), lack of passing places (40mph limit)
 - Walking and cycling friendly roads
 - Lack of neighbour notification
 - Controls given no Pollution Prevention and Control Regulations (PPC) from SEPA
 - Provision for poultry manure storage
 - Impact on value of property
 - Overdevelopment
 - Vermin
 - Impact on health
 - Loss of high quality arable land/prime agricultural land
 - Dust creation
 - Pollution of water courses
 - Impact on bio diversity
 - Drainage capacity
 - Landscape impact
 - Impact of chickens being outdoors
 - No market for egg production
 - Impact on tourism
 - No economic benefit
 - Overlooking
 - Contrary to Development Plan
 - Flood Risk
 - Lack of search for alternative sites
 - Impact on Special Area of Conservation (SAC)
 - Reduce public access
 - Welfare of poultry
 - Impact on village amenity
 - Light pollution

56 The following points were raised in the letters of support:

- Diversify business
- Positive impact on environment through reduction of import
- Access to local produce
- Employment generation

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

ADDITIONAL STATEMENTS

Environment Statement	Not Required
Screening Opinion	Undertaken(17/00293/SCRN)
Environmental Impact Assessment	Not Required
Appropriate Assessment	Not Required
Design Statement / Design and Access Statement	Not Required
Reports on Impact or Potential Impact	Supporting Planning Statement and Ecology Report submitted.

APPRAISAL

58 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 policies to be considered are outlined in the policy section above and referred to below.

Principle

59 Due to the nature of the process involved in the production of eggs, the proposed development requires to be located in an isolated location. LDP Policy ED3 - Rural Business and Diversification provides support for the creation of new businesses in rural areas and sites outwith settlement boundaries may be considered acceptable if they are related to a specific resource or opportunity.

60 As the development requires to be located in an isolated location but with close proximity to the transport network, it is considered that the principle of the introduction of a new agricultural operation accords with the objectives of the Development Plan provided that detailed planning issues are satisfied. The key determining issues are whether the proposal is consistent with the relevant provisions of the Development Plan with regard to: the impact on the landscape and visual impact of the proposal; traffic implications and effects on neighbouring amenity such as odour and noise.

Landscape Character and Visual Impact

- 61 The supporting Planning Statement concludes that the landscape impacts of the development would be of minor significance. Applying LDP Policies PM1 the proposed development is not located in a special landscape area or near to historic and cultural environments.
- 62 The area is rural in its nature and is generally characterised by large scale agricultural style buildings which this development proposes to follow. The proposed design and building height (6.1m to ridge) adjacent to a woodland plantation respects the site's level topography and skyline, as well as the wider landscape character of the area. The existing woodland plantation, together with the proposed planting which will be secured by condition (Condition 10) will help to safeguard views, viewpoints and landmarks and thus protect the site's visual integrity and identity. The form, location and nature of existing woodland is considered appropriate and will assist in effectively assimilating this large building within the surrounding landscape. A condition is recommended to ensure additional tree planting is placed along the north west and north east boundaries of the site to further limit the visual impact of the building (Condition 10).
- 63 To ensure effective integration with the landscape the colour finish of the walls and roof of the building is proposed to be a dark Juniper Green to complement the surrounding woodland.

Effects on Neighbours/Amenity

- 64 The application contains provision for poultry sheds with a capacity for 32,000 free range hens in 2 x 16,000 bird sections with an egg packing area in the centre of the two sections. application proposal of this scale therefore has the potential to lead to loss of amenity at nearby receptors due to noise and odour. The closest existing residential property outwith the applicant's ownership is approximately 520m away. The village of Ardler is located approximately 550m to the north east.

Noise and Odour

- 65 Concerns have been expressed relating to noise and odour generation from the development. Environmental Health (EH) have assessed the potential impact of the proposed development on residential properties in the area. The Scottish Government's guidance 'Prevention of Environmental Pollution from Agricultural Activity' recommends a minimum of 400m separation distance for livestock buildings, therefore the proposal is at reasonable separation distance to sensitive receptors and EH have no objections in relation to noise and odour.
- 66 On the basis of the separation distance provided, EH have advised that they would not require a detailed Noise and Odour Impact Assessment for the development. They have, however requested a management plan in relation to noise and odour. EH have stated that these plans require to include measures to

control noise and odour from the shed depletion, cleaning and re-stocking cycles which occurs for 2 weeks every 60 weeks. The document also requires to include a noise and odour complaint procedure.

- 67 A Noise and Odour Management Plan (NOMP) has now been submitted and has been reviewed by EH and is considered to be acceptable.
- 68 Similar to other recently approved egg production units of this nature, the bird housing areas will follow Best Available Technology (BAT) Reference Document, with tiered perches over manure belts thus ensuring manure is removed twice weekly by an elevator system into agricultural trailers and transported away from the building and stored until spread as a sustainable fertiliser at the existing farm. As a result of this system, odour and ammonia production is reduced within the bird housing areas.
- 69 Furthermore the NOMP has several elements including control, monitoring and review/contingencies.
- 70 The NOMP is a living document that formalises and sets control and management measures to ensure that the proposed development operates best practicable means to control/minimise odour emissions from the site to existing residential receptors.
- 71 The NOMP is a control measure and as such the underlying mitigation and control measures contained within the NOMP must be robust and effective. It is important that the NOMP is comprehensive, to allow the Planning Authority, on the receipt of any complaint, to assess that the site is being operated appropriately and in accordance with conditions. All of the above can be secured by suitably worded planning conditions (Conditions 5 and 6).
- 72 EH have recommended a condition relating to noise levels from plant and machinery associated with the use (Condition 3). A further condition is recommended to ensure that should any noise complaint received that this is suitably investigated and any required measures to mitigate the noise implemented with an appropriate timescale (Condition 4).
- 73 As a consequence the proposal is therefore considered to comply with LDP Policy EP8 - Noise Pollution. However, as a precaution the recommended noise and odour conditions referred to above are proposed to protect amenity should any complaints be received.

Light Pollution

- 74 There is no lighting marked on the proposed plans. It is likely that the site may require some lighting for its operation. As such details of this will be requested by condition to ensure the level is appropriate for this rural location and to accord with the requirements of Policy EP5 of the LDP (Condition 8).

Traffic and Transportation

- 75 The Supporting Statement with the application identified both construction and operational traffic movements to and from the site. The development is proposed to be via an unclassified road which links Ardler to Keillor and has a 40mph limit given its narrow width. An existing field access is proposed to be upgraded to serve the site. There is an existing passing bay on this road.
- 76 The Statement indicates the extent of traffic associated with the operation of the site which is as follows:
- Egg collection - Three or four collections/vehicles per week.
Feed deliveries - One HGV per week.
Manure removal - One HGV or two farm trailers per week.
- 77 There will be additional traffic during shed cleaning out and re-stocking periods which will occur over a two week period once every 60 weeks.
- 78 By using utilising the manure on the existing farm the proposal will also reduce the need for the farm to rely on importing fertilizer which will in turn reduce the existing vehicle movements associated with the farm.
- 79 There are also associated private vehicle movements for workers which will equate to 2 or 3 vehicles per day.
- 80 The submission indicates the route for vehicles servicing the site which is as per the approved route which currently serves East Ardler Farm to the A94 which is effectively a one way system. A drawing demonstrating this route has been submitted (18/01908/15). A condition is recommended to ensure that access to and from the site accords with this route (Condition 15).
- 81 Transport Planning have offered no objection to the application and consider the existing road arrangements in the area capable of accommodating the traffic associated with the operation of the site. It is noted that some of the roads in the area are identified as pedestrian and cycle friendly. This is common for rural roads in Perth and Kinross and these are often shared with agricultural traffic.
- 82 There will be construction traffic associated with this proposal but this will be limited and be for a temporary period, nevertheless, for the avoidance of any doubt a condition is proposed requesting a Construction Traffic Management Plan (CTMP) to minimise impact on the local community during construction (Condition 17).

Economic Impact

- 83 The submission indicates that the existing farm is attempting to diversify its operation and will result in the creation of new permanent employment in the form of two full time equivalent jobs. There is also likely to be associated economic

opportunities in terms of the construction period and secondly jobs in haulage, veterinary science, agriculture and animal feed production. The impact of the proposal on the rural economy at this location is considered to be significantly positive.

Waste Collection and Storage

- 84 The submission indicates that waste from the proposed building will be utilised as fertiliser on the existing farm. There will be a requirement to ensure this waste is dealt with appropriately to minimise odours and this can be addressed through the NOMP and conditions 5 and 6 recommended by Environmental Health as outlined above.

Developer Contributions

- 85 The Councils Transport Infrastructure Developer Contributions Supplementary Guidance 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. This site is located outwith the transport contribution area as such there is no contribution required.

Biodiversity

- 86 An ecology report has been submitted with the application and no major concerns relating to bio diversity were identified within the report. The report states that red squirrel, bats and badger are the most likely species to be impacted by the development. The report also identifies a barn owl nest box within the woodland adjacent to the site which faces away from the site. The proposal does not involve the felling of any of the existing woodland trees. Furthermore the report states that ground nesting birds are unlikely to be found within areas in this close proximity to woodland. The report also concludes the potential disturbance to protected species is considered to be unlikely subject to appropriate mitigation including ensuring construction works are undertaken outwith the bird breeding season. A condition is recommended to ensure this (Condition 14).
- 87 Some letters of representation received refer to the potential impact on the River Tay Special Area of Conservation (SAC). The River Isla, which forms part of the SAC is located approximately 2.7km to the north west of the site. I do not consider the development to have any impact on the SAC given the significant distance between the site and the SAC.
- 88 As such, subject to the recommended conditions the proposal is considered to comply with policy NE3 of the LDP. (Conditions 14, 15 and 16)

Trees

- 89 No trees are proposed to be felled to accommodate the development, however there is a large area of woodland directly adjacent to the site which helps to

provide the building with an appropriate setting and screening. As such it is recommended that a condition is attached to any consent which requires these trees are protected during construction operations to ensure they remain healthy and the screening and setting for the building is retained. (Condition 9)

Flooding and Drainage

- 90 The site is located outwith areas identified as flood risk and on that basis the Council's Flood Prevention Officer has offered no objection to the application. The proposal is therefore considered to comply with Policy EP2 of the LDP. A condition is recommended to ensure surface water drainage is catered for through an appropriate Sustainable Urban Drainage System (SUDS) to accord with policy EP3C of the LDP (Condition 13).

Animal Welfare

- 91 It is noted that letters of representation have been received which express concern regarding the welfare of birds associated with the proposal. The application indicates that the operations will meet industry standards in relation to the housing and welfare conditions of livestock and the proposal is for free range egg production. Whilst these concerns are noted, nevertheless, this is not a material planning consideration and the responsibility for adherence to welfare standards will rest with Scottish Government through its Animal Health Division Offices.

Pollution Prevention and Control Regulations

- 92 Members should be aware that the threshold for regulation of poultry units under SEPA's Pollution Prevention and Control Regulations is 40000 bird places, therefore this development falls below that threshold. At this site it would be PKC Environmental Health Officers who would be the relevant consultee with regards to odour and noise. As such EH have recommended conditions to control odour and noise as outlined above. (Conditions 3, 4, 5 and 6).

Prime Agricultural Land

- 93 Policy ER5 states that development will not be permitted on prime agricultural land unless it is necessary to meet a specific need such as a major infrastructure proposal and there is no suitable site on non-prime land. The application site and wider farm unit is allocated as class 2 prime agricultural land which is defined as land capable of producing a wide range of crops. It goes on to state that small scale development directly linked to rural business, may also be acceptable providing it is compatible with other aspects of policy framework and there are no other suitable non-prime land sites available. In this instance the entire existing farm is allocated as prime agricultural land and therefore this building relates to a small percentage of the wider farm unit.

- 94 The proposed site benefits from direct links with the surrounding agricultural operation which is in the applicant's ownership and operations will be directly linked with waste from the site being utilised on the existing arable farm.
- 95 Overall the application site is a relatively small portion of a large agricultural unit and I am satisfied that the site is appropriate given its scale relative to the remainder of the farm unit. The development will therefore not result in an extensive area of prime agricultural land being lost and I believe this is appropriate under the policy requirements.

Neighbour Notification

- 96 The neighbour notification and advertisement of the application has been carried out in accordance with the relevant legislation. Given the rural nature of the site there was no specific requirement to serve neighbour notification letters to domestic properties given the nearest properties are located outwith the 20m buffer zone for notification. The application has also been advertised as a “bad neighbour” development as required by the Town and Country Planning (General Permitted Development) Order 1992.

Impact on Properties Values

- 97 The potential loss of property value as a result of the development is not a material planning consideration.

Core Path and Rights of Way

- 98 The closest core path to the application site is KTNS/121 which is located to the north west. The proposed development is not considered to impact directly on the use of this path. The proposal is therefore considered to accord with policy CF2 relating to public access.

LEGAL AGREEMENTS

- 99 None required.

DIRECTION BY SCOTTISH MINISTERS

- 100 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

- 101 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. It is clear that the primary intention of both the Development Plan and national policies is to support agriculture as a major land use in the Plan area. The proposals for a free range poultry enterprise at East Ardler Farm would accord with this broad objective provided that environmental and landscape issues are satisfactorily addressed by any new proposals.
- 102 Through the use of planning conditions the proposals could secure a satisfactory landscape fit, could have an acceptable relationship to nearby residential properties and would not adversely affect the local and national transport network.

RECOMMENDATION

Approve the application

Conditions and Reasons for Recommendation

- 1 The development hereby approved must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed by this decision notice.
- Reason - To ensure the development is carried out in accordance with the approved drawings and documents.
- 2 Prior to the commencement of the development hereby approved, the applicant shall submit for the further written agreement of the Council as Planning Authority, in consultation with the Roads Authority (Structures), a Construction Traffic Management Scheme (TMS) which shall include the following:
- (a) restriction of construction traffic to approved routes and the measures to be put in place to avoid other routes being used;
 - (b) timing of construction traffic to minimise impact on local communities particularly at school start and finishing times, on days when refuse collection is undertaken, on Sundays and during local events;
 - (c) a code of conduct for HGV drivers to allow for queuing traffic to pass;
 - (d) arrangements for liaison with the Roads Authority regarding winter maintenance;
 - (e) emergency arrangements detailing communication and contingency arrangements in the event of vehicle breakdown;

- (f) arrangements for the cleaning of wheels and chassis of vehicles to prevent material from construction sites associated with the development being deposited on the road;
- (g) arrangements for cleaning of roads affected by material deposited from construction sites associated with the development;
- (h) arrangements for signage at site accesses and crossovers and on roads to be used by construction traffic in order to provide safe access for pedestrians, cyclists and equestrians;
- (i) details of information signs to inform other road users of construction traffic;
- (j) arrangements to ensure that access for emergency service vehicles are not impeded;
- (k) co-ordination with other significant developments known to use roads affected by construction traffic;
- (l) traffic arrangements in the immediate vicinity of temporary construction compounds;
- (m) the provision and installation of traffic counters at the applicant's expense at locations to be agreed prior to the commencement of construction;
- (n) monitoring, reporting and implementation arrangements;
- (o) arrangements for dealing with non-compliance; and
- (p) details of HGV movements to and from the site.

The TMS as approved shall be strictly adhered to during the entire site construction programme.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 3 All plant or equipment shall be so enclosed, attenuated and/or maintained such that any noise therefrom shall not exceed Noise Rating 35 between 0700 and 2300 hours daily, or Noise Rating 20 between 2300 and 0700 hours daily, within any neighbouring residential property, with all windows slightly open, when measured and/ or calculated and plotted on a rating curve chart.

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

- 4 Should any aspect of the operation of this facility lead to a breach of condition 3, within 14 days of a written request by the Council as Planning Authority the applicant shall arrange for an investigation by a suitably qualified noise consultant with the scope and timescale submitted to and agreed in writing with the Council as Planning Authority in consultation with Environmental Health. Thereafter the agreed measures shall be implemented to ameliorate the nuisance.

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

- 5 The operation of the building shall be conducted strictly in accordance with the approved Noise and Odour Management Plan (NOMP) hereby approved (doc

ref:18/01908/14). The Noise and Odour Management Plan is approved as a fluid document and any variations to the mitigation measures which are required as a result of any review shall be submitted to and approved in writing by the Council as Planning Authority and thereafter adhered to.

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

- 6 Should any aspect of the development result in verified odour complaint determined by the Council as Planning Authority in consultation with Environmental Health, within 14 days of written request by the Council as Planning Authority, the applicant shall arrange for an Odour Impact Assessment (OIA) to be carried out by a qualified consultant. The OIA 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. Thereafter any necessary measures to ameliorate the odour nuisance should be put in place, and a new or revised Odour Management Plan must be submitted to the Council as Planning Authority within a specified agreed timescale.

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

- 7 Prior to the installation of any external lighting, the details of all external lighting shall be submitted for the further written agreement of the Council as Planning Authority. The scheme shall include details of light spill, brightness of the lighting and the proposed hours of operation. The agreed lighting scheme shall be implemented and maintained in full accordance with the agreed scheme.

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

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

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

- 9 Prior to the commencement of any works on site the woodland to the south east of the site shall be retained 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.

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

- 10 Prior to the commencement of development, details of additional tree planting along the north west and north east boundaries of the site shall be submitted to and approved in writing by the Planning Authority. The agreed detail shall thereafter be implemented prior to the completion of the development and completed in accordance with the timescales outlined in condition 11.

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

- 11 The planting scheme as approved under condition 10 shall be implemented fully within one calendar year of the commencement of development and thereafter maintained.

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

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

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

- 13 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 - To ensure the provision of effective drainage for the site.

- 14 The conclusions and recommended action points within the supporting biodiversity survey (doc ref: 18/01908/12) submitted and hereby approved shall be fully adhered to, respected and undertaken as part of the construction phase of development.

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

- 15 No removal of hedgerows, trees or shrubs or works to or demolition of buildings or structures 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 - In the interests of protecting environmental quality and of biodiversity.

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

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

- 17 All operational traffic movements to and from the site shall be undertaken in accordance with the routing outlined on approved drawing 18/01908/15 to the satisfaction of the Council as Planning Authority.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

B JUSTIFICATION

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

C PROCEDURAL NOTES

None.

D INFORMATIVES

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

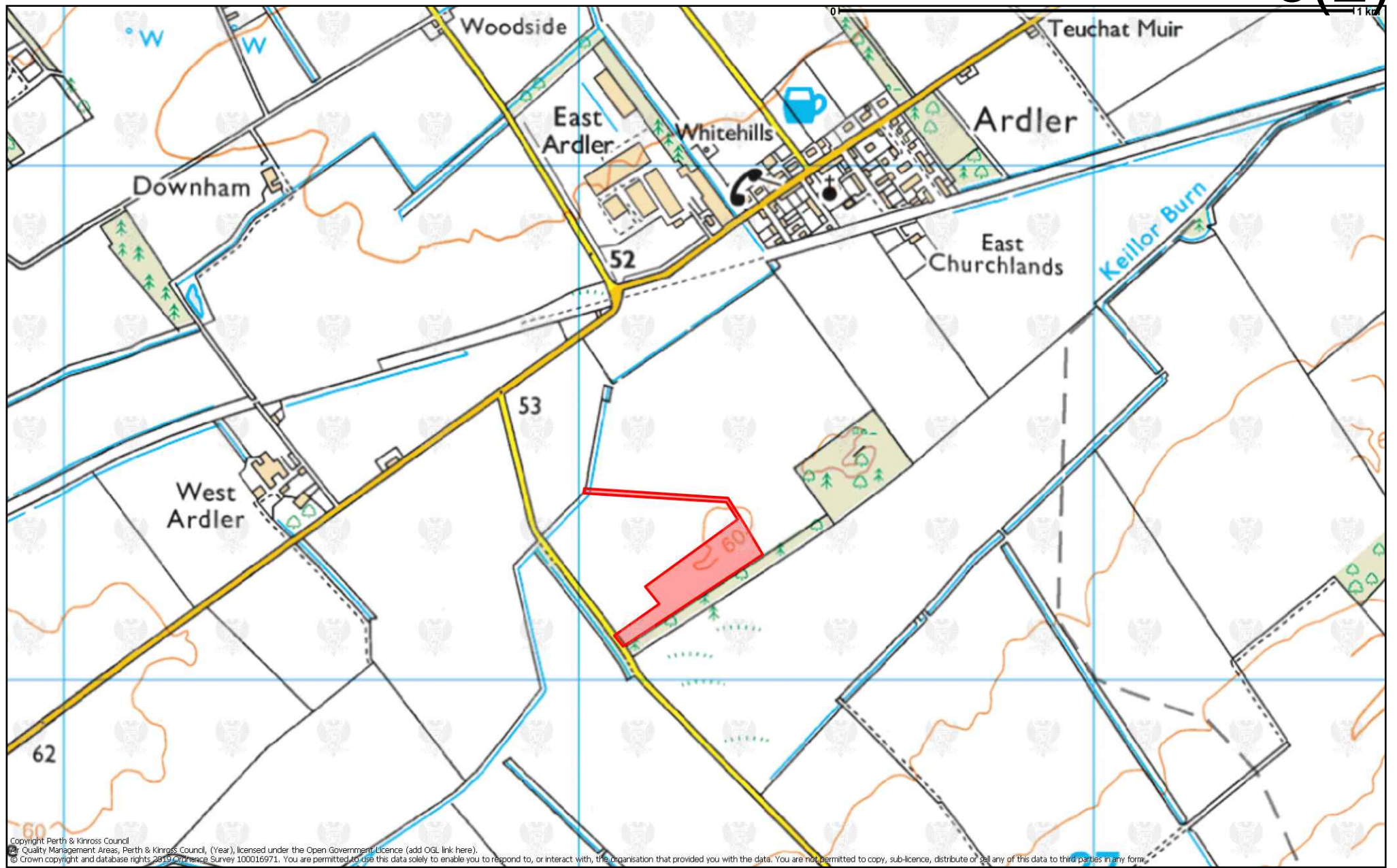
- 4 No work shall be commenced until an application for building warrant has been submitted and approved.
- 5 The applicant is reminded that, should any protected species be present a licence may be required from Scottish Natural Heritage to disturb a protected species. Failure to obtain a licence may constitute a criminal act under the Habitats Regulations and penalties are severe for non-compliance.
- 6 The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended, it is an offence to remove, damage or destroy the nest of any wild birds while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.
- 7 The applicant should be aware of the SEPA's General Binding Rules of The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended) and the Intake and Outfall Good Practice Guide https://www.sepa.org.uk/media/150984/wat_sq_28.pdf with regards the proposed treatment and discharge of treated surface water to the burn. Further information is available to the applicant in the CAR Practical Guide.
- 8 This development will require the 'Display of notice while development is carried out', under Section 27C(1) of the Town and Country Planning Act 1997, as amended, and Regulation 41 of the Development Management Procedure (Scotland) Regulations 2013. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. In accordance with Regulation 41 the notice must be:

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.
- 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.



Background Papers: 68 letters of representation
Contact Officer: John Williamson 01738 475360
Date: 31 January 2019

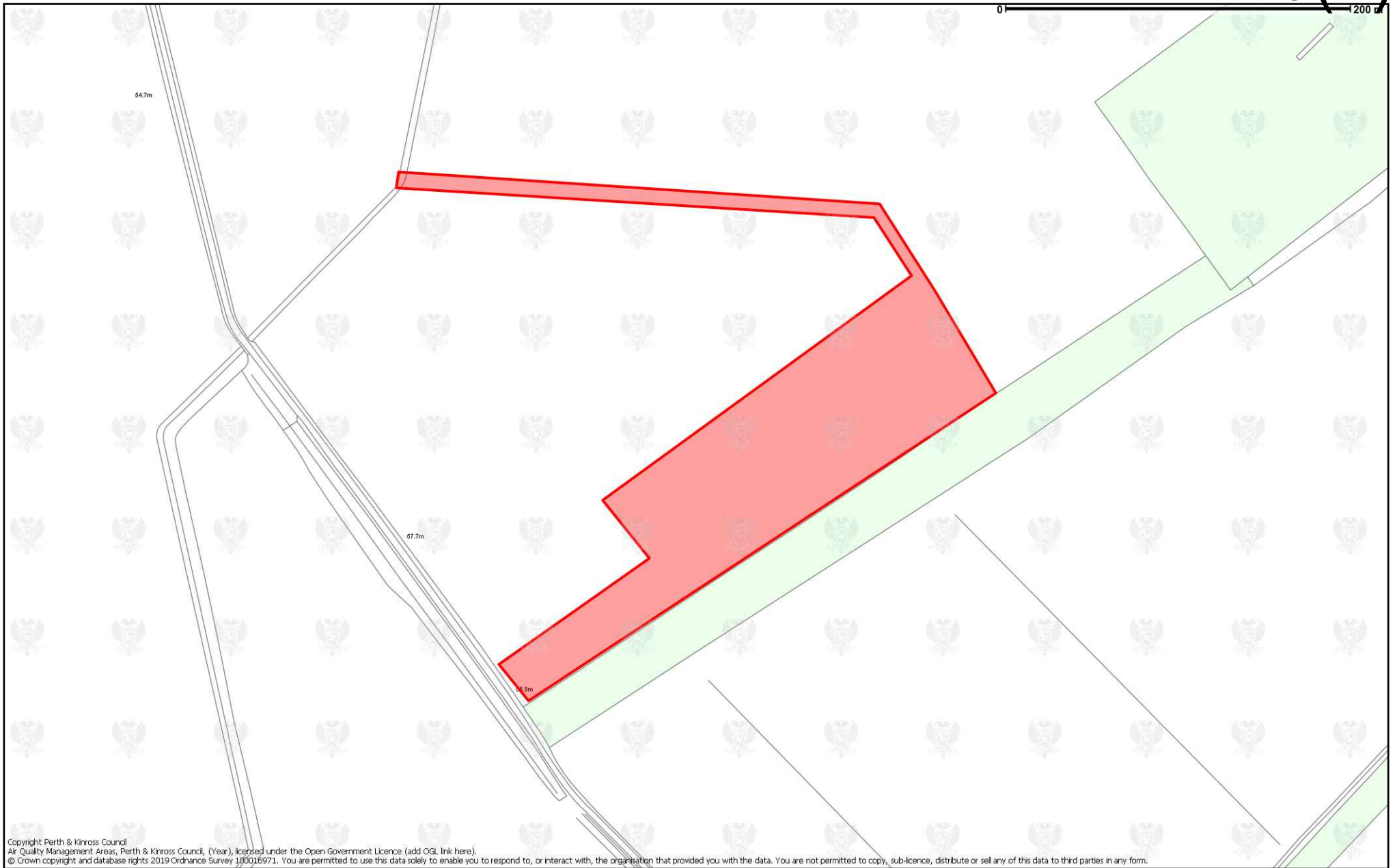
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Perth and Kinross Council
Planning & Development Management Committee – 13 February 2019
Report of Handling by Interim Development Quality Manager (Report No. 19/43)

PROPOSAL: Residential development.

LOCATION: Land at Pitdownies Farm, Manse Road, Milnathort.

Ref. No: [18/00014/PAN](#)

Ward No: P8 - Kinross-shire

Summary

This report is to inform the Committee of a potential forthcoming planning application in respect of a major residential development at Pitdownies Farm, Manse Road, Milnathort. The report also aims to highlight the key planning policies, the likely stakeholders who would be involved in the decision making process and to offer a brief overview of the key material planning issues which are likely to be relevant to the proposal.

BACKGROUND AND DESCRIPTION OF PROPOSAL

- 1 In accordance with the provisions of the Town and Country Planning (Scotland) Act 1997 as amended, the applicant has submitted a Proposal of Application Notice (PoAN) on 29 November 2018. Pre-application reports give the Committee an opportunity to raise issues which it would like to see addressed in any planning application.

ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

- 2 Directive 2011/92/EU (as amended) requires the 'competent authority' (in this case Perth and Kinross Council) when giving a planning permission 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. The site was screened (18/02233/SCRN) in January 2019 and found that EIA would not be required.

PRE-APPLICATION CONSULTATION

- 3 The PoAN outlined that a public exhibition would be held at Orwell Parish Church on 24 January 2019. Milnathort Community Council and local ward Councillors were notified and invited to attend. The results of the community consultation will require to be submitted with any application as part of the required Pre-Application Consultation (PAC) Report.

NATIONAL POLICY AND GUIDANCE

- 4 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

- 5 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

- 6 The Scottish Planning Policy (SPP) was published in June 2014 and 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.
- 7 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
 - Affordable Housing: paragraphs 126 -131
 - 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

Planning Advice Notes

- 8 The following Scottish Government Planning Advice Notes (PANs) and Guidance Documents are of relevance to the proposal:
 - PAN 2/2010 Affordable Housing and Housing Land Audits
 - PAN 3/2010 Community Engagement

- 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 63 Waste Management Planning
- PAN 65 Planning and Open Space
- PAN 67 Housing Quality
- PAN 68 Design Statements
- PAN 75 Planning for Transport
- PAN 77 Designing Safer Places
- PAN 79 Water and Drainage

Designing Streets 2010

- 9 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, alongside Creating Places, which sets out Government aspirations for design and the role of the planning system in delivering these.

Creating Places 2013 – A policy statement on architecture and place for Scotland 2013

- 10 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

- 11 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

- 12 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2016-2036 and the Perth and Kinross Local Development Plan 2014.

TAYPlan Strategic Development Plan 2016-2036

- 13 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:
- 14 “By 2036 the TAYplan area will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice where more people choose to live, work, study and visit, and where businesses choose to invest and create jobs.”
- 15 The following sections of the TAYplan 2016 are of particular importance in the assessment of this application.

Policy 1: Locational Priorities

- 16 Seeks to focus the majority of development in the region's principal settlements. Milnathort is identified as a Tier 2 Settlement with the potential to make a major contribution to the regional economy but will accommodate a smaller share of the additional development.

Policy 2: Shaping Better Quality Places

- 17 Seeks to deliver distinctive places by ensuring that the arrangement, layout, design, density and mix of development are shaped through incorporating and enhancing natural and historic assets, natural processes, the multiple roles of infrastructure and networks, and local design context.

Policy 4: Homes

- 18 Seeks to ensure there is a minimum of 5 years effective housing land supply at all times. Land should be allocated within each Housing market Area to provide a generous supply of land to assist in the delivery of 25,020 units up to year 2028 and a further 16,680 by 2036.

Policy 6: Developer Contributions

- 19 Seeks to ensure suitable infrastructure is in place to facilitate new development, developer contributions shall be sought to mitigate any adverse impact on infrastructure, services and amenities brought about by development. This may include contributions towards schools, the delivery of affordable housing, transport infrastructure and facilities (including road, rail, walking, cycling and public transport), green infrastructure and other community facilities in accordance with the Scottish Government Circular 3/2012: Planning Obligations and Good Neighbour Agreements.

Policy 8: Green Networks

- 20 Seeks to protect and enhance green and blue networks by ensuring that:

- i. development does not lead to the fragmentation of existing green networks;
- ii. development incorporates new multifunctional green networks (that link with existing green networks) of appropriate quantity and quality to meet the needs arising from the nature of the development itself; and,
- iii. the provision of networks of green infrastructure is a core component of any relevant design framework, development brief or masterplan.

Perth and Kinross Local Development Plan 2014

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

The principal relevant policies are, in summary;

Policy PM1A – Placemaking

- 22 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 adaption.

Policy PM1B – Placemaking

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

Policy PM2 - Design Statements

- 24 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

- 25 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

- 26 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

- 27 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 TA1B - Transport Standards and Accessibility Requirements

- 28 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

- 29 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

- 30 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 HE1B - Scheduled Monuments and Non Designated Archaeology

- 31 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 NE1A - International Nature Conservation Sites

- 32 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

- 33 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

- 34 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

- 35 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

- 36 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

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

Policy EP2 - New Development and Flooding

- 38 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

- 39 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

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

Policy EP4 - Health and Safety Consultation Zones

- 41 Full account will be taken of advice from the Health and Safety Executive in determining planning applications for development within the consultation zones identified on the proposals and inset maps.

Policy EP8 - Noise Pollution

- 42 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 EP12 - Contaminated Land

- 43 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

- 44 The following supplementary guidance and documents are of particular importance in the assessment of this application;
- Developer Contributions Supplementary Guidance including Affordable Housing April 2016.
 - Flood Risk and Flood Risk Assessments – Developer Guidance June 2014.

Proposed Perth and Kinross Local Development Plan 2 (LDP2)

- 45 Perth & Kinross Council is progressing with preparation of a new Local Development Plan to provide up-to-date Development Plan coverage for Perth & Kinross. When adopted, the Perth & Kinross Local Development Plan 2

(LDP2) will replace the current adopted Perth & Kinross Local Development Plan (LDP). The Proposed Local Development Plan 2 (LDP2) was approved at the Special Council meeting on 22 November 2017.

- 46 The representations received on the Proposed LDP2 and the Council's responses to these were considered at the Special Council meeting on 29 August 2018. The unresolved representation to the Proposed Plan after this period is likely to be considered at an Examination by independent Reporter(s) appointed by the Scottish Ministers, later this year. The Reporter(s) will thereafter present their conclusions and recommendations on the plan, which the Council must accept prior to adoption. It is only in exceptional circumstances that the Council can elect not to do this.
- 47 The Proposed LDP2 represents Perth & Kinross Council's settled view in relation to land use planning and as such it is a material consideration in the determination of planning applications. It sets out a clear, long-term vision and planning policies for Perth & Kinross to meet the development needs of the area up to 2028 and beyond. The Proposed LDP2 is considered consistent with the Strategic Development Plan (TAYplan) and Scottish Planning Policy (SPP) 2014. However, the outcome of the Examination could potentially result in modifications to the Plan. As such, currently limited weight can be given to its content where subject of a representation, and the policies and proposals of the plan are only referred to where they would materially alter the recommendation or decision.

SITE HISTORY

- 48 04/02375/FUL Proposed residential development of 64 dwellings. Application withdrawn May 2006. Decision issued date
- 49 [07/00442/OUT](#) Proposed residential development. Approved by Development Management Committee February 2008. Decision issued date
- 50 [11/01537/IPM](#) Modification of Condition 2 (07/00442/OUT) to extend the time limit. Approved by Development Management Committee January 2012. Decision issued date
- 51 [13/00436/IPM](#) Modification of Conditions 2 and 3 of planning permission 07/00442/OUT to extend the time limit. Approved by Development Management Committee June 2013. Decision issued date
- 52 [15/00240/IPM](#) Variation of Conditions 1 and 2 of permission 13/00436/IPM (modification of 07/00442/OUT). Approved by Development Management Committee April 2015. Decision issued date
- 53 [18/00338/IPM](#) Application under Section 42 of the Town and Country Planning (Scotland) Act 1997 to develop land without complying with Conditions 1 and 2 of planning permission 15/00240/IPM (modification of 07/00442/OUT).

Approved by Planning and Development Management Committee August 2018.
Decision issued date

- 54 18/02233/SCRN EIA Screening for residential development. EIA screening decision issued January 2019. EIA not required.

CONSULTATIONS

- 55 As part of the planning application process the following bodies will be consulted:

56 **External**

- Scottish Environmental Protection Agency (SEPA)
- Scottish Natural Heritage (SNH)
- Scottish Water
- Historic Environment Scotland (HES)
- Transport Scotland
- Health and Safety Executive (HSE)
- INEOS
- Perth and Kinross Heritage Trust (PKHT)
- Milnathort Community Council

57 **Internal**

- Environmental Health including Contaminated Land
- Strategy & Policy
- Developer Negotiations Officer
- Affordable Housing Enabling Officer
- Community Greenspace (including Access)
- Transport Planning
- Structures and Flooding
- Waste Services
- Biodiversity

KEY ISSUES AGAINST WHICH A FUTURE APPLICATION WILL BE ASSESSED

- 58 The key considerations against which the eventual application will be assessed includes:
- a. Landscape and visual impact
 - b. Scale, design and layout
 - c. Relationship with surrounding land uses
 - d. Natural heritage and ecology
 - e. Landscaping
 - f. Water resources and soils

- g. Transport implications
- h. Open space provision
- i. Access provision
- j. Waste
- k. Affordable housing provision (including siting, design, layout and tenure)
- l. Education provision
- m. Flooding & drainage
- n. Noise implications
- o. Cultural heritage

ADDITIONAL STATEMENTS WHICH WILL BE REQUIRED

59 The following supporting documents will need to be submitted with any planning application;

- Planning Statement
- Design and Access Statement
- Pre-Application Consultation (PAC) Report
- Transport Assessment
- Flood Risk and Drainage Assessment
- Phase 1 Habitat Survey including protected species and breeding birds
- Sustainability Assessment
- Noise Assessment
- Construction Management Plan

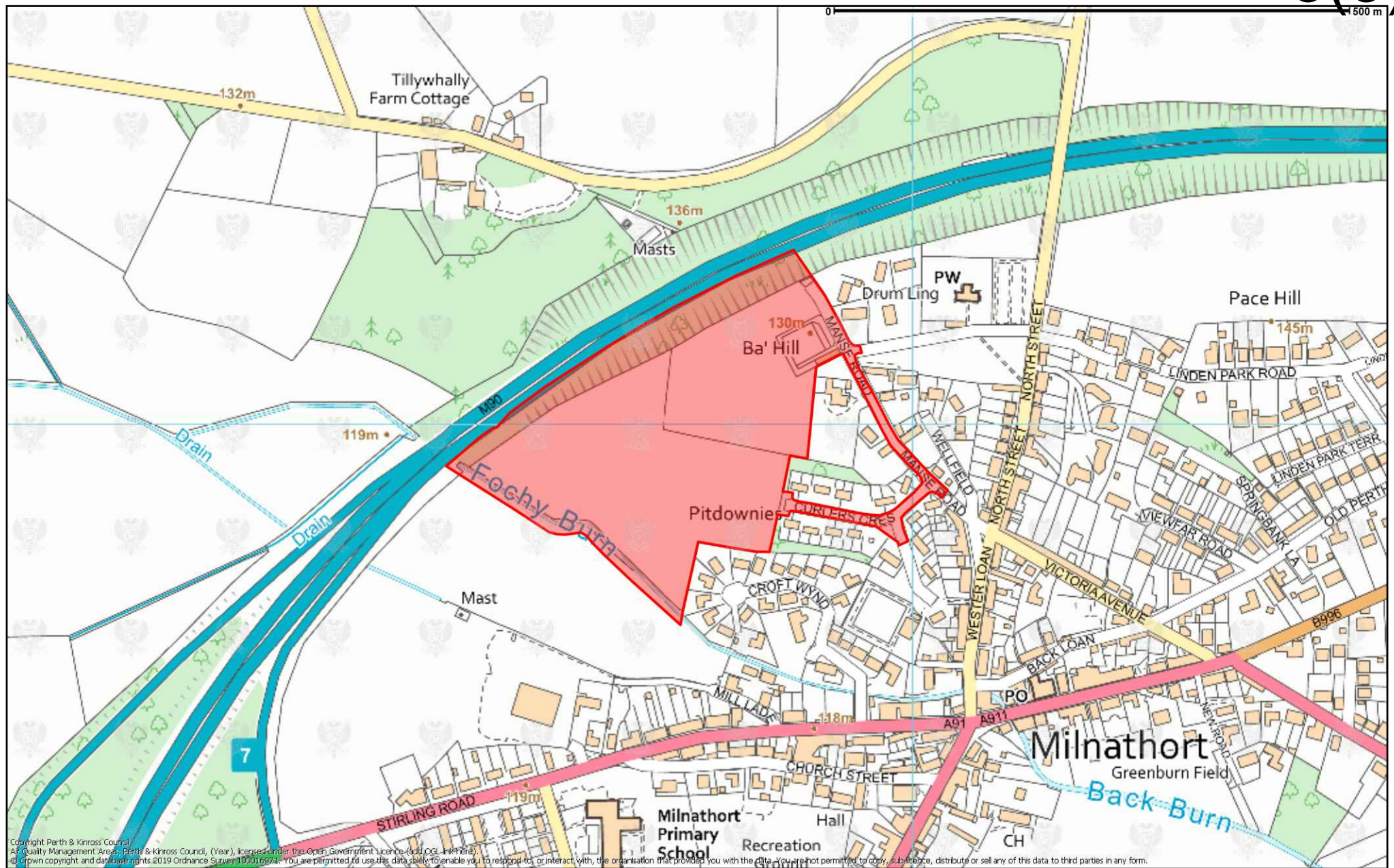
CONCLUSION AND RECOMMENDATION

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

Background Papers: None
 Contact Officer: Steve Callan 01738 475337
 Date: 31 January 2019

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Scale 1:5000



18/00014/PAN

Residential development, landscaping and associated works -
Land at Pitdownies Farm, Manse Road, Milnathort



