

Perth and Kinross Council
Planning & Development Management Committee – 29 August 2018
Report of Handling by Interim Development Quality Manager (Report No.18/266)

PROPOSAL: Application under Section 42 of the Town and Country Planning (Scotland) Act 1997 to modify Condition 24 (acoustic insulation of windows) of planning permission 15/00809/AMM Erection of 164 dwellinghouses and associated works (matters specified by conditions attached to permission 12/01692/IPM)

LOCATION: Land to the West of Cherrybank Gardens, Perth

Ref. No: 18/00988/FLM

Ward No: P10- Perth City South

Summary

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

BACKGROUND AND DESCRIPTION OF PROPOSAL

- 1 The application site is located to the western edge of Perth adjacent to the services area at Broxden. The topography of the site slopes from the M90 down to Glasgow Road. The M90 motorway is located to the south of the site and the A93 Glasgow Road to the north of the site. West of this is the Perth Park and Ride site as well as other roadside services that have been developed to the south of the existing Glasgow Road/Lamberkine Drive roundabout.
- 2 The site forms part of a site allocated (MU1) in the Perth and Kinross Local Development Plan (LDP) for 200 dwellings and employment use forms part of a wider site. 'In Principle' planning approval 12/01692/IPM was granted for residential and employment use in August 2013. The Associated Matters Specified by Condition (AMSC) permission for phases 1, 2 and 3 for 164 dwellings was approved in May 2016. Development of these phases commenced in summer 2016 and in the region of 60 dwellings have been completed.
- 3 Following occupation of one of the dwellings close to the M90 motorway, the Planning Authority received a complaint from a new resident about road traffic noise levels from the M90 motorway. Following detailed investigation and

enforcement action (17/00299/PLACON) by the Councils Enforcement Officer and Environmental Health it was concluded that there was breach of condition because the installed window trickle vents were not sufficient to satisfy the noise levels stipulated in Condition 24 of the 15/00809/AMM permission. Condition 24 reads as follows:

- 4 *All windows shall be provided with suitable acoustic insulation with a sound reduction index equivalent to >30 dB RWA and all windows should be provided with trickle vents with a sound reduction index equivalent to 35 dB RWA.*
- 5 The developer has now submitted an application to vary the above condition and an updated Noise Assessment has been submitted in support of a new trickle vent to be installed on the upper floor of 78 dwellings (Plots 146-151; 153; 155-159; 161; 163; 168-176; 183-214; 220-242) within the southern portion of the site. They also consider that the condition has been incorrectly worded and now propose a new condition which is not accepted by us.

NATIONAL POLICY AND GUIDANCE

- 6 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

- 7 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

- 8 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.

- 9 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

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

- PAN 1/2011 Planning and Noise
- PAN 40 Development Management

DEVELOPMENT PLAN

- 11 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2016-2036 and the Perth and Kinross Local Development Plan 2014 (LDP)

TAYPlan Strategic Development Plan 2016-2036

- 12 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:
- 13 *“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.”*

Perth and Kinross Local Development Plan 2014

- 14 The 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.
- 15 The principal relevant policy is, in summary.

Policy EP8 - Noise Pollution

- 16 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.

Proposed Perth and Kinross Local Development Plan 2 (LDP2)

- 17 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 was approved at the Special Council meeting on 22 November 2017. The Proposed LDP2 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.
- 18 The Proposed LDP2, as approved by Perth & Kinross Council, was subject of a 9 week period of representation, which ended on 2 February 2018. Any 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. 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.
- 19 The Proposed Plan 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. The Proposed Plan is, however, at a stage in the statutory preparation process where it may be subject to modification. As such limited weight can therefore currently be given to its content and the policies and proposals of the plan are only referred to where they would materially alter the recommendation or decision. The weight of the Proposed Plan may change following consideration of representation received during consultation, at which time the level of significance of any objection to strategy, policies or proposals within the plan will be known.

SITE HISTORY

- 20 The following history is of relevance:

11/00010/PAN Mixed use development comprising of residential and employment uses, landscaping and associated infrastructure. Content of PAN approved October 2011.

12/01692/IPM Mixed use development comprising of residential and employment uses (Class 4), new vehicular access, pedestrian access, open space, landscaping and associated infrastructure (In Principle). Application approved by Development Management Committee August 2013.

15/00809/AMM Erection of 164 dwellings, open space, play area and associated infrastructure. Approved by Development Management Committee

December 2015. Decision issued May 2016 following conclusion of S75 legal agreement.

17/00204/AMM Erection of 70 dwellings, open space and associated infrastructure. Approved by Development Management Committee December 2017. Decision issued January 2018 following the conclusion of S75 legal agreement.

17/00299/PLACON Breach of Condition Notice served February 2018 following a noise complaint December 2017.

18/00480/FLL Erection of 48 dwellings. Application withdrawn July 2018.

CONSULTATIONS

- 21 As part of the planning application process the following body was consulted:

Internal

Environmental Health

- 22 No objection to the proposed modification and new trickle vents.

REPRESENTATIONS

- 23 None received.

ADDITIONAL STATEMENTS

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|--|-----------------|
| 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 | Acoustic Report |

APPRAISAL

- 25 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 consideration of Scottish Planning Policy 2014 and PAN 1/2011 - Planning and Noise.

Design and Layout

- 26 There are no changes proposed to the design and layout of the site. There will therefore be no impact on the design and layout of the approved development.

Residential Amenity

- 27 The additional trickle ventilation will improve the amenity for residents in their upper floor bedrooms.

Visual Amenity

- 28 There will be no impact on the visual amenity of the approved development.

Noise

- 29 The applicants supporting Noise Assessment cites that British Standard (BS) 8233 Guidance on sound insulation and noise reduction for buildings recommends that, for resting and sleeping conditions, noise levels in bedrooms should not exceed 35dB during the day and 30dB at night. Living rooms should also not exceed 35dB during the day.
- 30 The World Health Organisation (WHO) also reflects these recommendations in their Guidelines for Community Noise. Good resting and sleeping conditions can be achieved through a variety of combinations of glazing and ventilation elements and background ventilation strategies. Environmental Health have adopted these recommendations as design targets.
- 31 The Noise Assessment checked the acoustic requirements for individual properties and confirms which habitable rooms require upgraded trickle vents in order to comply with the recommendations in BS8233.
- 32 The acoustic performance of the glazing on each dwelling remains the same throughout the development. However, where the installed trickle vents (Titon S13) on the upper floor windows of 78 dwellings do not meet the requisite standards in combination with the glazing. An alternative trickle vent (Greenwood 5000EA.AC1) is recommended by the applicants Acoustic Consultant.
- 33 The developer (Bellway Homes) has identified the location of all plots (78 in total) that will require an upgrade to their trickle vents.

- 34 Environmental Health have reviewed the applicants Noise Assessment and proposal to upgrade the trickle vents of the affected windows of the 78 dwellings to comply with the recommendations in BS8233. They are supportive of the proposed change in trickle vents and have no adverse comments to make on the proposed modification of Condition 24 of planning permission 15/00809/AMM.
- 35 It is however considered appropriate that the proposed condition is modified to accurately reflect the situation and ensure it is robust and enforceable. As a result of many of the dwellings now being occupied, some residents could choose not to allow the developer access to install new upper floor trickle vents in their properties. The Planning Authority will require confirmation which dwellings do not accept the new trickle vents to prevent further enforcement action being taken should a noise complaint be made. (Condition 24)

Procedural Matter

- 36 It will be necessary to reapply the conditions associated with 15/00809/AMM as the Council will be issuing a new decision notice for Phases 1, 2 and 3. However, because the development commenced two years ago and many of the dwellings are constructed and occupied, some of the previous conditions will require updating or will not be required.

Developer Contributions

- 37 None required.

Economic Impact

- 38 The economic impact from this proposal will be very limited.

LEGAL AGREEMENTS

- 39 None Required.

DIRECTION BY SCOTTISH MINISTERS

- 40 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

- 41 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.
- 42 Accordingly the proposal is recommended for approval subject to the following conditions.

RECOMMENDATION

Approve the application

Conditions and Reasons for Recommendation

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

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

2. All matters regarding access, car parking, road layout, design and specification, including the disposal of surface water, shall be in accordance with the standards agreed by the Council as Roads Authority.

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

3. The agreed specification including materials of all footpaths and cycleways shall be implemented prior to the completion of each phase of the development.

Reason: In the interest of pedestrian and cycle safety.

4. Permitted development rights associated with Classes 1A, 1B, 3A and 3B of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended), or any subsequent comparable classes in future legislation relating to development within the curtilage of a dwellinghouse are hereby revoked in full for all terraced dwellings of the approved Site Layout Plan (Ref No.18/00988/1).

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

5. The approved external finishing details and composition shall be undertaken and completed commensurate with the subsequent phases of the development.

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

6. The detailed landscaping and planting scheme as approved shall be implemented fully and thereafter maintained to the satisfaction of the Council as Planning Authority.

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

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

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

8. The areas of public open space indicated on the approved landscape and planting drawings shall be planted in accordance with the open space standards of the Planning Authority and completed to phase with the adjacent dwellinghouses in accordance with the agreed programme. The scheme shall thereafter be maintained to the satisfaction of the Council as Planning Authority.

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

9. The approved and installed children's play area indicated in the site layout plan shall be maintained to the satisfaction of the Council as Planning Authority.

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

10. The approved and installed new accesses onto both Glasgow Road and Necessity Brae shall be implemented in accordance with the agreed detail.

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

11. The approved detailed Construction Environmental Management Plan (CEMP) detailing environmental mitigation measures and construction method statements, including specific measures for environmental monitoring during construction, shall be fully respected and adhered to through the construction phase of the development.

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

12. Storm water drainage from all paved surfaces shall be disposed of by means of suitable Sustainable Urban Drainage Systems to meet the requirements of best management practices.

Reason: In the Interest of vehicle and pedestrian safety.

13. The approved full drainage calculations and the final layout and depth of the proposed SUDS pond and associated infrastructure shall be fully implemented prior to the completion of the development.

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

14. The developer shall ensure that during the construction of the development that all surface water is controlled, treated and discharged under the principles of SUDS, as contained in the SUDS Manual (C697) and Site Handbook for the Construction of SUDS (C698) published by CIRIA, all to the satisfaction of the Council as Flood Authority. On completion of development all as-built records of all SUDS shall be provided to the Council as Planning Authority.

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

15. Prior to the completion of the development, Watercourses 1 and 2 (as referred to in the FRA) shall be inspected and cleared of any impediments likely to create any obstruction to the free flow of water within the development and for 300m (or length otherwise agreed with the Planning Authority) upstream and downstream of the proposed development; all to the satisfaction of the Council as Roads Authority.

Reason: In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality and in accordance with the adopted Perth and Kinross Local Development Plan 2014.

16. Prior to the completion of the development, Watercourses 1 and 2 (as referred to in the FRA) within the extents of the proposed development shall be inspected and repairs carried out on the watercourse where the bed/banks or other associated features have fallen into a state of disrepair; all to the satisfaction of the Council as Roads Authority.

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

17. The discharge of any surface water drainage shall be limited to 50% of the greenfield runoff rate.

Reason: To reduce flood risk.

18. No works shall take place within 10m of any flood apparatus constructed as part of the Perth Flood Prevention Scheme without the prior written approval of the Planning Authority in consultation with the Structures and Flooding Team.

Reason: To maintain the integrity of the Perth Flood Prevention Scheme defences.

19. The approved full design of the proposed culverts including maintenance strategy shall be fully implemented prior to the completion of the development.

Reason: To reduce flood risk.

20. The agreed local road network improvements identified in the Transport Assessment shall be implemented and made operational to mitigate the traffic implications of each development phase.

Reason: In the Interest of vehicle and pedestrian safety.

21. The agreed financial contribution between the applicant and Transport Scotland must be in place via a Section 48 Agreement (Roads Scotland Act 1984)

Reason: To ensure that the development supports the longer term aim of providing the capacity improvements necessitated by the traffic impacts of the development; to maintain safety for both the trunk road traffic and the traffic moving to and from the development.

22. The approved site specific plan, detailing bin storage areas, kerbside collection locations and recycling facilities shall be undertaken in accordance with the approved details and completed commensurate with the respective phases of the development.

Reason: To ensure there is adequate provision for waste disposal and recycling.

23. The approved details of the two bus stops shown in the Site Layout Plan shall be implemented prior to the completion of the development.

Reason: In order to ensure that associated local sustainable infrastructure improvements are undertaken to adequately accommodate the impact of the development proposed.

24. All first floor habitable rooms of the affected plots identified in the applicants Trickle Vent Overmark Plan (drawing number PB/AV/01) (18/00988/2) shall be fitted with improved sound attenuated trickle ventilation which meets the specification contained within the submitted Acoustic Report (18/00988/3) dated 6 June 2018 by KSG Acoustics.

The windows identified shall be provided with suitable acoustic insulation with a sound reduction index equivalent to >30 dB RWA and provided with trickle vents with a sound reduction index equivalent to 35db RWA.

For the avoidance of doubt;

- The affected plots completed to date shall, within 3 months of the date of this decision, have all affected rooms fitted with trickle vents. Should the owner of any property refuse to have the trickle vents installed at this time the developer must present the requisite number of trickle vents to the owner for their (or any future householders) use. Details of any dwelling not having the trickle vents fitted within the prescribed timescale above shall be notified to the Council as Planning Authority.
- Those affected plots not yet completed shall have trickle vents fitted prior to the occupation of the dwelling house on that said plot.

In the interests of clarity, none of the affected plots will be without the trickle vents either fitted or in the possession of the owner.

Reason: To prevent disturbance in the bedrooms of the property from noise from the adjacent Trunk Road.

25. Where site boundaries affect trees, the development shall fully comply with, respect and remain in full accordance with BS5837 2012: *'Trees in relation to construction, demolition and construction. Recommendations'*.

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

26. The approved scheme of mitigation to improve air quality shall be completed commensurate with the respective phases of the development to the satisfaction of the Council as Planning Authority.

Reason: To mitigate for any associated impacts on air quality and the wider environment.

B JUSTIFICATION

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

C PROCEDURAL NOTES

None.

D INFORMATIVES

- 1 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.
- 2 The applicant is advised that this permission relates to just three of the four residential phases of the 12/1692/IPM planning approval for residential and employment uses of LDP site MU1.
- 3 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.
- 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 Scottish Water and the Scottish Environmental Protection Agency.

- 5 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.
- 6 Paths to be constructed as part of a development should reflect likely patterns of use: pedestrian, bikes horse riders & wheelchairs as appropriate. Specifications should be based on those in "Lowland Path Construction - A Guide to Good Practice" published by SNH, Scottish Enterprise & the Paths for All Partnership.
- 7 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.
- 8 The applicant is advised that the works are likely to need a license under the Water (Controlled Activities) Regulations 2005 (CAR). The applicant should contact SEPA's Perth Environmental Protection and Improvement Team (Tel: 01738 627989) in regard to this. The applicant should ensure that all works on site comply with the best practice guidelines laid out in SEPA's published Pollution Prevention Guidance, found at www.sepa.org.uk
- 9 The Council's Community Waste Adviser in the Environment Service should be contacted to clarify the bin storage requirements for the development.
- 10 No further work shall be undertaken until an application for building warrant has been submitted and approved.
- 11 Please consult the Street Naming and Numbering Officer, The Environment Service, Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth PH1 5GD
- 12 The applicant should be aware that the street lighting scheme to be submitted to the Council as Roads Authority as part of their Construction Consent application should include the use of LED lights.

Background Papers: None
Contact Officer: Steve Callan 01738 475337
Date: 16 August 2018

ANNE CONDLIFFE
INTERIM DEVELOPMENT QUALITY MANAGER

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