

Perth and Kinross Council  
Planning & Development Management Committee – 29 June 2021  
Report of Handling by Head of Planning & Development (Report No. 21/105)

**PROPOSAL:** S42 application to modify Condition 8 (sustainable development) and Condition 16 (residential occupation) of permission 15/01157/IPM

**LOCATION:** Land Adjacent to Huntingtowerfield and Ruthvenfield

Ref. No: [21/00383/IPM](#)

Ward No: P5 - Strathtay

### **Summary**

This report recommends approval of the application, subject to a new or updated Section 75 (s75) legal agreement, to secure necessary changes to Clause 16 of the existing agreement, and subject to planning conditions to account for any amendments to corresponding Clause 16 of the existing agreement. The development is acknowledged to not fully comply with the relevant provisions of the Development Plan; however, there are significant material considerations which outweigh the position of the Development Plan and justify a recommendation of approval.

### **BACKGROUND AND DESCRIPTION OF PROPOSAL**

- 1 The application site, known as 'Almond Valley', extends to 103 hectares (ha) and is situated immediately beyond the north-western edge of Perth. It is set within the 'lowland river corridor' landscape associated with the River Almond and Perth Lade. Almond Valley is allocated as 'Site MU73' within the Perth and Kinross Local Development Plan 2019 (LDP2), for mixed-use development, including up to 1,100 dwellings. A tract of land to the south of the A85 (extending to circa 11ha), which was previously included in LDP 2014 as part of the Almond Valley site, is now instead included in the 'Perth West' (MU70) allocation. This land remains in the application site, however. It is highlighted that LDP2 states the MU73 site extends to an area of 150ha, but this is incorrect, and the figure is, in fact, 98ha. It should be noted that the illustrated map used in the MU73 LDP2 allocation relates to the PPP application site boundary and not the LDP2 site allocation. It is also highlighted that the originally submitted application form suggested that the application site area extends to 159ha; however, this is an error and the site is, and always has been, 103ha.
- 2 Almond Valley has an extensive planning site history, culminating in PPP being approved in 2017, following a successful appeal to the Division of Planning and Environmental Appeals (DPEA) (application reference: 15/01157/IPM). That extant PPP has an associated Section 75 legal agreement, which includes a masterplan.

3 The primary purpose of this Section 42 (S42) application is to seek a revision to the current wording and requirements of two planning conditions attached to the PPP. The proposed revisions are as follows:

4 Firstly to vary Condition 8, seeking to align with the Council's current Local Development Plan (LDP2), reflective of the terms of Policy 32 'Embedding Low and Zero Carbon Generating Technology in New Development'. Condition 8 of 15/01157/IPM currently states:

*In pursuance of condition 5 f), 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 each 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 LDP Policy EP1: Climate Change, Carbon Reduction and Sustainable Construction.*

5 Second to vary the terms of Condition 16, which set the current 90 dwelling unit threshold in advance of a commitment to deliver a roundabout onto the A85, and instead seeking a new upper threshold of 403 dwelling units, aligned with an amended phasing approach and access arrangements. Condition 16 of 15/01157/IPM currently states:

*No more than 90 residential units are 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, is operational and until the following infrastructure has been delivered: a) Provision has been made for pedestrian connections and public transport facilities in the form of footways, crossings and bus stops on and along the A85. b) The new roundabout on the A85 connecting to the site and the Tibbermore Road shall be constructed and operational. c) The current junction of the A85 and Tibbermore Road shall be closed by the Council. All details shall be submitted for written approval and thereafter installed and made fully operational all 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.*

The proposed amended wording for Conditions 8 and 16 are set out in paragraphs 57 and 72, respectively.

### **Pre-Application Consultation**

- 6 The proposal is classed as a Major Application as defined in the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009. However, Pre-Application Consultation (PAC) is not required for S42 applications.

### **Environmental Impact Assessment (EIA)**

- 7 The Almond Valley proposal is of a type listed within Schedule 2 of the EIA Regulations and has been subject of EIA screening related to the 'PPP' permission (15/01157/IPM). As a revision of that development, it is proportionate to consider possible changes of circumstance. Having considered the proposal's characteristics, location and likely significant environmental effects, the Planning Authority adopted an opinion that the proposal continues to constitute EIA development, primarily through the potential significance associated with the proposed delay to delivery of key transport infrastructure and any impacts on surrounding environmental sensitivities. Additional environmental information was therefore provided through an EIA Addendum.

### **National Policy and Guidance**

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

### **National Planning Framework 2014**

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

### **The Scottish Planning Policy 2014 (SSP) (Revised December 2020)**

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

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

- Sustainability: paragraphs 24 – 35
- Placemaking: paragraphs 36 – 57
- A Low Carbon Place: paragraphs 152 – 154
- Valuing the Natural Environment: paragraphs 193 – 218
- Managing Flood Risk and Drainage: paragraphs 254 – 268
- Promoting Sustainable Transport and Active Travel: paragraphs 269 – 271

### **Planning Advice Notes**

12 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 69 Planning and Building standards Advice on Flooding
- PAN 75 Planning for Transport
- PAN 84 Reducing Carbon Emissions in New Development

### **Development Plan**

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

### **TAYPlan Strategic Development Plan 2016-2036**

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

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

- Policy 1: Locational Priorities
- Policy 6: Developer Contributions

### **Perth and Kinross Local Development Plan 2**

15 The Local Development Plan 2 (2019) (LDP2) sets out a vision statement for the area and states that, *“Our vision is of a Perth and Kinross which is dynamic, attractive and effective which protects its assets whilst welcoming population and economic growth.”* It is the most recent statement of Council policy and is augmented by Supplementary Guidance.

16 The principal relevant policies are, in summary:

- Policy 32: Embedding Low and Zero Carbon Generating Technology in New Developments
- Policy 38: Environment and Conservation
- Policy 53: Water Environment and Drainage
- Policy 60: Transport Standards and Accessibility Requirements

### **LDP2 Allocation**

### **MU73 Almond Valley (mixed use)**

#### Site-specific Development Requirements

17 The Site Specific Requirements detailed in LDP2 are:

- Implement the phasing programme for the housing, affordable housing, community facilities, open spaces, transport infrastructure contributions, road improvements, structure planting, and local centre in line with the planning permission/obligations S75 legal agreement;
- Provide a site for potential new primary school;
- Provide a detailed delivery plan;
- Provide detailed Food Risk Assessment with each phase of development, to include establishment of flow paths and mitigation for appropriate uses;
- Provide facilities to enable connection to Perth's bus network;
- Provide a network of paths and cycle routes providing good active travel links to Perth and Almondbank;
- Provide green corridors in particular networks to link the site with Perth and the wider countryside;
- Provide biodiversity study updates and enhancement of biodiversity;
- Integrate the existing landscape framework into the development;
- Provide an Energy Statement investigating the potential for the provision of, and/or extension to, a heat network to serve the development. The Energy Statement will be expected to consider possible linkages to sites M70 and H319;
- Provide a Construction Method Statement where a development site will affect a watercourse. The methodology should provide measures to protect the watercourse from the impact of pollution and sediment to ensure no adverse effects on the River Tay Special Area of Conservation.
- Provide an updated otter survey and a species protection plan if required, to ensure no adverse effects on the River Tay Special Area of Conservation;
- Archaeological investigation and report and plan detailing the sensitive design of development to protect and maintain the setting of the scheduled ancient monument of Huntingtower Cairn.

### **Site History**

18 **03/00212/OUT** Application in Principle for use Mixed use development including residential, commercial, educational, recreational and retail development with associated road works and landscaping. Withdrawn March 2004

- 19 [08/00678/IPM](#) Application in Principle for Residential-led development to provide 1,800 new homes, a primary school, leisure, retail, office facilities along with new vehicular and pedestrian access, open space and landscaping. Application refused January 2012.
- 20 [10/00005/PAN](#) Proposal of Application Notice (PoAN) for Mixed use development comprising residential, retail, business and industrial associated community facilities, landscaping, car parking and infrastructure including roads and accesses. Accepted May 2010.
- 21 [14/00011/PAN](#) Proposal of Application Notice (PoAN) for Mixed use development comprising residential, a primary school and community facilities. Accepted October 2014
- 22 [14/01961/SCOP](#) EIA Scoping Opinion for Mixed use development comprising residential, a primary school and community facilities. Scoping Report issued December 2014.
- 23 [15/00546/IPM](#) Application in Principle for Residential development with school and community facilities, open space, landscaping and associated infrastructure. Withdrawn July 2015.
- 24 [15/01157/IPM](#) Application in Principle for Residential development with school and community facilities, open space, landscaping and associated infrastructure. Approved September 2017.
- 25 [19/00056/SCRN](#) EIA Screening for construction of a road. Opinion issued in March 2019 that Environmental Statement not required.
- 26 [19/01430/AMM](#) Formation of primary vehicular access and associated works (Approval of Matters Specified in Conditions (AMSC) of planning application 15/01157/IPM or as subsequently superseded by application 21/00383/IPM). Currently under consideration.
- 27 [19/01433/AMM](#) Erection of 284 dwellinghouses, 21 detached garages, 56 flats, 3 retail units, a refuse/bike store and a sports changing pavilion, formation of boundary treatments, retaining walls, leisure facilities, SUDS ponds, parking areas, landscaping and associated works (Approval of Matters Specified in Conditions (AMSC) of planning application 15/01157/IPM or as subsequently superseded by application 21/00383/IPM) (Phase 1 and 1A). Currently under consideration.

## **CONSULTATIONS**

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

### **External**

- 29 **Scottish Environment Protection Agency:** No objection.

- 30 **Transport Scotland:** No objection. Conditions are recommended, regarding: revised delivery thresholds for required infrastructure; and the inclusion of other relevant conditions reflective of the extant PPP or secured in the existing S75.
- 31 **Historic Environment Scotland:** No objection.
- 32 **Health and Safety Executive:** No objection.
- 33 **Health and Social Care Partnership:** No comments.
- 34 **NatureScot:** No objection. Advise of no new impacts on natural heritage interests from the proposed changes and welcome the updated Habitat Regulations Assessment (HRA).
- 35 **Scottish Water:** No objection. Advise water and wastewater capacity is available at the Turret Water Treatment Works and Perth City Wastewater Treatment Works.
- 36 **Perth and Kinross Heritage Trust:** No objection, subject to planning condition for archaeological evaluation.
- 37 **Methven Community Council:** Object. Consider that the local road network is inadequate to cope with the proposed increase in housing numbers before the roundabout is to be delivered.
- 38 **Luncarty, Redgorton and Moneydie Community Council:** No response.
- 39 **Tulloch Community Council:** No response.

#### **Internal**

- 40 **Transport Planning:** No objection. This followed clarification on the submitted Transport Statement. A number of alternative conditions are recommended, primarily regarding; infrastructure delivery thresholds as currently set out in condition 16.
- 41 **Structures and Flooding:** No objection. Seek inclusion of an additional condition relating to finalised drainage detail to be provided at the AMSC stage.
- 42 **Biodiversity/Tree Officer:** No objection.
- 43 **Planning and Housing Strategy:** Advise the proposals are generally considered to remain aligned with the overall requirements of LDP2. It is recognised that Planning Permission in Principle is in place for up to 1,500 units, which is at odds with the LDP2 Site MU73 allocation of up to 1,100 units. An anomaly with the stated MU73 site area in LDP2 was also highlighted.
- 44 **Development Contributions Officer:** No objection. Advises that any updated s75 should be considered by legal colleagues.
- 45 **Community Greenspace:** No response.

## Representations

46 5 representations have been received. The main issues raised are:

- An increase of over 300 houses from that previously approved will adversely impact on the Crieff Road junction, with the existing local road network also unable to cope;
- Delaying the road improvements will cause pressure/congestion on existing roads, leading to environmental pollution;
- Revising the requirements of these conditions, before works commence, could lead to piecemeal development;
- The supporting Transport Statement is not considered fully reflective of the long-term traffic situation (pre-covid levels);
- There is constrained access to the business site;
- It is unclear what the proposed changes are;
- Ongoing flooding concerns;
- Object unless there is a requirement to close off the A85/Tibbermore junction; and
- Impact on private water supply.

47 The material issues are addressed in the Appraisal section of the report. Otherwise, the proposed changes to the specific matters in the conditions is considered to be clear, as is explained in this report. Impacts on private water supply would not change through this application and were fully considered as part of planning submission 15/01157/IPM.

## ADDITIONAL STATEMENTS

48

Screening Opinion	EIA Addendum required
Environmental Impact Assessment (EIA): Environmental Report	EIA addendum (2) submitted, supplementing the original Environmental Statement associated to 15/01157/IPM.
Appropriate Assessment	The conclusions of the submitted updated HRA (Plan 14) and the associated Appropriate Assessment has been independently reviewed and adopted as the Planning Authority's Appropriate Assessment.
Design Statement or Design and Access Statement	Not Required.
Reports on Impact or Potential Impact e.g. Flood Risk Assessment	Transport Statement & Habitats Regulations Appraisal.

## **APPRAISAL**

- 49 Section 42(1) of the Town and Country Planning (Scotland) Act 1997 relates to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.
- 50 Section 42(2) requires that the Planning Authority shall consider only the question of the condition(s) subject to which planning permission should be granted, and:
- (a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly;
  - (b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.
- 51 The determining issues in this case are whether; the proposal complies with Development Plan policy, or if there are any other material considerations which justify a departure from that policy. At this time the adopted Development Plan comprises the TAYplan Strategic Development Plan 2016–2036 and LDP2. The relevant policy considerations are outlined above and are considered below. In terms of other material considerations, this involves national policy and guidance; the Council's other approved policies, supplementary guidance, statutory consultees; and additional statements submitted.

### **Principle**

- 52 The principle of the development subject of the application has been previously established through both the LDP 2014 allocation, which has been continued into LDP2 (with aforementioned amendments, with part of the PPP site now located in the Perth West, LDP2 MU70 allocation), and the approval of the extant planning permission (15/01157/IPM). It is therefore important to note that since the approval of the PPP, there have been two principal changes to the Development Plan, with the adoption of TAYplan 2016-2036 in 2017 and LDP2 in 2019. Relevant changes to LDP2 are reflected in updated site allocation MU73 (as referred) and the inclusion of Policy 32, replacing LDP 2014 Policy EP1, which is directly relevant to the changes sought in Condition 8.
- 53 Whilst acknowledging the site specific boundaries of the LDP allocation have altered since the 2014 LDP; fundamentally the application site area is captured across land use allocations MU73 and MU70 collectively. As a significant material consideration, the site remains consistent with the development approved under the extant PPP. Therefore, the principle of development is considered to remain established and largely consistent with LDP2. In any case, the principle of the development cannot be reconsidered as part of this S42 application, only the conditions which it should be subject to. The LDP2 allocation for Site MU73 indicates a maximum of 1,100 residential units. However, the existing PPP approved a maximum number of 1,500 units

(through Condition 14). A further consideration is that the PPP Phasing Plan indicated a total of 1,278 units across the site. The Delivery Strategy for the current S42 application now indicates a maximum of 1,483 units. Pulling all these matters together, it is recognised that the approved maximum of 1,500 exceeds of the current LDP2 allocation; however, that larger number complied with the allocation in LDP 2014, and remains appropriate in principle via the extant PPP. Thus it is considered that a maximum capacity of 1,500 units is accepted and a significant material consideration which justifies setting the capacity referenced in the LDP2 allocation aside and, in any case, the approved capacity could not be challenged within this S42 application.

- 54 Therefore, the determining issue is whether revisions to the approved conditions 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.

**Condition 8**

- 55 Condition 8 was originally applied to reflect the then relevant LDP 2014 Policy: EP1 (Climate change, carbon reduction and sustainable construction). The requirements of EP1 were consistently applied to larger, strategic sites following the adoption of the LDP, where the development phase was anticipated to exceed 10 years. The terms of condition 8 was therefore applied to secure delivery of improving carbon reduction measures.

- 56 However, it has subsequently been acknowledged that to achieve the 'Gold Standard' was economically and practically undeliverable (at the scale proposed). Fundamentally, Policy EP1 extended beyond the intended primary remit of carbon reduction as required by Section 3f of the Town and Country Planning (Scotland) Act and proved to be difficult to enforce. In recognition of this, Policy 32 of LDP2 sets out: "*Proposals for all new buildings will be required to demonstrate that at least 10% of the current carbon emissions reduction set by Scottish Building standards will be met through the installation and operation of low and zero-carbon generating technologies*". This policy effectively updated the Councils approach and it is this change in policy requirement which the application seeks to reflect, through a revised Condition 8.

- 57 The proposed updated condition 8 is now amended to read:

*In pursuance of condition 5 f), each application for Approval of Matters Specified in Conditions involving buildings shall include a detailed scheme demonstrating how at least 10% of the current carbon emissions reduction set by the Scottish Buildings Standards will be met through the installation and operation of low and zero-carbon technologies. This scheme shall detail for each building:*

- a. the technology types;*
- b. illustrate, through technical calculations, that these will meet at least the 10% reduction;*
- c. their siting and location; and*
- d. ongoing operation and maintenance.*

*Once approved, the development shall be completed in accordance with the approved scheme and no individual unit shall be occupied until the approved scheme has been installed and operating.*

*Reason: To embed low and zero-carbon technologies within the development in the interest of environmental sustainability.*

- 58 This wording is reflective of conditions attached to relevant developments since the adoption of LDP2, including those which have sought amendments through S42 applications to move away from the requirements of LDP Policy EP1. The revised condition retains the need to seek improved carbon emission reductions, delivered through low and zero carbon technology. The principle of seeking to amend condition 8 is therefore considered to be justified, aligned with the Councils current approach, and acceptable in meeting the requirements of LDP2 Policy 32.

### **Condition 16**

- 59 Turning to condition 16, there has been an ongoing dialogue between the applicant's agents and the Planning Authority regarding the 90-unit threshold set out in the extant condition. The applicant has also expressed a desire to alter the phasing of development, to initiate and take the first access at the north-east of the site and to benefit from new roads infrastructure and improvements, and in association with this to increase the permissible development threshold to 403 units. These proposals have been subject of a further review of the capacity and safety of the affected road network with supporting mitigation. The Planning Authority have consistently advised that a S42 application would be required to review the condition, hence this application being submitted.
- 60 As noted in the site history, there are currently two AMSC applications under consideration (19/01430/AMM and 19/01433/AMM); both were submitted after the PPP approval but in advance of this S42 application. However, a determination of these applications is predicated on the current threshold and phasing set out in Condition 16 being amended, as sought in this S42 application; given the scale of residential development sought in application 19/01433/AMM (a total of 340 units) being higher than the existing 90-unit threshold. To clarify, unless this S42 application is approved, those two applications would fail to comply with the conditional restrictions contained within the extant PPP and would have resulted in refusal.

### **Condition 16 – Roads, Transport and Phasing Implications**

- 61 Following the original PPP approval, the wider site context and circumstances have altered; with the A9/A85 junction improvements now being fully operational, as part of Perth Transport Futures project. The Western Link roundabout (also referred to as the Almond roundabout) element of that project is now available to directly access the north-eastern portion of the Almond Valley site adjacent to the River Almond, Inveralmond Industrial Estate and Bertha Park. In association, the phasing approach for the overall development has been reviewed and altered. This sees a change from the originally

envisaged southern focused start at development zones H5 and H6, to the south of the Lade, taking primary access from the A85.

- 62 The currently approved construction and access route was the basis for setting the 90-unit threshold within Condition 16. However, with an opportunity to now access the site via the Almond roundabout, it is proposed to initially develop from east to west in the northern part of the site. In infrastructure and practical terms, this makes earlier phases more straightforward to develop, freeing up more capacity on the road network than was originally calculated. The current requirement to deliver the new A85 roundabout by the time 90 units had been occupied along with necessary delivery of the principal access route through the entire length of the site (subject of application 19/01430/AMM) is now therefore unnecessary at such an early stage. The applicant also set out that through the proposed amended phasing that it would be economically unviable to deliver these infrastructure elements at the 90 unit threshold, a further factor leading to this request to defer these requirements to a later phase.
- 63 The primary considerations for the proposed amendments to the terms of Condition 16 relate to the timing of delivery of committed required infrastructure to address capacity and traffic safety impacts on the local and trunk road network, as set out in clauses a) – e) of proposed Condition 16 (Para 72). The current thresholds control the timing of delivery of:
- pedestrian connections and public transport facilities (footways, crossings and bus stops) on and along the A85 trunk road;
  - a roundabout on the A85 road which connects Almond Valley and Tibbermore Road to the trunk road;
  - and the closure of an existing junction on the A85 and Tibbermore Road.
- 64 This site was originally reviewed and found to be acceptable by Transport Scotland and PKC Transport Planning in the extant PPP, supported by a Transport Assessment and use of Perth & Kinross Council's paramics transport model. In progressing this S42 application, a methodology for a transport review, to support the assessment of any increased threshold, was agreed in consultation with both parties to assess impacts on local roads (including the new 'Almond' roundabout) as well as the strategic routes of the A85(T), A9(T), Broxden and Inveralmond roundabouts. This review concluded no net detriment and neither PKC Transport Planning nor Transport Scotland raise objections.
- 65 Concerns have, however, been expressed in representations and by Methven Community Council that there would be an adverse impact on the interim position and impacts on the local road network if the threshold is increased beyond the 90 dwelling units. On these points, it is important to note that the principle of raising the current threshold was predicated on the submission of sufficient evidence through the updated Transport Statement, setting out how a new upper threshold of 403 units could be tolerated and accommodated on both the local and trunk road networks alongside a change in the development's phasing.

- 66 The key details considered were therefore: impacts on both local and trunk road networks, both in isolation and cumulatively. Supplementing this, a suite of mitigation measures are identified in the current Transport Statement, to mitigate and provide comfort that the increased threshold could be accommodated and suitably offset with associated mitigation measures, including the associated change to the phasing.
- 67 The Transport Statement asserts that two logical proposed upper threshold limits of 340 units (associated with AMSC application 19/01433/AMM) and 403 units (including the build out of development zone H5 through a future AMSC application) could be accommodated in advance of delivering the new A85 roundabout; in part through the updated phasing and delivery strategy directly restricting development parcels to the south of the lade.
- 68 Transport Scotland consider the revised threshold and development phasing to be acceptable in safety terms, subject to the addition of traffic speed reduction infrastructure mitigation. Overall, the resultant increase of traffic during both the morning and evening peak hours, when compared with the current 90-unit limit, would be less than 10 movements. On this basis, PKC Transport Planning have no objection to the associated level of increased traffic on the U44. This support is predicated on the technical approval and delivery of required road and active/sustainable travel infrastructure. The new lade crossings are now delayed beyond what was originally proposed, in an attempt to constrain local traffic choosing or seeking to join onto the A85 from the south of the site; in advance of the required roundabout being in place. Proposed Condition 16 b) partly redresses this, through requiring the “active travel lade” to continue to be delivered by the 90 unit threshold and/or operation of the local centre, which will provide an essential, non-motorised user link to the wider site area in advance of the secondary motorised vehicle lade crossing.
- 69 Locally, a proposal to upgrade the west-east axis active travel routes (south of H2 and H3 development parcels) to a multi-use, bitumen bound path at a width of 3m has been integrated. On the north-south axis, a railway path is proposed, incorporating Lade crossings via new cycle bridges. The vehicular Lade crossing (required after 340 units) will later provide a more optimal active travel linkage for the new residents of parcel H4. It is welcomed that early provision of the local centre is proposed and committed, as is the pedestrian connection to the Local centre with a crossing of the lade. Collectively, these mitigation measures help ensure good active travel connectivity from Huntingtower and from within the site to the local centre and primary school.
- 70 Transport Scotland and PKC Transport Planning have both considered the proposed change, assessing the outcomes of the Transport Statement (TS). The TS advises that, based on the level of development and phasing proposed, both the trunk and local road networks can comfortably tolerate the development in Phase 1, in advance of key pieces of infrastructure as improvements or mitigation coming forward.
- 71 Both Transport Scotland and PKC Transport Planning agree that the proposed amended Condition 16 is appropriate and can be supported, subject to adherence of the five phased approach to infrastructure delivery. The principle

of the amendments sought for Condition 16 is thus considered acceptable. The proposed condition clauses are intended to interrelate, ensuring both detailed sign-off and physical delivery of key infrastructure requirements are captured at the appropriate threshold. Fundamentally therefore, both Transport Scotland and PKC Transport Planning team collectively agree that, reliant on the supporting material provided, a new ultimate upper tolerance of 403 dwelling units could be supported in advance of the A85 roundabout being delivered.

### **Condition 16 – Conclusion**

- 72 On this basis, the position to support a rewording of Condition 16, replacing the current 90-unit threshold with thresholds within the 5 new sub clauses set out below is recommended, with no adverse detriment on the local and trunk road network calculated. The proposed amendments are considered to continue to accord with site allocation MU73, Policy 60 and wider LDP2 policy requirements of Policies 38 and 53. Accordingly, it is recommended to amend Condition 16 to now read:

*The occupation of residential units is restricted in line with the following transport and access infrastructure requirement trigger points:*

*a) No development shall be occupied until a scheme of enhanced active speed limit signing and speed reduction measures has been implemented on the A85 in the vicinity of the existing Tibbermore Crossroads. The details of this scheme will require to be submitted to and approved in writing by the Planning Authority, in consultation with Transport Scotland, and thereafter implemented to the satisfaction of the Planning Authority.*

*b) No residential units within Plot H5 (Phase 1B) or operation of the 'Local Centre' and no more than 90 residential units are permitted to be occupied until a new active travel lane crossing, as approved in writing, to an agreed design and specification of the Planning Authority, in consultation with the Council Structures team is delivered, connecting to all elements of the occupied site.*

*c) No residential units within Plot H5 (Phase 1B) and no more than 340 residential units are permitted to be occupied until the new vehicular lane crossing as approved in writing, has been delivered to the satisfaction of the Planning Authority, in consultation with the Council Structures team.*

*d) No more than 200 residential units are permitted to be occupied until such time as a detailed design and specification for the following works has been submitted to and approved in writing by the Planning Authority, in consultation with Transport Scotland:*

- i) pedestrian connections and public transport facilities in the form of footways, crossings and bus stops on and along the A85;*
- ii) new roundabout on the A85 connecting to the site and the Tibbermore Road;*
- iii) closure of the north and south minor road approaches to the existing A85 Tibbermore crossroads.*

*e) No more than 403 residential units, comprising 340 units within Phase 1/1 A and a further 63 units within Phase 1B (Plot H5), are permitted to be occupied until the following works, as approved in writing under Condition 16 d) have been delivered to the satisfaction of the Planning Authority, in consultation with Transport Scotland:*

- i) pedestrian connections and public transport facilities in the form of footways, crossings and bus stops on and along the A85;*
- ii) new roundabout on the A85 connecting to the site and the Tibbermore Road;*
- iii) closure of the north and south minor road approaches to the existing A85 Tibbermore crossroads.*

*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.*

### **Design, Layout and Phasing**

- 73 The proposed modification to Conditions 8 and 16 will have no impact on the approved development as no direct physical changes are being proposed beyond the phasing approach. The 1,500 residential unit threshold (Condition 14) across the entire site would broadly translate to a net average density of 20 dwellings per ha. This threshold is not automatically acceptable in design and placemaking grounds, the final detail of which would be subject of detailed assessment in each individual phase and AMSC applications.
- 74 In respect of development phasing, the applicant's Delivery Strategy (Plan 17) identifies the residential elements will be delivered in the following manner:
- Phase 1/1A: 340 units (the development subject to the current AMSC 19/01433/AMM for 284 dwellinghouses and 56 flats etc.), 2021-2024;
  - Phase 1B: Circa 63 units, 2023-2025;
  - Phase 1C: Circa 130 units, 2024-2027;
  - Phase 2A: Circa 500 units, 2026-2030;
  - Phase 2B: Circa 250 units, 2030-2032;
  - Phase 3: Circa 200 units, 2032-2034.

Cumulatively, this indicates a maximum of 1,483 units. The residential units within Phases 1/1A and 1B equates to 403, which is the point where the requirements for local and trunk road infrastructure, including the new A85 roundabout, would be required (Condition 16 e)). The development up to that point in Phase 1 would require to accord with the other infrastructure requirements of Condition 16. Each phase or AMSC approval will be subject of a detailed delivery plan to ensure appropriate phasing and delivery of the development (Condition 3).

- 75 In respect of design, layout and phasing, the proposals are not considered to conflict with relevant LDP2 Policies.

## **Landscape**

- 76 The proposed modification to Conditions 8 and 16 will have limited impact on landscape elements as no fundamental physical changes are being proposed. The changes to the development phasing causes no unacceptable impact and remains consistent with LDP2 Policy.

## **Residential Amenity**

- 77 The proposed modification to Conditions 8 and 16 will have no impact on the long-term impacts on residential amenity as considered in association to the approved PPP. It is noted that representations set out concerns regarding the revised phasing approach and proposed delays to the delivery of infrastructure elements. In this regard, it is accepted that the phasing changes would result in some residential properties experiencing physical development earlier than previously envisioned and conversely others later. However, the nature of the impacts themselves would not unacceptably alter as a result of the changes sought in this application. Importantly the detailed impacts on considerations such as residential amenity will be considered as part of the determination of the two pending or other subsequent AMSC applications. The infrastructure considerations are addressed in the roads and access section of the appraisal. In terms of residential amenity, the proposals do not conflict with the relevant policies of LDP2.

## **Visual Amenity**

- 78 The proposed modification to Conditions 8 and 16 will have no direct impact on the long-term visual amenity of the approved development, as no physical changes are sought. The revised phasing would, as addressed in the landscape and residential amenity sections, result in a difference of timing to changes being evident. These impacts would be considered in detail as part of the determination of the two pending AMSC applications. In terms of visual amenity, the proposals do not conflict with the relevant policies of LDP2.

## **Drainage and Flooding**

- 79 The proposed modification to Condition 8 and 16 will have no direct impact on the drainage and flooding characteristics of the approved development, with no direct physical changes being proposed through the delay to infrastructure and this not adding to drainage or flood risk issues. Local representation cited ongoing flood risk within letters of representation. On this issue, both SEPA and the Council's Structures and Flooding team have confirmed there would be no direct impact. The Flood team have, however, proposed a supplementary condition (as an update to Condition 15) be attached to any approval, accounting for a requirement to submit detailed technical drainage designs for further approval. This is considered appropriate to attach at this stage, with the other option to attach the condition to each AMSC application if submitted in relation to the extant consent. In terms of Drainage and Flooding, the proposals remain compliant with Policy 53 of LDP2.

## **Conservation Considerations**

- 80 The proposed modification to Conditions 8 and 16 are considered to have no direct impact on the conservation considerations of the approved development. HES note and agree with the submitted EIA 'Addendum 2' in relation to the built heritage features relevant to the proposals, with historic environment not forming part of the current assessment. Perth and Kinross Heritage Trust also considered no additional impact, with the updated standard archaeological condition proposed to update the wording of existing Condition 39. In respect of conservation considerations, the proposals do not conflict with the relevant policies of LDP2.

## **Natural Heritage and Biodiversity**

- 81 The proposed modification to Conditions 8 and 16 are considered to have no direct impact on the natural heritage and biodiversity considerations of the approved development, with the existing relevant ecological interest conditions proposed to be re-applied to any new permission and thus applicable to any forthcoming approval of matters specified application. An updated Habitat Regulations Appraisal (plan 14) has also been submitted as required supporting information for this application. In terms of ecology, the proposals do not conflict with the relevant policies of LDP2.

## **Developer Contributions**

- 82 The proposed modification to Conditions 8 and 16 sought in this application will have no direct impact to the current approved contribution requirements. Any departure from the previously agreed 90 dwelling unit threshold will, however, require to be addressed in an amended S75 agreement (clause 16) and would be replaced with any new agreed conditional clauses of amended Condition 16.

## **Economic Impact**

- 83 In general terms, the 2015 ES (Chapter 12) concluded that during the construction period it is predicted that up to 397 full time jobs would be created, impacting on indirect jobs that the construction activity will generate from employee spending on local goods and services.
- 84 Once operational, it is predicted that the proposed new primary school will create 35 new jobs and the local centre is estimated to create 11 full time jobs. New residents would also support numerous existing employers in the local area, including Inveralmond Industrial Estate and within Perth City.
- 85 Reviewing the terms of Condition 8 as proposed will ensure that carbon reduction and low carbon technology is pursued, captured, and delivered in line with current LDP policy requirements.
- 86 In tandem with this and in respect of Condition 16, the application identifies a potential viability issue for the developer providing a major piece of required site infrastructure through the delivery of the A85 roundabout as early as the 90<sup>th</sup> unit; with the internal site phasing circumstances now proposed to be amended

to benefit from the delivery of the wider site circumstances brought about through the A85/A9 interchange improvement works. A longer lead in time for the delivery of the additional A85 roundabout serving the site will make the initial phases of the development more viable, as identified by the applicant allowing development (including the local centre) to come forward and be delivered earlier.

### **Other Matters**

- 87 As part of this application, it is appropriate to consider and review other material considerations and associated conditions in the extant in principle planning permission: 15/01157/IPM. This 2015 PPP has 48 planning conditions. Beyond the specific conditions subject of this application (8 and 16), it is good practice, where approving a S42 application, to update the conditions to meet current regulations and requirements. Similarly, any conditions that still require to be addressed or adhered, should remain. These conditions are set out in the recommendation section below.
- 88 Summary of the other principal condition changes are:
- Condition 3: To specifically approved the Delivery Strategy for the purposes of delivery and phasing, subject to the requirement for detailed delivery plans for development beyond Phase 1A.
  - Condition 15: The Terms of the original condition for the A9/A85 junction improvement works is now proposed to be dropped, with the condition terms satisfied. For simplicity of numbering, it is proposed to introduce the recommended detailed drainage condition as a replacement to the original condition 15.
  - Condition 20: updated to be consistent with condition 21, referring to the southern portion of the site.
  - Condition 39: Updated to closer reflect the current standard archaeological condition wording.
  - Condition 43: updated to be more specific and consistent with PKC current standard condition wording.
  - Condition 48: Updated to reflect LDP2 site allocation requirements, extending to a review of linkages with LDP sites M79 and H319.

Otherwise, a number of conditions are proposed for minor updates, such as historic reference to Scottish Natural Heritage replaced by Nature Scot.

### **PLANNING OBLIGATIONS AND LEGAL AGREEMENTS**

- 89 The current S75 requires to be updated and amended, primarily in relation to Clause 16, pertaining directly to Condition 16 and the threshold increase

commensurate with the delivery of the required local and trunk road infrastructure. The matters to be secured in the S75 relate to:

- Delivery of a site for a 2 stream primary school;
- Primary school financial contributions;
- Transport infrastructure contributions;
- Public transport improvement;
- Delivery of key transport infrastructure (including the new A85 roundabout);
- Affordable housing provision;
- Open space provision and maintenance;
- Sports pitches and pavilion provision and maintenance;
- Play area provision and maintenance;
- Structure planting delivery; and
- Delivery of associated community facilities including community woodland

### **DIRECTION BY SCOTTISH MINISTERS**

- 90 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**

- 91 To conclude, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, the proposal is considered to broadly comply with the approved TAYplan 2016 and the adopted Local Development Plan 2 (2019), with some minor inconsistencies, between the PPP and the LDP2 allocations, as set out above. It is accepted that there is an area of the proposed development that lies out with the MU73 allocation identified in LDP2. This area is, however, accounted for as part of MU70 as set out in the MU73 allocation. Overall, the principle of residential development continues to reflect the illustrated site allocations. Account has therefore been taken account of the relevant material considerations and the proposal broadly complies with the Development Plan in this respect. In terms of the scale of development (in excess of 1,100 units), it is accepted that there is a departure from Development Plan policy in this specific regard; however, the extant PPP represents a justification to set that LDP2 number aside. Both Transport Scotland and Transport Planning colleagues are satisfied that the current supporting Transport Statement, in association with the updated conditional caveats of Condition 16 as now proposed, allow for the uplift from 90 dwelling units to 403 dwelling units in advance of the applicant delivering the A85 roundabout, can be supported. The updated terms of Condition 8 to reflect the current Policy terms of Policy 32 are also considered reasonable, proportionate and in line with current best practice to align with the terms of the adopted Local Development Plan 2 (2019).
- 92 Accordingly, the proposal is recommended for approval subject to the following direction, planning conditions and a new or amended Section 75 legal agreement. The period of direction recommended is 14 years, on the basis that

this is the balance of the 17 years approved in the extant PPP. It is recognised that this period exceeds the timescales in more recent practice, but it can be justified on this occasion given the planning history.

## **RECOMMENDATION**

### **Approve**

### **Direction, Conditions and Reasons for Recommendation**

#### **Direction**

Perth and Kinross Council direct that sub-sections (2)(a)(i) and (3) of Section 59 of the Town and Country Planning (Scotland) Act 1997 apply as respects the Planning Permission in Principle (21/00383/IPM) with the substitution of the period of 3 years referred to in each of those subsections, with the period of 14 years. In association with the approved delivery strategy, the application for Approval of Matters Specified in Conditions for Phase 1A shall be made not later than 2 years from the date of this permission and subsequent applications for the totality of this proposed development shall have been made not later than 14 years from the date of this permission or, if later, within 6 months from when an earlier approval for the same matters was refused or dismissed at appeal. Notwithstanding this, the proposed development shall be commenced within 5 years from the approval of this planning application for planning permission in principle, or within 3 years from the date of approval of the first application for such matters, whichever dates is the earlier.

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 which in view of the scale of the proposed development, this extended period remains appropriate.

#### **Conditions**

1. Plans and particulars of the matters set out in the subsequent conditions shall be submitted for consideration and approval by the planning authority as specified below and the development shall be carried out in accordance with those approvals.

Reason: To ensure that the matters referred to are given full consideration.

2. The site layout plan, phasing plan and housing numbers submitted as part of permission 15/01157/IPM are purely indicative and are not approved at this stage.

Reason: The application is for planning permission in principle only at this stage.

3. The submitted Delivery Strategy (Plan 17) is hereby approved. Notwithstanding this approval, no further development beyond Phase 1A shall commence on

any further Phase or development approved as part of any application for Approval of Matters Specified in Conditions, until a detailed delivery plan confirming the phased delivery of the site and construction works has been submitted and approved in writing by the Planning Authority. Once approved, the development shall be implemented in accordance with the delivery plan unless otherwise agreed in writing by the Planning Authority.

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

4. As soon as possible after each of the phases of the development approved under condition 3 above is completed (except for the last or final phase, in respect of which notice shall be given under section 27B(1) of the Act) the person who has completed any phase shall give written notice of the completion of that phase to the planning authority.

Reason: To accord with section 27B(2) of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc (Scotland) Act 2006.

5. No development shall commence on each phase until further plans and particulars have been submitted and approved in writing by the Planning Authority in respect of the following matters to coincide with the delivery plan to be secured under the legal agreement:
  - a) The delivery of the development in phases associated with the areas prescribed in the submitted Masterplan/delivery plan.
  - b) Details of all cut and fill operations.
  - c) Full details of the proposed means of disposal of foul water to serve the development.
  - d) Full details of the disposal of surface water from the development by means of a Sustainable Urban Drainage System.
  - e) The siting, design, height and external materials of all buildings or structures.
  - f) Measures to enhance environmental sustainability through design, orientation and planting or any other means.
  - g) Details of any screen walls/fencing to be provided.
  - h) Details of all landscaping, planting including structural planting and screening associated with the development.
  - i) Details of play areas and the equipment to be installed.
  - j) 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).
  - k) Detailed specification of all street and footpath lighting.
  - l) Detailed specification of noise mitigation measures to be incorporated along properties that face the A85 and Cross Tay Link Road.

- m) Detailed plan of public access across the site (existing, during construction and upon completion).
- n) Detailed flood risk assessment at each phase as specified in the delivery plan. The development shall be implemented in accordance with these 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.

6. In pursuance of condition 5 c), foul drainage for each phase of the development shall be drained to the mains sewerage system or by other alternative means of adoptable sewerage and plant. The details of the foul drainage system shall be submitted to and approved in writing by the Council as Planning Authority in consultation with Scottish Water, Scottish Environment Protection Agency and Nature scot. 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.

7. In pursuance of Condition 5 d), disposal of surface water:-
- a) All storm water drainage from all paved surfaces shall be disposed of by means of suitable Sustainable Urban Drainage Systems.
  - b) Full drainage calculations and the final layout and depth of the proposed SUDS pond and associated infrastructure to be agreed in writing with the Council as Planning Authority, in consultation with the Council's Flooding Team to ensure the discharge of any surface water drainage shall be limited to the greenfield runoff rates as detailed in Appendix 9.2 (Scheme Drainage Strategy) of the Environmental Statement (forming part of planning application 15/01157/IPM). The agreed detail shall thereafter be implemented prior to the completion of the development.
  - c) 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.
  - d) The discharge of any surface water drainage shall be limited to the greenfield runoff rates for the River Almond and East Pow Burn. The discharge of any surface water drainage to the Perth Town Lade will be limited to 50% of the greenfield runoff rate. All discharge rates shall be agreed in writing with the Perth and Kinross Council Flooding Team prior to the commencement of any works on site.

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

8. In pursuance of condition 5 f), each application for the Approval of Matters Specified in Conditions involving buildings, shall include a detailed scheme demonstrating how at least 10% of the current carbon emissions reduction set by the Scottish Buildings Standards will be met through the installation and

operation of low and zero-carbon technologies. This scheme shall detail for each building:

- a) the technology types;
- b) illustrate, through technical calculations, that these will meet at least the 10% reduction;
- c) their siting and location; and
- d) ongoing operation and maintenance.

Once approved, the development shall be completed in accordance with the approved scheme and no individual unit shall be occupied until the approved scheme has been installed and operating.

Reason: To embed low and zero-carbon technologies within the development in the interest of environmental sustainability.

9. In pursuance of condition 5 j), each application for the Approval of Matters Specified in Conditions or for each development phase 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.

10. In pursuance of condition 5 (g, h, i, k), schemes of hard and soft landscaping works shall be submitted as part of the applications for the Approval of Matters Specified in Conditions for each phase of development. Details of the scheme 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 and pipelines 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, any other means of enclosure, street furniture and play equipment.
- g) An indication of existing trees, shrubs and hedges to be removed.
- h) A programme for the completion and subsequent maintenance of the proposed landscaping.

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.

11. In pursuance of Condition 5 h) no works in connection with any phase of development hereby approved shall take place until such time as the structural landscaping works relevant to that phase as shown on the structural planting plan have been completed in full, prior to each phase.

Reason: To ensure the completion of the agreed structural landscaping scheme at an early stage in the interests of the amenity of the area and existing residents.

12. In pursuance of condition 5 m), a detailed plan of public access across the site (existing, during construction and upon completion) for each phase of development, will be submitted for the written approval of the Council as Planning Authority and show:-

- a) All existing paths, rights of way, tracks, core paths and 'National Cycle Route 77'.
- b) Any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance of curtilage, in relation to proposed buildings or structure.
- c) All paths and tracks proposed for construction, for use by walkers, riders, cyclists, all ability 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 impact on trees.

Reason: In the interest of sustainable transportation.

13. In pursuance of condition 5(n) a detailed flood risk assessment should be submitted with the details of the first and subsequent phases of development, or as part of each application for the Approval of Matters Specified in Conditions, for the approval of the Planning Authority. Development should only commence subject to an acceptable level of risk and specification of the appropriate mitigation, specifically the avoidance of built development within any areas assessed as at risk, based on up-to-date flood statistics, design flood estimation techniques, design flow statistics and channel configuration. The approved mitigation shall be implemented prior to the completion of the approved phase of development and retained thereafter to the satisfaction of the Planning Authority.

Reason: To secure an up to date assessment of flood risk and the appropriate mitigation given that phases of development are programmed over 17 years, as best practice in flood risk assessment and mitigation may change over this time and as some aspects of risk can only be assessed at the detailed planning stage.

14. Unless otherwise agreed in writing by the Planning Authority in consultation with Transport Scotland, the number of residential (Class 9) dwellings constructed shall not exceed 1,500 units.

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.

15. Prior to the installation of any drainage works on each subsequent phase of the approved development, the final technical drainage designs shall be submitted to, and approved in writing by the Planning Authority, in consultation with the Council Structures and Flooding team. The drainage details as approved shall be carried out in accordance with the agreed scheme and operational prior to bringing into use of the approved phase of development.

Reason: To ensure the technical specification of the drainage system for the site accords with Perth and Kinross Local Development Plan.

16. The occupation of residential units is restricted in line with the following transport and access infrastructure requirement trigger points:

- a) No development shall be occupied until a scheme of enhanced active speed limit signing and speed reduction measures has been implemented on the A85 in the vicinity of the existing Tibbermore Crossroads. The details of this scheme will require to be submitted to and approved in writing by the Planning Authority, in consultation with Transport Scotland, and thereafter implemented to the satisfaction of the Planning Authority.
- b) No residential units within Plot H5 (Phase 1B) or operation of the 'Local Centre' and no more than 90 residential units are permitted to be occupied until a new active travel lane crossing, as approved in writing, to an agreed design and specification of the Planning Authority, in consultation with the Council Structures team is delivered, connecting to all elements of the occupied site.
- c) No residential units within Plot H5 (Phase 1B) and no more than 340 residential units are permitted to be occupied until the new vehicular lane crossing as approved in writing, has been delivered to the satisfaction of the Planning Authority, in consultation with the Council Structures team.
- d) No more than 200 residential units are permitted to be occupied until such time as a detailed design and specification for the following works has been submitted to and approved in writing by the Planning Authority, in consultation with Transport Scotland:
  - i) pedestrian connections and public transport facilities in the form of footways, crossings and bus stops on and along the A85;

- ii) new roundabout on the A85 connecting to the site and the Tibbermore Road;
  - iii) closure of the north and south minor road approaches to the existing A85 Tibbermore crossroads.
- e) No more than 403 residential units, comprising 340 units within Phase 1/1 A and a further 63 units within Phase 1B (Plot H5), are permitted to be occupied until the following works, as approved in writing under Condition 16 d) have been delivered to the satisfaction of the Planning Authority, in consultation with Transport Scotland:
- i) pedestrian connections and public transport facilities in the form of footways, crossings and bus stops on and along the A85;
  - ii) new roundabout on the A85 connecting to the site and the Tibbermore Road;
  - iii) closure of the north and south minor road approaches to the existing A85 Tibbermore crossroads.

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

17. No more than 700 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 Perth and Kinross Local Development Plan, has been designed, approved and contract let to the satisfaction of the Planning Authority, in consultation with Transport Scotland.

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

18. No development shall commence 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 the junction in the form of traffic signals and widening of approaches or a financial contribution in lieu of the said physical works. The details of the physical works or the level of financial contribution required shall be agreed in writing with the Planning Authority in consultation with Transport Scotland.

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

19. No development shall commence 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 A85 trunk road. Thereafter, all construction traffic associated with the development shall conform to the requirements of the agreed plan.

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

20. Prior to approval of further applications for the Approval of Matters Specified in Conditions for the southern portion of the application site; details of the lighting within the site likely to impact on the A85 trunk road shall be submitted for the written approval of this Council as Planning Authority and thereafter installed all to the satisfaction of the Planning Authority in consultation with Transport Scotland.

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

21. Prior to approval of further detailed applications for the Approval of Matters Specified in Conditions for the southern portion of the application site; details of the barrier/boundary fencing and frontage landscaping treatment along the A85 trunk road shall be submitted for written approval and thereafter installed all to the satisfaction of the Planning Authority.

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

22. No more than 300 residential units of the Almond Valley Village Development approved by virtue of this planning permission in principle shall be occupied prior to the delivery of a new local centre unless otherwise agreed in writing by the Planning Authority.

Reason: To ensure delivery of infrastructure essential to serve the development is provided in a timely manner.

23. Castle Brae East shall not be used at any time by construction traffic associated with the development.

Reason: In the interests of pedestrian and traffic safety, residential amenity and protection of Huntingtower Castle.

24. Prior to approval of further applications for the Approval of Matters Specified in Conditions, a Public Transport Plan shall be submitted for written approval to this Council as Planning Authority and fully implemented to the satisfaction of this Council prior to the occupation of the 50th dwelling. The Public Transport Plan will set out what additional services will be provided, how the contribution funding will be used and how the developer will seek to promote sustainable travel.

Reason: In the interest of sustainable travel.

25. Prior to the completion of 1,000 dwellings and every 6 months during construction, the River Almond, East Pow Burn and Perth Town Lade for a distance of 300m (or length otherwise agreed with the Planning Authority) upstream and downstream of the proposed development shall be inspected and cleared of any impediments arising as a result of the development likely to create any obstruction to the free flow of water; all to the satisfaction of the Council as Roads Authority.

Reason: To reduce the risk of flooding.

26. No works shall take place within 25 metres of any flood apparatus constructed as part of the Perth Flood Prevention Scheme or Almondbank Flood Protection Scheme without the prior written approval of Perth & Kinross Council Flooding Team.

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

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

Reason: To reduce the risk of flooding.

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

Reason: To reduce the risk of flooding.

29. Prior to the commencement of development, the soffit level of all bridges/culverts shall be agreed in writing by Perth and Kinross Council's Flooding Team.

Reason: To reduce the risk of flooding.

30. A 5m maintenance strip must be retained either side of any flood protection apparatus and the watercourses along the River Almond, East Pow Burn and Perth Town Lade.

Reason: To allow suitable access to the watercourse and flood protection apparatus for maintenance purposes.

31. Mitigation measures submitted as part of the Environmental Statement supporting planning application 15/01157/IPM shall be incorporated into subsequent applications for the approval of matters specified in conditions attached to this consent and thereafter fully implemented.

Reason: To ensure environmental impacts are satisfactorily mitigated.

32. The Ecology and Habitat Surveys undertaken in respect of the Environmental Statement and associated Environmental Impact Assessment Addendum submitted with this planning application and application 15/01157/IPM shall be updated and resubmitted to the Planning Authority for each phase of development as part of any further matters specified by condition applications.

Reason: To ensure a satisfactory standard of local environmental quality; to safeguard the welfare of any protected wildlife.

33. As part of each phase of development, the mitigation measures specified in Appendix 11.5 (Report to Inform Habitat Regulations Appraisal) of the Environmental Statement submitted with planning application 15/01157/IPM and associated updated Habitats Regulations Appraisal (Plan 14 dated March 2021) supporting this application shall be fully implemented and updated as required.

Reason: To ensure a satisfactory standard of local environmental quality; to safeguard the welfare of any protected wildlife.

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

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

35. As part of each application for the Approval of Matters Specified in Condition or phase of development, the recommendations contained within the Tree and Woodland Survey submitted with the Environmental Statement (Chapter 15) shall be adhered to in full. In particular the recommendations for Root Protection Area (RPA) and dwelling standoff distances shall be followed.

Reason: To ensure a satisfactory standard of local environmental quality; to safeguard the welfare of any protected wildlife.

36. 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 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, Transport Scotland and Nature Scot as required. The CEMP shall be updated and submitted not less than two months

prior to the commencement of each phase and shall incorporate detailed pollution avoidance and mitigation measures for all construction elements. Thereafter the development shall be fully undertaken in accordance with the CEMP unless otherwise agreed in writing by the Planning Authority.

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

37. Two months prior to the commencement of the development, an independent and suitably qualified ecologist shall be appointed by the developer at its expense as the ECOW ('Ecological Clerk of Works') for the site. This appointment shall be subject to the prior written approval of the Planning Authority. The ECOW shall undertake a watching brief throughout the construction of the development and shall have the authority to stop operations or to alter construction methods should there be any works occurring which are having an adverse impact on the natural heritage. The ECOW shall oversee in consultation with the Planning Authority and Nature Scot, the implementation of all ecology related planning conditions throughout the construction of the development. The ECOW shall have responsibility for the following:
- a) Monitoring compliance with the mitigation works related to the 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) In the event that any protected species are found on site to ensure that work is suspended in that location and that a species protection plan is implemented.
  - d) Notification to the Planning Authority if there has been a requirement to stop or alter works in relation to this condition.
  - e) Submission of a monthly report for the review of the Planning Authority in consultation with the Scottish Environment Protection Agency and Nature Scot during construction operations.
  - f) Amendment of 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.

38. As part of any application for the Approval of Matters Specified in Conditions or for each phase of development, following consultation with Perth and Kinross Heritage Trust and Historic Environment Scotland, a plan detailing the sensitive design of the development to protect and maintain the setting of the scheduled monument at Huntingtower Cairn shall be submitted to and approved by the Planning Authority in agreement with Perth and Kinross Heritage Trust and Historic Environment Scotland.

Reason: In order to maintain the setting of a Scheduled Monument at Huntingtower Cairn.

39. As part of any application for the Approval of Matters Specified in Conditions or for each phase of development the developer has secured the implementation

of a programme of archaeological work in accordance with a written scheme of archaeological investigation which has been submitted by the applicant, and agreed in writing by the Council as Planning Authority, in consultation with Perth and Kinross Heritage Trust. Thereafter, the developer shall ensure that the programme of archaeological works is fully implemented including that all excavation, preservation, recording, recovery, analysis, publication and archiving of archaeological resources within the development site is undertaken. In addition, the developer shall afford access at all reasonable times to Perth and Kinross Heritage Trust or a nominated representative and shall allow them to observe work in progress.

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

40. Prior to the commencement of works on site, and in support of any application for the Approval of Matters Specified in Conditions, an evaluation for the potential of the site to be affected by contamination by a previous use should be undertaken. 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. Prior to the completion or bringing into use of any part of the development the agreed measures to decontaminate the site shall be fully implemented as approved by the Council as Planning Authority. Validation that the scheme has been fully implemented must also be submitted to the Council as Planning Authority.

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

41. Prior to commencement of any development works, a Radiological Walkover Survey report shall be submitted for the consideration of the planning authority and shall be carried out to a methodology submitted and approved in consultation with SEPA.

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

42. As part of each application for the Approval of Matters Specified in Conditions, 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.

43. All plant or equipment shall be so enclosed, attenuated and/or maintained such that any noise therefrom shall not exceed Noise Rating 35 between 0700 and 2300 hours daily, or Noise Rating 25 between 2300 and 0700 hours daily, within any neighbouring residential property, with all windows slightly open, when measured and/ or calculated and plotted on a rating curve chart.

Reason: In order to safeguard the neighbouring residential amenity in the area.

44. No development shall take place at the eastern end of Phase H16 as shown in the submitted Masterplan of planning application 15/01157/IPM until the results of a detailed noise assessment and mitigation are known and agreed by the Planning Authority.

Reason: To prevent potential noise pollution of future residential properties and protect the amenity of existing business operations.

45. A scheme of mitigation to minimise impact on air quality shall be submitted to the Planning Authority as part of any application for the Approval of Matters Specified in Conditions. The approved scheme shall be implemented before the occupation of that phase of the development all to the satisfaction of the Council as Planning Authority.

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

46. For each application for the Approval of Matters Specified in Conditions or 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.

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

47. 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 (240 litres), Width (580mm), Height (1100mm), Depth (740mm).

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

48. Prior to the commencement of development, an Energy Statement shall be submitted in writing for the approval of the Planning Authority. This statement shall include a review of the potential for the provision of, and/or extension to, a heat network to serve the development, including the possibility of linkages to LDP2 allocated sites M70 and H319.

Reason: To investigate the potential for district heating opportunities for the development in association with neighbouring strategic sites, in satisfying the site allocation requirements of Perth and Kinross Local Development Plan 2019 (LDP2).

## **B JUSTIFICATION**

The proposal is considered to remain broadly in accordance with the Development Plan overall and there are no material considerations which justify refusal of the planning application.

## **C PROCEDURAL NOTES**

The existing Section 75 tied to planning permission 15/01157/IPM is required to be updated and/or modified in respect of the 90 dwelling unit threshold originally consented in advance of the required delivery of the A85 roundabout. Consent shall not be issued until the Section 75 Agreement has been modified, signed and registered to take account of this application. The legal agreement should be concluded and completed within 4 months of the date of any Committee approval. Failure to conclude a legal agreement within 4 months will result in the planning application being re-assessed and could be ultimately recommended for refusal under delegated powers.

## **D INFORMATIVES**

1. Notice of the start of development: The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action. (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).)
- 2 Display of notice: A notice must be displayed on or near the site while work is carried out. The planning authority can provide more information about the form of that notice and where to display it. (See section 27C of the Town and Country Planning (Scotland) Act 1997 Act (as amended) and Schedule 7 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.
- 3 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.
- 4 The applicant should take note of the information and advice contained within the consultation responses from Scottish Water.
- 5 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 consent to connect to the public wastewater system and/or water network and all their requirements must be fully adhered to.
- 6 This planning permission is granted subject to conditions, some of which require further information to be submitted to Development Management either before works can start on site or at a certain time. Please send the required information to us at [developmentmanagement@pkc.gov.uk](mailto:developmentmanagement@pkc.gov.uk). Please be aware

that the Council has two months to consider the information (or four months in the case of a Major planning permission). You should therefore submit the required information more than two months (or four months) before your permission expires. We cannot guarantee that submissions made within two months (or four months) of the expiry date of your permission will be able to be dealt with before your permission lapses.

- 7 Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning permission for a development does not provide a defence against prosecution under this Act.
- 8 This permission continues to require to be tied by a Section 75 legal obligation associated with this planning permission, which relates to:

- Delivery of a site for a 2 stream primary school;
- Primary school financial contributions;
- Transport infrastructure contributions;
- Public transport improvement;
- Delivery of key transport infrastructure (including the new A85 roundabout);
- Affordable housing provision;
- Open space provision and maintenance;
- Sports pitches and pavilion provision and maintenance;
- Play area provision and maintenance;
- Structure planting delivery; and
- Delivery of associated community facilities including community woodland

A copy is available to view on the Council's [Public Access portal](#) or at the Registers of Scotland [www.ros.gov.uk](http://www.ros.gov.uk).

- 9 Applicants are advised that should their application for Approval of Matters specified be refused and/or their appeal against such refusal dismissed out with the 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.

## **E ENVIRONMENTAL IMPACT ASSESSMENT (EIA) DECISION**

- 1 The proposed development was determined by Perth & Kinross Council under the provisions of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 to be EIA development. In accordance with Regulation 29, notice of this decision is hereby given in respect of the following:
- 2 The application submitted an EIA Addendum '2' dated February 2021. The public had opportunity to participate in the decision-making process through notification of the EIA supplementary information, which was undertaken for premises on neighbouring land and publicised on the Planning Authority's

website, in the Edinburgh Gazette and the Perthshire Advertiser. The EIA information was also available for public inspection online.

- 3 The EIA addendum provides a brief summary of the baseline, the information gathered to consider the likely significant effects on the environment and details of environmental mitigation and monitoring that are to be incorporated into the current proposal with scoping out of all other elements. The significant effects on the environment are identified to be directly linked to baseline planning permission 15/01157/IPM and two AMSC planning submissions 19/01430/AMM and 19/01433/AMM. In terms of significant parameters, the addendum's focus is primarily on climate change and traffic and transport impacts.
- 4 The Planning Authority is satisfied that the background EIA Statement, the 2019 EIA Addendum '1' and current EIA Addendum '2' submission (all now forming the EIA Report) is up-to-date and complies with Regulation 5 and is therefore suitable for determination of the planning application.
- 5 The Planning Authority has considered the original EIA Statement and both the Addendum 1 and 2 submissions, other environmental information, and recommendation from the consultation's bodies. It is concluded that the development will not give rise to any unacceptable significant environmental effects. In reaching this conclusion, regard has been given to environmental design and mitigation measures incorporated into the proposal, as well as a regime for the ongoing monitoring measures for the construction and operation of the development. These mitigation and monitoring measures include the provision set out in the suite of planning conditions.
- 6 In the absence of unacceptable and significant environmental impacts, and subject to the mitigation and monitoring measures secured through planning conditions as set out herein, the proposed amendments are acceptable and can be approved.

Background Papers: 5 letters of representation  
Contact Officer: Callum Petrie  
Date: 18 June 2021

**DAVID LITTLEJOHN  
HEAD OF PLANNING & DEVELOPMENT**

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