

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

**16/00996/FLL Erection of 8no dwellinghouses and associated works on Land  
110 Metres South East Of Beaufield, Balado, Kinross**

Ref. No: 16/00996/FLL  
Ward No: N8 - Kinross - Shire

### **Summary**

This report recommends approval of the application for the erection of eight dwellinghouses and associated works as it is considered to comply with the relevant provisions of the Development Plan and there are no material considerations apparent which would outweigh the Development Plan.

### **BACKGROUND AND DESCRIPTION**

- 1 This is a proposal for 8 detached dwellinghouses along with associated infrastructure including an access road, parking and turning areas and drainage arrangements including phosphorus mitigation to Loch Leven.
- 2 The application site extends to around 1.6 ha of flat open land most recently used as a paddock within the settlement of Balado approximately 1.5 km to the west of Kinross and accessed off the A977. The site is bounded by residential properties to the east, north and west and open agricultural land to the south where it is defined by a post and wire fence. This fence also marks the southern boundary of the Balado settlement in this location. The site is within the Loch Leven Catchment Area.
- 3 A previous application for a similar proposal was considered by the Development Management Committee on 14<sup>th</sup> October 2015. The application was refused by the Committee. An appeal was submitted to the DPEA which was subsequently dismissed by the Reporter due to uncertainties as to whether the proposed access road could be constructed to a standard that would be adopted by the Local Authority.
- 4 This new application is similar to the previous application with the exception of details relating to the access road. In relation to this the site boundary has been altered to include a width of 9 metres over the length of the existing private road in order to allow the road to be upgraded to meet standards required for adoption.

## **NATIONAL POLICY AND GUIDANCE**

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

### **Scottish Planning Policy 2014**

Of relevance to this application are:

- Paragraphs 109 – 134: Enabling Delivery of New Homes

### **Designing Streets: A Policy Statement for Scotland 2010**

- 6 Streets have to fulfil a complex variety of functions in order to meet people's needs as places in which to live, to work and to move around. Their design requires a thoughtful approach that balances potential conflicts between different users and objectives.

### **Planning Advice Note 67 (Housing Quality)**

- 7 Designing Places, published November 2001, sets out the Scottish Governments aspirations for design and the role of the planning system in delivering them. This Planning Advice Note explains how Designing Places should be applied to new housing.

## **DEVELOPMENT PLAN**

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

### **TAYplan Strategic Development Plan 2012 – 2032 - Approved June 2012**

- 9 The overall vision of the Tay Plan states "*By 2032 the TAYplan region will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice, where more people choose to live, work and visit and where businesses choose to invest and create jobs.*"

- 10 The principal policy, in summary is:

### **Policy 5: Housing**

- 11 Ensure that the mix of housing type, size and tenure meets the needs and aspirations of a range of different households throughout their lives, including the provision of an appropriate level of affordable housing based on defined local needs. Local Development Plans (where applicable) will need to set affordable housing requirements for or within each housing market area.

## **Perth and Kinross Local Development Plan 2014**

- 12 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. It is the most recent statement of Council policy and is augmented by Supplementary Guidance. Under the LDP the site is located within the Balado settlement boundary.
- 13 The principal policies are, in summary:

### **Policy PM1A: Placemaking**

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

### **Policy PM1B: Placemaking**

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

### **Policy PM3: Infrastructure Contributions**

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

### **Policy RD1: Residential Areas**

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

### **Policy RD4: Affordable Housing**

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

### **Policy EP7A: Drainage within the Loch Leven Catchment**

- 19 Total phosphorus from development must not exceed the current level permitted by the discharge consents for Kinross and Milnathort waste water treatment works together with the current contribution from built development

within the rural area of the catchment.

#### **Policy EP7B: Drainage within the Loch Leven Catchment**

- 20 Developments within the Loch Leven Catchment Area will be required to connect to a publicly maintained drainage system incorporating phosphorus reduction measures. Exceptions will only be permitted where they are in accordance with criteria set out.

#### **Policy EP7C: Drainage within the Loch Leven Catchment**

- 21 Where EP7A and EP7B cannot be satisfied, proposals will be refused unless they are capable of removing 125% of the phosphorus likely to be generated by the development from the catchment.

### **OTHER POLICIES**

- 22 Perth and Kinross Council Developer Contributions Supplementary Guidance including Affordable Housing (April 2016)

### **SITE HISTORY**

- 23 13/01379/FLL Erection of eight dwellings with associated access road, parking bays, turning areas and drainage arrangements. This application was refused at Development Management Committee on 14<sup>th</sup> October 2015 Decision Notice dated 26 October 2015). An appeal to the DPEA (PPA-340-2099) was dismissed on 23<sup>rd</sup> March 2016.

### **CONSULTATIONS**

#### **EXTERNAL**

- 24 **Scottish Environment Protection Agency** – No objections subject to suitable mitigation measures being put in place for phosphorus mitigation and CAR licencing being secured.
- 25 **Scottish Water** – No response has been received in relation to this application but Scottish Water did not objection to the previous application as the development would not connect into the public drainage network. There has been no change to this part of the application.
- 26 **Kinross Community Council** – No comments to make on this application following discussion at its July meeting.

## **INTERNAL**

- 27 **Local Flood Prevention Authority** – No objections subject to conditions with regard to detailed drainage design.
- 28 **Transport Planning** - No objections subject to conditions with regard to the roads and associated works being in accordance with the Council's specifications.
- 29 **Contributions Officer** - Developer contributions with regard to affordable housing and primary education provision are required.
- 30 **Environmental Health** - No adverse comments to make on the application. A search of the historic records did not raise any concerns regarding ground contamination.
- 31 **Biodiversity Officer** - No objections subject to conditions and informative notes being included with regard trees, protected species and wildlife habitats.
- 32 **Community Waste Advisor** – No objection subject to recommendation that the developer contact the Community Waste Team to discuss waste requirements for the site.

## **REPRESENTATIONS**

- 33 Representations from ten households have been received relating to the following issues:
  - Flooding
  - Odour issues
  - Traffic and road safety – access issues
  - Roads adoption issues and landownership
  - Phosphorous mitigation and drainage issues
  - Lack of open space
  - Waste management
  - Housing supply – no demand for housing in area
  - Application is not changed from previous and should not have been validated
  - Should include land at Beaufield and be considered a major development
  - Residential amenity – overlooking and privacy issues
  - Contrary to Development Plan
  - Not in keeping with surroundings, detrimental to amenity

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

## **ADDITIONAL STATEMENTS**

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

## **APPRAISAL**

### **Policy Appraisal**

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

### **Principle**

- 35 The site is located within the Balado settlement boundary as defined in the Perth and Kinross Local Development Plan 2014. The principle of residential development is acceptable in this area. The previous proposal was refused by the Committee due to it being contrary to various policies in the plan in particular PM1A and PM1B(c) and RD1(a) and (b), PM2 and EP2, TA1B and CF1B. However, following the publication of the Reporter's decision on the appeal against the refusal I would note that the only outstanding issues that need to be resolved through this application are concerned with vehicular and pedestrian access arrangements to the site. This is as a result of the Reporter restricting the refusal to the standard of the proposed access arrangements only and for no other reasons. The reporter's decision therefore represents a material consideration which should be given considerable weight.
- 36 As with the previous application, concerns have been raised through representations that there is no requirement for further housing within the Kinross housing market area as supply of housing already exceeds demand. However the Reporter agreed that this site could be considered a windfall site and that the addition of 8 houses would have little quantitative impact on housing land supply and certainly would not lead to a material oversupply of housing land in this area.
- 37 There was also a comment from an objector that land at Beaufield and particularly the site of the foul soakaway shown within the ground of Beaufield should be incorporated into the redline site boundary. This land is not

considered to be part of the development site and was not previously included in the site boundary. The foul soakaway shown will serve Beaufield not the application site. There is therefore no reason to include it within the site boundary.

## **Design and Layout**

- 38 The proposal is for 8 detached dwellinghouses comprising a mixture of 2 storey house types with wall-head dormers and roof dormers allowing accommodation in the roof space. Garaging proposed includes a mixture of integral and detached garages. Materials proposed include white wet dash render, natural stone and treated larch to the external walls, natural slate to the roof and white painted timber windows and doors. Detached garage materials will match the dwellinghouses. Boundary treatment includes proposed and existing hedging and post and wire fencing.
- 39 The design and layout of the proposed houses is the same as previously submitted. There have been concerns from objectors that the proposed design is not in keeping with the surrounding development. I would disagree with this and would also note the comments in the Reporter's Decision Letter. The Reporter did not consider the design inappropriate for the site and noted that this part of Middle Balado has a fairly wide mix of suburban house types and that the proposed houses would not appear out of scale or character in this setting.
- 40 The Development Management Committee refused the previous application partly due to the lack of a design statement. A statement has been produced with this application although in the appeal decision the Reporter did not agree with the Council's reason for refusal. The Reporter was not persuaded that a lack of a design statement rendered the proposal unacceptable and that it was difficult to see what added value would be gained from the provision of a design statement.

## **Residential Amenity**

- 41 This aspect was fully considered as part of the previous application and there have not been any changes to the layout or design of the dwellinghouses as part of this submission. There were concerns previously raised and in relation to this application that the proposed detached garages would cause overshadowing/daylighting issues to neighbours, in particular on plot 3. This objection has been reiterated by an objector to this application. However the position and orientation of the proposed new dwellinghouses was also considered in detail by the Reporter as part of the appeal process. In particular the Reporter noted that given its size and position, the proposed garage at plot 3 would not have any significant or adverse overshadowing or daylighting impact on the existing house to the west.
- 42 The Reporter also noted that three of the proposed houses would have a common boundary with existing houses at the Nurseries to the east but he was satisfied that the relationship of the proposed houses on plots 7 and 8,

including building orientation, overshadowing, window positions and separation distances, would not lead to any overlooking, overshadowing or privacy issues.

- 43 Similarly the Reporter was satisfied that the relationship of the proposed house at plot 1 with the house at 6 the Nurseries would not lead to any privacy or overlooking issues subject to the imposition of conditions to control the design of a rear balcony and the height of a fence on the mutual boundary if planning permission were to be granted. Overall the Reporter found the standard of development design and layout acceptable and met the objective of LDP polices RD1, PM1A and PM1B in relation to residential areas and placemaking.
- 44 There were objections previously and in connection with this application in terms of possible odour issues from the treatment plant. Objections with regard to this have also been received in relation to this new application. The applicant will require a CAR licence for the proposed development and any operational issues arising from the treatment plant will be dealt with through SEPA's CAR licencing regulations to ensure there are no amenity issues to neighbouring residential properties. A noise condition was previously recommended to protect neighbouring residential amenity from any noise generated by the private waste water treatment plant.
- 45 There was concern raised with the previous application and with this application that the proposal would have an impact on neighbours' right to the peaceful enjoyment of their property and that protection of the countryside falls within the interests of Article 8 of the Human Rights Act 1998. It is considered however that the site is not within the countryside but in the designated settlement of Balado and, as noted above, will not have any adverse impact on neighbouring residential amenity and on any individual's right to the peaceful enjoyment of their own home.

### **Landscaping and Visual Impact**

- 46 The site has a number of mature trees around the boundary. These are generally outwith the site boundary and are not expected to be affected by the proposed development.
- 47 In terms of visual impact the site is contained with housing development on three sides and is not expected to create any additional adverse visual impact to the wider countryside. A condition on any consent is recommended for a detailed landscaping plan to be submitted to include hard and soft landscaping within the site for the approval of the Council.

### **48 Biodiversity**

The Biodiversity Officer notes that the trees around the site are likely to provide habitats for wildlife and has suggested a number of conditions and informative notes that could be attached to any planning approval.

### **Open Space**

- 49 Concerns were raised on the lack of open space provision within the development. It is considered that the number of houses proposed on this site does not generate a requirement for the provision of communal open space provision for the wider community. There is a requirement for open space provision for the village under the larger allocated housing site H51 to the west which is also within the settlement boundary.

### Traffic and Transport

- 50 The application site is accessed off the end of an existing private road that currently serves four recently erected dwellinghouses. The proposals indicate that this access will be upgraded to enable it to meet the Council's standards for adoption. Whether or not such an upgrade could be achieved was considered by the Reporter as part of the appeal. It was noted by the Reporter that the applicant has stated that he has sufficient servitude rights over the private road to allow him to undertake residential development for such planning permission as may be granted. Whilst this is more a legal matter than a planning matter the Reporter was also concerned that the extent of the site boundary shown for the original application did not include sufficient land to upgrade the road as would be necessary to meet the Council's standards. It was therefore concluded by the Reporter that as any changes required to meet the Council's standards may require a change to the existing site boundary so could not be the subject of planning conditions. Coupled with the fact that third party agreement to the works may not be forthcoming the Reporter dismissed the appeal.
- 51 This new application includes an extended red line site boundary which demonstrates that sufficient land is within the site to enable the access road to be upgraded to meet the Council's standards for adoption. The Transport Planner notes that the applicant has submitted further details of the proposed upgrades to the existing private access along with the layout of the new development. This effectively forms a stage 1 Roads Construction Consent and demonstrates that adequate upgrades can be made to allow an adopted road to be formed.
- 52 The land that is currently a private access that requires to be upgraded to meet Council roads specification is known to be in third party ownership and is likely to require agreement of existing owners to upgrade it. There is currently a dispute between the applicant and objectors as to whether servitude rights would allow the works to be undertaken. I am of the view that whilst this could be a barrier to ultimate implementation of any consent this is primarily a legal matter that should be separated from any planning permission and is not a reason that would justify refusal of the application. In order to address the concerns of both the objectors and the Reporter with regard to this I consider it appropriate to attach a suspensive condition that requires the existing private access to be widened and constructed to a standard that demonstrates that sufficient land is available to the applicant to upgrade the private access to the required adoptable standard.

- 53 Objectors are also concerned about the increase in traffic that the development would generate related to road safety concerns including the lack of pavements, limited street lighting, crossing of and the impact on the A977. However the Transport Planner does not share this concern and has recommended that a condition be attached to any approval to agree all matters regarding access, car parking, road layout, design and specification, including the disposal of surface water.
- 54 There was previously a requirement for bus pick up and drop off areas to be provided on the A977. The Council had been concerned with this proposal in terms of road safety. The Reporter also expressed concern with this. After discussion with the Transport Planner it has been agreed that such a facility is not required as part of this proposal. It is understood that the school bus currently comes into the settlement and that in the longer term development at the western end of the village will allow a bus to come in and turn so that passengers would not need to cross the A977.

### **Waste Collection**

- 55 There have been objections with regard to the practicalities of providing waste and recycling services to the new development if the issues with the roads adoption are not resolved. The Waste Services Advisor has been consulted on this application and recommends that the developer make contact with the Community Waste Team to discuss the waste requirements for the site.

### **Drainage and flooding**

- 56 A private waste water treatment plant is proposed for foul drainage which will incorporate phosphorus stripping as required in the Loch Leven Catchment Area. SEPA had asked that the calculations be revised to reflect current values (150 litres per person per day, not 180 litres per person per day). Following this revision SEPA is satisfied that the applicant has demonstrated that sufficient phosphorus mitigation can be achieved. It is however noted by SEPA that further detail will have to be provided for the treatment system and point source discharge under CAR before a licence can be issued and the lack of objection to the planning permission does not guarantee the issue of a CAR licence.
- 57 Concerns have been raised by objectors with regard to the inclusion of the property Beaufield as one of the mitigating properties being upgraded. However this was previously discussed with SEPA who have no objection to this.
- 58 Concerns were previously raised and have been again with regard to possible flood risk. This would be from surface water rather than any watercourse. The Council's Flood Officer was consulted and after some discussion with the agent is satisfied that subject to agreeing the detailed design the proposals are acceptable. A condition will be attached to any permission concerning this.

### **Developer Contributions**

## **Affordable Housing**

- 59 The Council's Affordable Housing Policy requires that 25% of the total number of houses, above a threshold of 5 units, for which planning consent is being sought is to be in the form of affordable housing.
- 60 The affordable housing requirement for the proposal is 2 units ( $8 \times 0.25$ ). Due to the scale and location of the development a commuted sum is considered appropriate in lieu of onsite provision. The commuted sum level for the Kinross Housing Market Area is £15,000 per unit therefore a contribution of £30,000 ( $2 \times £15,000$ ) is required.

## **Education**

- 61 The Council Developer Contributions Supplementary Guidance requires a financial contribution towards increased primary school capacity in areas where a primary school capacity constraint has been identified. A capacity constraint is defined as where a primary school is operating, or likely to be operating following completion of the proposed development and extant planning permissions, at or above 80% of total capacity.
- 62 This proposal is within the catchment of Kinross Primary School. Based on current information this school will reach the 80% capacity threshold. Contributions towards primary education are not required from affordable housing. The primary education contribution will be calculated on 6 units ( $8 - 2$ ). A contribution of £38,760 ( $6 \times £6,460$ ) is required as a result.

## **LEGAL AGREEMENTS**

- 63 It is likely that a section 75 legal agreement will be required if the applicant chooses to defer payment of the required developer contributions.

## **DIRECTION BY SCOTTISH MINISTERS**

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

## **CONCLUSION AND REASONS FOR RECOMMENDATION**

- 65 In conclusion, the application must be determined in accordance with the Development Plan unless material considerations indicate otherwise. In this respect, the proposal is considered to comply with the approved TAYplan 2012 and the adopted Local Development Plan 2014. I have taken account of material considerations, particularly the recent Reporters decision and find

none that would justify overriding the Development Plan. On that basis the application is recommended for approval subject to conditions.

## **RECOMMENDATION**

### **A Approve the application subject to the following conditions:**

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

Reason - To ensure the development is carried out in accordance with the approved drawings and documents.

- 2 Prior to the commencement of the development hereby approved, details of the specification and colour of the proposed external finishing materials to be used shall be submitted to and agreed in writing by the Council as Planning Authority. The scheme as agreed shall be implemented prior to the completion or bringing into use of the development, whichever is the earlier.

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

- 3 Prior to the development hereby approved being completed or brought into use, all matters regarding access, car parking, road layout, design and specification, including the disposal of surface water, shall be in accordance with the standards required by the Council as Roads Authority.

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

- 4 Prior to the commencement of any works to the dwellinghouses hereby approved, the existing private access shall be widened and constructed at least to the level of bottoming, kerbing and base coating, in accordance with the standards required by the Council as Roads Authority.

Reason - In the interests of road safety; to ensure that a satisfactory standard of road and footpath is provided timeously in the interest of the amenity of the residents.

- 5 The foul drainage infrastructure capable of achieving not less than 125% phosphorus mitigation associated with this development shall be undertaken in a phased manner:-

(a) No development shall commence on the approved development site until the mitigating foul drainage infrastructure at the remote properties at Beaufield, Middle Balado and Gardener's Cottage, Turfhills has been installed.

(b) Following the installation of the foul drainage infrastructure at the remote property/properties, the development site shall only be occupied once the foul

drainage infrastructure for the development site has been installed unless otherwise agreed in writing with the Council as Planning Authority.

For the avoidance of doubt the installed drainage infrastructure at the development site as approved shall be retained unless otherwise agreed in writing with the Council as Planning Authority.

Reason - To ensure appropriate drainage arrangements are installed and retained to remove phosphorus from the Loch Leven Catchment Area thereby ensuring compliance with Policy EP7A, B & C: Drainage within the Loch Leven Catchment Area of the Adopted Perth and Kinross Local Development Plan 2014.

- 6 Development shall not commence until the applicant has submitted approved CAR licence(s) under the Water Environment (Controlled Activities)(Scotland) Regulations 2011 for the drainage infrastructure associated with this project to the Council as Planning Authority and the Planning Authority has confirmed receipt of the documentation in writing.

Reason - To ensure appropriate drainage arrangements are installed and retained to remove phosphorus from the Loch Leven Catchment Area thereby ensuring compliance with Policy EP7A, B & C: Drainage within the Loch Leven Catchment Area of the Adopted Perth and Kinross Local Development Plan 2014.

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

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

- 8 Prior to the commencement of the development hereby approved, a detailed landscaping and planting scheme for the site shall be submitted for the further written agreement of the Council as Planning Authority. The scheme shall include details of the height and slopes of any mounding or recontouring of the site, full details of all hard landscaping proposals including materials and installation methods and, species, height, size and density of trees and shrubs to be planted. The scheme as subsequently approved shall be carried out and completed within the first available planting season (October to March) after the completion or bringing into use of the development, whichever is the earlier, unless otherwise agreed in writing with this Planning Authority and the date of Practical Completion of the landscaping scheme shall be supplied in writing to the Council as Planning Authority within 7 days of that date. The scheme as agreed and implemented shall thereafter be maintained unless otherwise agreed in writing with the Council as Planning Authority.

Reason - To ensure a satisfactory standard of development and environmental quality and to reserve the rights of the Planning Authority.

- 9 Prior to the commencement of any works on site, all trees on site (other than those marked for felling on the approved plans) and those which have Root Protection Areas which fall within the site shall be retained and protected. Protection methods shall be strictly in accordance with BS 5837 2012: Trees in Relation to Design, Demolition and Construction. Protection measures, once in place, shall remain in place for the duration of construction unless otherwise agreed in writing by the Council as Planning Authority.

Reason - To ensure a satisfactory standard of development and environmental quality and to reserve the rights of the Planning Authority.

- 10 Any planting failing to become established within five years shall be replaced in the following planting season with others of similar size, species and number unless otherwise agreed in writing with the Council as Planning Authority.

Reason - To ensure a satisfactory standard of development and environmental quality and to reserve the rights of the Planning Authority.

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

Reason - In the interests of employing best practice ecology and to ensure there is no adverse impact on any protected species as identified under the Wildlife and Countryside Act (1981).

- 12 Development shall not commence on site until a detailed sustainable urban drainage system (SUDS) has been submitted for the further written agreement of the Council as Planning Authority, in consultation with SEPA where necessary. The scheme shall be developed in accordance with the technical guidance contained in The SUDS Manual (C753) and the Council's Flood Risk and Flood Risk Assessments Developer Guidance, and shall incorporate source control. All works shall be carried out in accordance with the agreed scheme and be operational prior to the bringing into use of the development.

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

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

Reason - To ensure the appropriate management of construction surface water run-off to minimise flooding and avoid discharge of sediment/pollution to the local water environment or neighbouring property, in the interests of residential and environmental amenity.

- 14 A street light system designed to EN 13201 / BS 5489 shall be provided. The type and standard of lighting shall be assessed using the zoning system outlined in 'The Institution of Lighting Engineers Guidance Notes for the Reduction of Light Pollution'. Details of the lighting system shall be submitted and agreed with the Council as Planning Authority prior to commencement of work.

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

- 15 Prior to commencement of development full details of the rear balcony on plot 1 and proposed fencing along its mutual boundary with house 6, The Nurseries, shall be submitted for the written approval of the Planning Authority. The approved scheme shall be implemented and maintained to the satisfaction of the Council as Planning Authority.

Reason - In the interests of residential amenity; in order to safeguard the privacy and amenity of the residents of the neighbouring dwellinghouse(s).

## **B JUSTIFICATION**

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

## **C PROCEDURAL NOTES**

- 1 The planning permission decision notice shall not be issued until such time as the required Developer Contributions have been secured or paid in full.
- 2 In the event the applicant does not either make the required payment within 28 days from the date the agent/applicant is advised of the need for the contributions, or complete a legal agreement for delayed payment within a 4 month period from the date the agent/applicant is advised of the need for the contributions, the application may be refused under delegated powers without any further discussion with the applicant.

## **D INFORMATIVES**

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period.

(See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).

- 2 Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
- 4 No work shall be commenced until an application for building warrant has been submitted and approved.
- 5 The applicant is advised that in terms of Sections 21 of the Roads (Scotland) Act 1984 he/she/they must obtain from the Council as Roads Authority consent to construct a new road prior to the commencement of roadworks. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environmental Protection Agency.
- 6 The applicant should note SEPA's regulatory requirements:

Proposed engineering works within the water environment will require authorisation under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended).

Details of regulatory requirements and good practice advice for the applicant can be found on the Regulations section of SEPA's website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulatory team in the local SEPA office at:

Pentland Court, The Saltire Centre, Glenrothes, KY6 2DA, Tel. 01592 776910

- 7 Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning permission for a development does not provide a defence against prosecution under this Act.
- 8 The presence of protected species, and the extent to which they could be affected by the proposed development, should be established before works commence. Should protected species be identified within the site the developer should ensure that all appropriate measures required to comply with the relevant legislation are carried out.

- 9 The applicant should be aware of the requirements of the Council's Environment and Regulatory Services in relation to waste collection from the site and should ensure adequate measures are provided on site to allow for the collection of waste. It is recommended that the developer contact the Community Waste Team to discuss waste requirements for this site.

Background Papers: 19 letters of representation  
Contact Officer: Persephone Beer – Ext 75354  
Date: 29 August 2016

Nick Brian  
Development Quality Manager

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