

Central and West Planning Committee

Due to Scottish Government guidance relating to Covid-19, this meeting will be held remotely.



Wednesday, 25th November, 2020 - 2.00 p.m.

AGENDA

Page Nos.

1. APOLOGIES FOR ABSENCE

2. DECLARATIONS OF INTEREST

In terms of section 5 of the Code of Conduct, members of the Committee are asked to declare an interest in particular items on the agenda and the nature of the interest(s) at this stage.

3. MINUTE - Minute of Meeting of Central and West Planning Committee of 28th October, 2020. 3 - 5

4. CHANGE OF MEMBERSHIP OF CENTRAL AND WEST PLANNING COMMITTEE

Members are asked to note that the membership of the Committee is as set out below:-

David Alexander
Alistair Bain
John Beare
Bobby Clelland
Dave Coleman
Ian Ferguson
Mick Green
Zoe Hisbent
Gordon Langlands
Helen Law
Mino Manekshaw
Alice McGarry (Convener)
Derek Noble
Ross Paterson
Andrew Verrecchia

5. 19/00909/PPP - LAND AT THISTLE INDUSTRIAL ESTATE, COWDENBEATH 6 - 40

Planning permission in principle for demolition of existing buildings and erection of dwellinghouses with associated development including access, roads, drainage and landscaping.

6. 19/03673/FULL - LAND TO THE EAST OF JAMPHLARS COURT, BOWHILL 41 - 68

Erection of 59 affordable housing units with associated roads, parking and landscaping.

7. **20/00373/FULL - THE YARD PUBLIC HOUSE ADMIRALTY ROAD ROSYTH** 69 - 76
- Demolition of existing buildings, erection of a retail unit (Class 1) with associated access improvements, service area, parking, taxi parking and associated works (Section 42 to remove condition 3 of 17/01554/FULL to provide a replacement football pitch).
8. **20/02292/FULL - LAND TO WEST OF MACDONALD SQUARE MAIN STREET HALBEATH** 77 - 89
- Erection of three retail units (Class 1), two café/restaurant units (Class 3) with associated drive thru element (Sui Generis) and one cafe/restaurant unit (Class 3) with associated parking and external works (Section 42 Application to vary condition 3 of 20/00545/FULL to allow opening from 5am for Class 3 unit shown as Costa on approved drawings).
9. **20/00955/FULL - 1 BURNBANK STABLES, EAST END MAIN STREET, STAR, GLENROTHES** 90 - 105
- Erection of dwellinghouse and workshop with associated works.
10. **APPLICATIONS FOR PLANNING PERMISSION, BUILDING WARRANTS AND AMENDED BUILDING WARRANTS DEALT WITH UNDER DELEGATED POWERS**
- Lists of applications dealt with under delegated powers for the period 5th October to 1st November, 2020.
- Note: These lists are available to view with the Committee papers on Fife.gov.uk

Members are reminded that should they have queries on the detail of a report they should, where possible, contact the report authors in advance of the meeting to seek clarification.

Morag Ferguson
Head of Legal and Democratic Services
Finance and Corporate Services
Fife House
North Street
Glenrothes
Fife, KY7 5LT

18th November, 2020

If telephoning, please ask for:
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THE FIFE COUNCIL - CENTRAL AND WEST PLANNING COMMITTEE – REMOTE MEETING

28th October, 2020

2.00 p.m. – 4.20 p.m.

PRESENT: Councillors Alice McGarry, David Alexander, Alistair Bain, John Beare, James Calder, Bobby Clelland, Dave Coleman, Derek Glen, Mick Green, Gordon Langlands, Mino Manekshaw, Derek Noble, Ross Paterson and Andrew Verrecchia.

ATTENDING: Kevin Treadwell, Service Manager - Major Business and Customer Service, Katherine Pollock, Planner - Major Business and Customer Service, Mark Barrett, Lead Officer Transportation Development Management (South Fife), Richard Simmons, Lead Officer Transportation Development Management (North Fife), Economy, Planning & Employability Services, Laura Lamb, Solicitor and Emma Whyte, Committee Officer, Legal & Democratic Services.

74. DECLARATIONS OF INTEREST

No declarations of interest were submitted in terms of Standing Order No. 7.1.

75. CHANGE OF MEMBERSHIP

The Committee were asked to note that Councillor Derek Glen had replaced Councillor Ian Ferguson as a member of the Central and West Planning Committee.

Decision

The Committee noted that Councillor Derek Glen had replaced Councillor Ian Ferguson as a member of the Central and West Planning Committee.

76. MINUTE

The Committee considered the minute of the Central and West Planning Committee of 29th September, 2020.

Decision

The Committee agreed to approve the minute.

77. 18/02425/FULL - LESLIE HOUSE, LESLIE, GLENROTHES

The Committee considered a report by the Head of Planning relating to an application/

application for the proposed conversion of Leslie House to form 24 flats, erection of 8 new build dwellinghouses, associated parking, access, landscaping and drainage.

Katherine Pollock, Planner advised members that an additional Condition would be added in relation to the provision of passing places at the development.

Decision

The Committee agreed to approve the application subject to:-

- (1) the twenty-five conditions and for the reasons detailed in the report;
- (2) an additional condition being added in relation to the provision of passing places;
- (3) Condition 7 being amended to require the number of grit bins to be agreed and thereafter provided; and
- (4) Condition 14 being amended to ensure that the factoring arrangements also covered waste and recycling.

78. 18/02426/LBC - LESLIE HOUSE, LESLIE, GLENROTHES

The Committee considered a report by the Head of Planning relating to an application for listed building consent for conversion of Leslie House (Category A Listed Building) with new build enabling development.

Decision

The Committee agreed to approve the application subject to the seven conditions and for the reasons detailed in the report.

79. 20/00839/FULL - 251 AND 257 TO 261 HIGH STREET, KIRKCALDY

The Committee considered a report by the Head of Planning relating to an application for the proposed demolition of existing shop unit at 251 - 255 High Street to provide mixed use development of 38 affordable housing flats and commercial units.

Decision

The Committee agreed:-

- (1) to approve the application subject to the nineteen conditions and for the reasons detailed in the report; and
- (2) that the Planning Officer would write to the Community Council in response to their concerns and to clarify where these had been addressed in the report.

Councillor/

Councillor Verrecchia left the meeting following conclusion of the above item.

The meeting adjourned at 3.47 p.m. and reconvened at 4.00 p.m.

80. 20/01466/FULL - SITE TO SOUTH OF TURPIE ROAD, LEVEN

The Committee considered a report by the Head of Planning relating to an application for the erection of a bakery shop unit (Class 1) with ancillary drive through facility, associated car parking and landscaping.

Decision

The Committee agreed to approve the application subject to the five conditions and for the reasons detailed in the report.

81. 20/00163/FULL - LAND TO NORTH OF BURNBRAE HOUSE, OSBORNE DRIVE, KINCARDINE

The Committee considered a report by the Head of Planning relating to an application for the erection of 3 no. dwellinghouses with associated garages, boundary fencing, formation of access, hardstanding and landscaping.

Decision

The Committee agreed to refuse the application for the reason set out in the report.

82. APPLICATIONS FOR PLANNING PERMISSION, BUILDING WARRANTS AND AMENDED BUILDING WARRANTS DEALT WITH UNDER DELEGATED POWERS

Decision

The Committee agreed to note the lists of applications.

ITEM NO: 5

APPLICATION FOR PLANNING PERMISSION IN PRINCIPLE REF: 19/00909/PPP

SITE ADDRESS: LAND AT THISTLE INDUSTRIAL ESTATE COWDENBEATH

PROPOSAL : PLANNING PERMISSION IN PRINCIPLE FOR DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF DWELLINGHOUSES WITH ASSOCIATED DEVELOPMENT INCLUDING ACCESS, ROADS, DRAINAGE AND LANDSCAPING

**APPLICANT: IN-SITE PROPERTY SOLUTIONS LTD
4 BOWCLIFFE GRANGE BRAMHAM WEST YORKSHIRE**

**WARD NO: W5R07
Cowdenbeath**

CASE OFFICER: Katherine Pollock

**DATE 07/08/2019
REGISTERED:**

REASONS FOR REFERRAL TO COMMITTEE

This application requires to be considered by the Committee because:

The proposed development comprises more than 50 residential units on a site area greater than 2 hectares and therefore, is classified as a Major Development under The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009.

SUMMARY RECOMMENDATION

The application is recommended for:

Conditional approval requiring a legal agreement

ASSESSMENT AGAINST THE DEVELOPMENT PLAN AND OTHER MATERIAL CONSIDERATIONS

Under Section 25 of the Town and Country Planning (Scotland) Act 1997, the determination of the application is to be made in accordance with the Development Plan unless material considerations indicate otherwise.

1.1 Site Description

1.1.1 The application site extends to approximately 7.6 hectares, situated on the south east side of Cowdenbeath. It comprises Thistle Industrial Estate, a partially occupied industrial estate which comprises approximately 56 office and industrial buildings plus yard space, all of which is of varying sizes, ages and quality. The site is bound by a sewerage works to the north, a football ground to the south, Seco Place, Church Street and Watson Street to the west and Lochgelly Burn to the east. The area to the west of Seco Place, Church Street and Watson Street is predominately residential. Beyond the football ground to the south is the A92, Cowdenbeath Golf Club is situated to the north of the sewerage works and there are open fields beyond the Lochgelly Burn to the east. The site is enclosed by metal mesh fencing to the north, south and east with black metal railings along the west site boundary.

1.1.2 The principal vehicular access into the site, is currently taken from Church Street to the west with a secondary access provided further north from Seco Place. There are existing footpath connections from the surrounding residential streets with core paths to the north west corner of the site.

1.1.3 Of the 56 buildings within the application site only 21 of these are currently occupied and therefore, a high proportion of the units are laying vacant.

1.1.4 There are no listed buildings within or immediately adjacent to the application site and the site does not lie within a conservation area.

1.1.5 The application site is located within the settlement boundary of Cowdenbeath as defined on the adopted FIFEplan 2017 Proposals Map. It is designated as a Safeguarded Employment Area for employment uses falling within Classes 4, 5 and 6.

1.2 Proposal

1.2.1 The application seeks planning permission in principle for demolition of existing buildings and erection of dwellinghouses with associated development including access, roads, drainage and landscaping.

1.2.2 The application as originally submitted was for residential development across the full extent of the application site with an indicative layout for up to 236 units. During the application process, the applicant amended the proposal, reducing the area of land proposed for residential development from 7.6 to 4.26 hectares, allowing for retention of 3.35 hectares of existing employment land. The applicant has confirmed that is anticipated that up to 159 residential units could be accommodated within the area of land proposed for residential development. On the submitted Indicative Site Plan the area of employment land to be retained would be situated on the northern portion of the site, this would be separated from the proposed residential development by a landscaped buffer which would run through the middle of the site. The employment land would be accessed via the existing site access from Seco Place at the north end of the site and the residential land would be accessed via the existing site access from Church Street. The landscaped buffer would extend around the north east corner and along the

east side of the residential land and along the northern site boundary provide a buffer between the retained employment land and the sewerage works to the north. The internal access roads within the application sites would be reconfigured as required to suit future layouts. Within the residential land, the Indicative Site Plan shows how areas of open space could be incorporated within the residential layout. This includes retention of the existing brick chimney within one of the areas of open space which could provide a landmark feature in the middle of the site. The submitted Design and Access Statement advises that the density and scale of the residential development would be guided by the adjacent residential streets. It would incorporate relatively high density housing within detached, terraced and semi-detached buildings ranging from 2 - 3 storeys in height.

1.3 Planning History

1.3.1 There is no history of planning applications for redevelopment of the application site. The most recent application was a prior notification for demolition of buildings within the site (ref: 20/00889/DPN). These included Units 1, 1A, 2, 3, 16,17, 18A, 18B, 19, 20, 21 and 31 which are situated in the middle and on the south side of the application site.

1.3.2 Also of relevance is the local plan history of the site. The application site was identified as an area of mixed use in the adopted Mid Fife Local Plan (January, 2012). Proposal COW07 recognised that to cross-subsidise the refurbishment of the existing industrial facilities in COW07, or the redevelopment of the same for such uses, housing development on part of the site may be required. The allocation set out a number of requirements for the site, it stated that a developer contribution would be required as part of any planning permission for housing on the site to provide for servicing of the retained employment land and/or refurbishment of the business premises. The details of how and when this would be implemented would be confirmed through future planning permission(s) and associated legal agreement(s) to include the following:

- A minimum of 30% of the site retained for employment purposes;
- The retained employment land will be restricted to uses consistent with classes 4, 5 & 6 of the Town & Country Planning (Use Classes) (Scotland) Order 1997;
- Piecemeal development will not be supported. A masterplan shall be prepared prior to the submission of any planning application to show how the site can be developed for residential and employment uses;
- The masterplan shall provide appropriate separation between the employment and adjoining uses. Any associated land-take should be outwith the employment area;
- The development of the site shall be phased in such a way as to release the employment land/premises proportionately and in advance of the completion of the housing within any phase;
- Confirmation of how the employment land/premises will be marketed;
- Agreement from the landowner/developer that the employment land/premises shall not be unreasonably withheld from release to the market; and
- A Member/Fellow of the Royal Institution of Chartered Surveyors or the District Valuer will arbitrate in case of disagreement.

1.3.3 It also noted that a Flood Risk Assessment must be undertaken prior to development on the site.

1.3.4 During the preparation of the new Local Development Plan, FIFEplan. The area of mixed use allocations were removed and this site was identified as a Safeguarded Employment Area for employment uses falling within Classes 4, 5 and 6 only.

1.4 Procedural Issues

1.4.1 The proposed development comprises more than 50 residential units on a site extending to over two hectares and therefore, falls within the Major Development category under the Town and Country Planning (Hierarchy of Developments) Regulations 2009. The applicant submitted two Proposal of Application Notices, one on 6th March 2018 for demolition, retention and refurbishment and erection of buildings for mixed use residential and employment-generating uses including access, roads and landscaping (ref: 18/00642/PAN) and the other on 9th October 2018 for residential development (ref:18/03001/PAN). The applicant has carried out the required pre-application consultation through holding two public information events. The first event was held on 18th April 2018 from 3.30 pm to 7.30 pm at Unit 3 within Thistle Industrial Estate in relation to 18/00642/PAN. The second event was held on 8th January 2019 from 3pm to 7pm at the Maxwell Centre, 70 Stenhouse Street, Cowdenbeath in relation to 18/03001/PAN. The public events were advertised in The Courier on 10th March 2018 and 31st December 2018 respectively. A Pre-Application Consultation Report outlining comments made by the public from both events has been submitted as part of this application. The manner of the consultation exercise, including the notification and media advertisement process, complied with the relevant legislation.

1.4.2 The application was advertised in the local press on 15th August 2019 as being contrary to the development plan.

1.4.3 Fife Council was asked by the applicant to adopt a Screening Opinion under the terms of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. As the proposed site exceeds 0.5 hectares, this triggered the requirement for a Screening opinion to be adopted. Following a review of the submitted documents, and an assessment of the extent and significance of the potential impact of the development proposal on the natural environment, built heritage and residential amenity issues identified in the Screening Opinion the Planning Authority concluded that the development did not constitute a significant enough effect in environmental impact assessment (EIA) terms and therefore an EIA Development under the terms of the Regulations (reference: 18/00348/SCR) within a Schedule 2 type development; under Section 10(b) – Urban Development Projects, was not required.

2.0 EXECUTIVE SUMMARY

2.0.1 The application seeks planning permission in principle for demolition of existing buildings and erection of dwellinghouses with associated development including access, roads, drainage and landscaping. The application as originally submitted was for residential development across the full extent of the application site with an indicative layout for up to 236 units. During the application process, the applicant amended the proposal, reducing the area of land proposed for residential development from 7.6 to 4.26 hectares, allowing for retention of 3.35 hectares of existing employment land. The applicant has confirmed that it is anticipated that up to 159 residential units could be accommodated within the area of land proposed for residential development.

2.0.2 While the development is contrary to Policies 1, 3 and 5 of the adopted FIFEplan in terms of the resultant loss of business or industrial land, it is considered that there are a number of

positive material considerations which outweigh this. The proposed development would involve redevelopment of brownfield land within the settlement boundary of Cowdenbeath on an industrial estate which currently houses a high proportion of vacant units which are past their useful life. Whilst the development would result in the loss of a proportion of a Safeguarded Employment Area as designated in the adopted FIFEplan, the applicant has demonstrated that the site and buildings have been extensively marketed with limited success due to the age, condition and configuration of the units which do not meet the modern requirements of potential occupiers. The most viable solution is to allow some residential development on the site and retention of a proportion of land for business and industrial uses. It is noted that the previous site allocation in the adopted Mid Fife Local Plan accepted that an element of residential development on the site (up to 70%) could be provided in order to cross-subsidise the refurbishment of the existing industrial facilities, or the redevelopment of the same for such uses with a minimum of 30% of the site retained for employment purposes. The proposed development includes retention of a minimum of 3.35 hectares of business and industrial land within the site, the loss of 4.26 hectares of employment land to residential use which would be compensated against by a commuted sum as required by FIFEplan Policies 4 and 5. The commuted sum would be invested within the retained employment area. The proposed development would result in a development that would contribute to sustainable development in accordance with the relevant SPP sustainability principles.

2.0.3 The proposed development was assessed against the provisions of national planning policy, the Development Plan and other guidance in relation to the principle of development; amenity; impact on the road network and parking; contamination and land stability; air quality; flooding and drainage; affordable housing; developer contributions; education and sustainable development. Overall, the proposed development is considered to be acceptable subject to a Section 75 legal obligation to secure a commuted sum and retention of a minimum of 3.35 hectares of employment land and the noted conditions.

2.1 PLANNING ASSESSMENT

2.2 The issues to be assessed against the Development Plan and other material considerations are as follows:

- Principle of Development
- Amenity
- Road Network and Parking
- Contamination, Land Stability and Air Quality
- Flooding and Drainage
- Affordable Housing
- Education
- Developer Contributions
- Sustainable Development

2.3 Principle of Development

2.3.1 Scottish Planning Policy (SPP) promotes the use of the plan-led system to provide a practical framework for decision making on planning applications thus reinforcing the provisions of Section 25 of the Act. The Development Plan is the preferred mechanism for the delivery of housing land rather than individual planning applications. The Development Plan comprises the SESplan Strategic Development Plan (2013) and the adopted FIFEplan Local Development Plan (2017).

2.3.2 SESplan promotes a series of policy aims which include promoting the development of urban brownfield land for appropriate uses. SESplan Policy 5: Housing sets the housing land requirement for the Edinburgh City Region, which was amended by Supplementary Guidance. This Guidance also established in which constituent local authority the housing land requirement should be met. In Fife, SESplan directs the Local Development Plan to allocate land for 17,140 homes in the period from 2009 - 2019 and 7,430 for 2019 - 2024. The Fife Council Housing Land Audit 2019 (May 2020) confirms that there will be an estimated surplus of 1,320 private market units and 531 affordable units within the Dunfermline and West Fife Housing Market Area for the five-year period between 2019 and 2024 therefore, Fife Council's position is that there is a five-year effective land supply.

2.3.3 FIFEplan Policy 1: Development Principles states that development proposals will be supported if they conform to relevant Development Plan policies and proposals and address their individual and cumulative impacts. Part A (1) states that the principle of development will be supported if it is either: a) within a defined settlement boundary and compliant with the policies for the location; or b) in a location where the proposed use is supported by the LDP. Part B requires development proposals to address their impact by complying with a number of criteria and supporting policies. Of relevant to this application is (3) Protect Fife's existing and allocated employment land and (8) Avoid flooding and impacts on the water environment. Part C requires proposals to demonstrate compliance with the various FIFEplan supporting policies. These individual policies are considered in greater detail in the assessment of the proposal in the sections below.

Loss of Employment Land

2.3.4 The application site is located within the settlement boundary of Cowdenbeath as defined on the adopted FIFEplan 2017 Proposals Map. It is designated as a Safeguarded Employment Area for employment uses falling within Classes 4, 5 and 6. It comprises a partially tenanted industrial estate.

2.3.5 FIFEplan Policy 3 states that development proposals will not be supported where they would result in a loss of business or industrial land and makes reference to FIFEplan Policy 5. FIFEplan Policy 5: Employment Land and Property states that all existing employment areas, and those allocated within FIFEplan will be safeguarded for continued industrial and business use. With regard to changes of use from employment land these will only be considered if:

- 1. it is demonstrated that the existing building or site cannot be reused or redeveloped for employment uses, based on prevailing market conditions which will be determined at the date of the application; and*
- 2. it will not create a shortfall in the 7 year supply of employment land in settlements with a population of 5,000 or more*

2.3.6 Policy 5 also notes that in all cases an assessment must be undertaken to identify potential impact on amenity. This issue is considered in greater detail in Section 2.4 on Amenity.

2.3.7 The proposed development would result in the loss of 4.26 hectares of employment land to residential use and therefore, is contrary to FIFEplan Policy 5. However, looking at the Policy 5 criteria for a change of use, with regard to criterion 2, the Fife Council Economic Development Team have advised that Thistle Industrial Estate is allocated as a Safeguarded Employment Area as opposed to Employment Land. Given that Thistle Industrial Estate is not designated as

Employment Land within FIFEplan, the 7 year supply of employment land has less implication for this application. It is noted that within the Fife Council Employment Land Audit 2019 Cowdenbeath has a 'green' RAG Status where allocation of marketable employment land exceeds the requirement defined in the Fife Employment Land Strategy 2014 – 2021 (FELS). Consequently, the loss of a proportion of the allocated Safeguarded Employment Area at Thistle Industrial Estate would not create a shortfall in the 7 year employment land supply.

2.3.8 Criterion 1 is most relevant to the assessment of the proposed development. Criterion 1 should also be read alongside the supplementary text to Policy 5 which states that in justifying the loss of employment land, applicants will be expected to demonstrate measures taken to seek the prior implementation of the employment allocation, including a minimum of 12 months marketing of the site through direct and internet methods and consultation with Fife Council and other key agencies, and they will be expected to provide evidence of infrastructural or other constraint which has restricted the implementation of the use and which will not be overcome in the short or medium term.

2.3.9 A Marketing Appraisal submitted by the applicant confirms that a commercial agent has been employed by the applicant to market the site and vacant units since 2008. The applicant has also undertaken marketing themselves. The agent and applicant have done so via a variety of methods including marketing boards on the site; mail shots; advertisements in property publications and via recognised property letting websites; and marketing initiatives such as incentivising existing tenants to introduce new tenants to the industrial estate. The submitted marketing reports confirm that there has been very little interest received from tenants wishing to take on medium to long term leases. The submitted report on marketing activity confirms that there has been some interest from potential occupiers looking to take on short term leases, a number of these have taken on short term leases within the industrial estate. A Marketing Appraisal and Development Viability Study by Avison Young dated November 2019 confirms that overall, demand for the existing premises within Thistle Industrial Estate has been extremely poor. The majority of occupiers are private individuals (many for storage purposes) with a handful of companies occupying space for employment use. Given that the vast majority of these are held on short term leases they offer little to no covenant. The low quoting rent for the accommodation at Thistle Industrial Estate is the main attractive element to those enquiring when considering rental rates that alternate developments in the surrounding area are demanding (£6.50 per sq ft upwards). At Thistle Industrial Estate, rents range from £0.75 per sq ft for larger units to £4.00 per sq ft for the smaller units. By way of comparison, industrial rents being achieved across Fife are in the order of £4.00 - £7.50 per sq ft. Thistle Industrial Estate contains 207,816 sq ft of industrial accommodation and 107,016 sq ft of yard space. The total area equates to 314,832 sq ft. Of this space, 157,757 sq ft is vacant. This is space that is largely unlettable given the size and configuration that can't be economically brought back into use. In particular, Unit 3, equating to 59,194 sq ft has been on the market for approximately 12 years. There have been few active enquiries for industrial stock in Fife over recent years and those that have been require modern, efficient accommodation for their company's requirements. Unit 2 has also come to the market extending to 19,200 sq ft and again has seen no interest, along with a 34,000 sq ft unit that is also vacant at the estate. Given the condition of the units and market requirements, these units are unlikely to be let. The rents currently being achieved at Thistle Industrial Estate (75p to £4.00 per sq ft) are below the expected market levels and therefore, the current situation is not viable in the long term.

2.3.10 With regard to the level of interest received from potential purchasers, the Marketing Activity Report confirms that this has been minimal and limited to housebuilders. The applicant

confirmed in October 2020 that they now have a deal in place with a reputable housebuilder for the residential section of the site.

2.3.11 The applicant also submitted a Building Inspection Report which assessed the current condition of the existing buildings within the industrial estate, many of which are in a poor state of repair, dating back to the 1920's. The report provided a breakdown of the estimated costs to get each of the existing units to a lettable standard. The costs of achieving this would equate to several millions of pounds and therefore, retention and upgrading of all the buildings within the site would not be a viable option. Also taking into account the low rental levels currently being achieved for industrial premises, this would not be financially viable. The submitted Marketing Appraisal & Development Viability Study by Avison Young (dated November 2019) advises that the rents for industrial / warehouse properties would need to be in the region of £6.50 per sq ft upwards in order to justify new speculative industrial development. They have estimated that should Thistle Industrial Estate undergo a full refurbishment it would take in excess of 14 years to recover such investment. The industrial and office buildings within Thistle Industrial Estate are no longer fit for purpose and with a diminishing interest and increasing maintenance costs; a full redevelopment of the site for an alternative use should be sought.

2.3.12 In order to justify their initial proposal for a change of use of the whole industrial estate to residential use, the applicant submitted a viability appraisal. The appraisal assessed a number of scenarios for redevelopment of Thistle Industrial Estate including a 'do nothing' scenario where the existing employment use is retained with no additional investment; retain the existing employment use and owners carry out refurbishment/redevelopment; retain the existing employment use and the local authority provide funding for refurbishment/redevelopment; mixed residential and employment development with majority of site retained for employment on a 70/30 basis; mixed residential and employment development with majority of site developed for housing on a 70/30 basis; full residential development with provision of affordable housing and payment of a commuted sum to compensate for loss of employment land. The appraisal concluded that the future of the Thistle Industrial Estate in its current form is no longer viable and additional significant investment is required. The level of investment required is greater than can be justified from the perspective of either anticipated future income or future capital value. A mixed redevelopment for residential and industrial uses appears to present an unreasonable risk given; the achievable land values; the physical constraints at the site; and the potentially difficult relationship between the uses. A development for solely residential use appears the only viable means for bringing the site into beneficial use generating a return for the owners and financial benefit to the local authority. The viability of the proposed change to solely residential is subject to the constraints and abnormal development costs being within reasonable parameters and not exceeding the assumptions set out within the appraisal.

2.3.13 The District Valuer reviewed the submitted viability appraisal and confirmed that:

1. He agreed in the current climate retention of the existing employment use and owners carry out refurbishment/redevelopment would not be a viable option. The costs of refurbishing all of the accommodation would likely be prohibitive in the current market especially for the limited demand for larger warehouse accommodation.
2. Retention of the existing employment use and the local authority provide funding for refurbishment/redevelopment would not be viable noting that he is not aware of any funding mechanism that would allow the Council to proceed on this basis.

3. A mixed residential and employment development with majority of site retained for employment on a 70/30 basis, although this option provides a mix of uses it is unlikely to be viable in the current market. This is on the basis that the ratio of housing to employment land is not sufficient to offset the cost associated with remediation, refurbishment or site clearance.

4. A mixed residential and employment development with majority of site developed for housing on a 70/30 basis. Is a potentially viable option given the ratio of housing to employment land. He noted that this scenario appears to be supported within the submitted marketing report whereby it is stated that; *“A mixed use residential and employment development incorporated within Thistle Industrial Estate would reduce the level of vacant units and provide commercial premises more in tune with local market demands.”*

2.3.14 In his opinion, the District Valuer advised that any meaningful redevelopment of the site would require to be cross subsidised by a higher value land use which in this instance, and given the surrounding land uses, would likely be residential. Furthermore, as demonstrated the redevelopment scenario reflecting a 70/30 split for residential and employment use results in a value which allows the developer to pay a commuted sum for the land lost to residential use. He noted that the author of the submitted development appraisal has treated the employment land on the basis of retention and refurbishment of the buildings already on site, when in reality the retained land could simply be cleared (the cost of which is assumed to be included with the allowance for remediation) and sold as serviced plot(s) on the market. This adheres with Fife Council Policy 5. The District Valuer concluded that there is no evidence presented by the applicant to justify the entire reallocation of the site to residential. It is clear, however that the redevelopment across the whole estate for employment uses would not be viable and the findings of this report should form the basis for further discussion.

2.3.15 The Fife Council Economic Development Team agreed with the findings of the District Valuer which the applicant disagreed with however, following further discussions, the applicant submitted the current proposal comprising redevelopment of 4.26 hectares of the site for residential use, retention of 3.35 hectares of land for employment uses plus payment of a commuted sum.

2.3.16 In their consultation response from September 2020, the Fife Council Economic Development Team confirmed that if the applicant can commit to the items below then they would be in a position to support the mixed use proposal.

- retention of 3.35 ha of employment land and a planted buffer zone
- retention of buildings 5A/ 5B & 38
- payment of a commuted sum to off-set the loss of 4.26 ha of safeguarded employment space

2.3.17 The applicant has since agreed to the above and has also confirmed that it would be possible to accommodate the majority of the remaining tenants within the industrial estate within the area of employment land to be retained. There are currently existing tenants within two of the buildings to be retained and the applicant has confirmed that sub-division of the third unit would be possible to re-house some of the other tenants. There are a number of tenants who only require yard or storage space and therefore, it will be possible to accommodate them within the retained employment area. It was agreed that the best use of the commuted sum would be to cover the costs of retention, refurbishment and potentially sub-division of the retained units; provision of storage space for Class 6 occupiers; improvements to services, lighting and roads where needed; and to assist any remaining Class 4, 5 or 6 tenants to relocate elsewhere within

Fife. The submitted development appraisal included a commuted sum of £50,000 per acre (£123,500 per hectare) of the gross area of employment land lost to residential use. The District Valuer subsequently confirmed that £123,500 per hectare would be a suitable amount taking into account the current market conditions in Cowdenbeath. Given that in this case, the commuted sum would not be paid directly to Fife Council, onus is on the applicant to demonstrate to Fife Council how the commuted sum would be invested within the retained employment area and therefore, a condition is proposed requiring the applicant to submit an Investment Plan for the written approval of Fife Council prior to the commencement of development. This would include a costed proposal in respect of how such investment will be made in respect of site servicing, building repair and/or refurbishment to create serviced employment land and/or premises for uses within Class 4, 5 and/or 6. The commuted sum and its future use would also be regulated through the S75 agreement to provide sufficient controls for the Council to ensure the proposed improvements to the industrial properties are realised. A condition is also proposed requiring the applicant to submit a strategy (also prior to the commencement of development) to mitigate the impact of the proposals in respect of any existing businesses (falling within use Classes 4, 5 or 6) who will be affected by the development and set out how the applicant will help support the relocation of such businesses to sites or premises within the retained employment area or the Fife Council area.

2.3.18 In conclusion, the application site is allocated as a Safeguarded Employment Area. It is noted that within the Fife Council Employment Land Audit 2019 Cowdenbeath has a 'green' RAG Status where allocation of marketable employment land exceeds the requirement defined in the Fife Employment Land Strategy 2014 – 2021 (FELS). Consequently, the loss of a proportion of the allocated Safeguarded Employment Area at Thistle Industrial Estate would not create a shortfall in the 7 year employment land supply. It is evident that the site and buildings have been extensively marketed for a number of years. The majority of the buildings within Thistle Industrial Estate are somewhat dated and beyond their useful life. There is limited demand from potential occupiers. Full retention and refurbishment of all of the buildings would not be financially viable, a view shared by the Fife Council Economic Development Team and the District Valuer. The proposal is in compliance with the criteria set out in FIFEplan Policy 5 for a change of use of employment land. The most viable solution is retention of a proportion of the existing employment land with the remainder of the site being redeveloped for residential use. The proposed development is considered to be acceptable and in compliance with FIFEplan Policy 5 subject to securing a commuted sum equating to £123,500 per hectare of the gross area of employment land lost to residential use and retention of a minimum of 3.35 ha of employment land via a Section 75 legal obligation. Also, subject to conditions requiring submission of an Investment Plan for the investment of the commuted sum on the retained employment area and a strategy to mitigate the impact of the proposals in respect of any existing businesses prior to the commencement of development.

Housing Land

2.3.19 Approved SESplan - Strategic Development Plan (2013) provides strategic policy direction for Local Development Plans (LDPs) in the constituent local authority areas. SESplan promotes the majority of new development in 13 Strategic Development Areas. In addition, SESplan Policy 5: Housing Land sets out the housing land requirement for each local authority area and Policy 6: Housing Land Flexibility directs LDPs to ensure a five years supply of effective housing land is maintained at all times. SESplan Policy 7: Maintaining a Five Year Housing Land Supply relates to greenfield sites and therefore, is not applicable to the proposed development.

2.3.20 FIFEplan Policy 2: Homes promotes the development of new homes to meet strategic land requirements and maintain a five year supply of effective housing land at all times. To achieve this objective, Policy 2 supports housing proposals on sites allocated for housing in the Plan or on other sites provided the proposal is compliant with the policies for the location. It sets out a number of criteria which will be applied where a 5 year housing shortfall is shown to exist in the relevant Housing Market Area. It is the Fife Council Planning Service position that there is no shortfall within the Dunfermline and West Fife Housing Market Area and therefore, the criteria are not applicable to this proposal. This is explained further below.

2.3.21 The Fife Council position is that there is a five-year effective land supply. A report to the Enterprise, Communities and Transport Committee set out how Fife Council will calculate housing supply. The report titled 'SESplan Housing Position Statement and Proposed Approach' (January 2020) outlines the approach that the Council will take consistently, in regard to calculating housing land supply. It sets out that, under the terms of Scottish Planning Policy, the approved SESplan is technically out of date, the primary risk of using SESplan to calculate the adequacy of Housing Land Supply is the lack of a 5-year rolling housing land supply target. Therefore, the housing targets in SESplan cannot be used to establish if the SESplan area of Fife is maintaining a 5-year effective supply. In order to give certainty to the housing land position in Fife following the Minister's rejection of SESplan 2, the calculation of the housing target for SESplan area of Fife will be based on Housing Needs and Demand Assessment 2 (HNDA2) and the Housing Background Paper for SESplan 2, as the most up-to-date information on housing need and demand in the SESplan area. It ensures that Fife Council remains consistent with the agreed policy positions of SESplan and that we align with the approaches of respective constituent authorities, whilst still properly reflecting the priorities and circumstances within Fife. The application site is located within the Dunfermline and West Fife housing market area. The Housing Land Audit 2019 (HLA 2019) shows within the Dunfermline and West Fife HMA, and it is estimated that there will be a surplus of 1,320 private market units from 2019 to 2024. The 5 year effective housing land supply position at 1 April 2018 in Dunfermline and West Fife is a surplus of 734 affordable homes. It is the view of the Council therefore, that there is a surplus of homes in the housing market area. The HLA 2018 used the housing figures provided within SESplan 2. As the adoption of SESplan 2 has been rejected by the Scottish Ministers, the HLA 2019 establishes the net surplus or shortfall in effective housing land supply by using the housing target figures within the background papers and assessments used to inform the housing land supply targets set out in SESplan 2. This includes the Housing Needs and Demand Assessment 2 (HNDA2) and the Housing Background Paper. Both are considered material considerations. The weight given to the background papers and assessments is significant in light of the fact that Ministers rejection letter raised no concerns regarding the targets but instead it related to the lack of proper transport assessment. It is considered that the Ministers' letter rejecting SESplan 2 would have been inclusive of all reasons for rejection of SESplan 2 and that accordingly Ministers' are content that SESplan 2's housing land supply requirements - derived from the background papers and assessments - are appropriate. In addition, the significant weight given to the background papers and assessments is summarised in relation to each of the key documents in question below.

2.3.22 Housing Need and Demand Assessment 2 (HNDA2 2015) prepared for SESplan2 has been accepted by the Scottish Government in a letter from Centre of Housing Market Data Analysis (CHMA) dated the 27th March 2015 as 'robust and credible' and has not been rejected by the Scottish Ministers. This means that the HNDA2 is at present the most up-to-date and credible assessment of housing demand and need in the SESplan Area and carries significant weight. The Housing Background Paper for SESplan2 (2016) gives a breakdown of what the figures in HNDA2 mean for the Housing Land position using 3 economic scenarios and

concludes that the Wealth Distribution scenario is the most appropriate. The background paper indicates a suitable Housing Supply Target for each local authority area based on that scenario.

2.3.23 The Housing Background Paper for SESplan2 (2016) gives a breakdown of what the figures in HNDA2 mean for the Housing Land position using 3 economic scenarios and concludes that the Wealth Distribution scenario is the most appropriate. The background paper indicates a suitable Housing Supply Target for each local authority area based on that scenario.

2.3.24 The Examination Report of SESplan 2. The reporter concluded that the Wealth Distribution Outcome is justified in deriving housing land supply targets. These targets are included in the Housing Background Paper dated 2016.

2.3.25 SESplan 2 was rejected on the basis of the level of Transport Assessment undertaken to inform the proposed SDP. It could be argued that this suggests that the housing land supply set out within HNDA2 and the Housing Background Paper cannot be justified based on transport impacts. It should be noted however that the SESplan 2 housing land requirement overall is less than in SESplan 1. The SESplan 1 Transport Assessment, which supported the level of development proposed within SESplan 1, was also criticised by Ministers. Given a higher number of units are proposed in SESplan 1 than in the Housing Background Paper (even taking into account the units which have been built since the SESplan 1 housing supply targets were set) it could be argued that the SESplan 1 housing land supply targets could equally be challenged. If the lack of an appropriate Transport Assessment places uncertainty on the appropriateness of the housing land supply within the background papers for SESplan 2, then this also applies to SESplan 1. With regards to transportation infrastructure in Fife, Transport Assessments were carried out during 2014/2015 for the Adopted Local Development Plan and demonstrated that the land allocated within FIFEplan LDP could be accommodated with the delivery of stated transport interventions (which can be delivered by or in conjunction with new development occurring). The Council therefore has a robust assessment of the anticipated transport implications for the sites allocated within this housing market area. The housing land supply set out within the housing background papers of SESplan 2 can also be accommodated in this regard. In summary the issue of transport assessment in the Ministers' rejection of SESplan 2 is not considered to significantly reduce the weight that can be attributed to the appropriateness of the Housing Land Requirements set out within HLA (2019).

3.2.26 In light of the above it is considered that the above documents (HNDA2, Housing Background Paper and Examination Report) have significant material weight as they set out the most up to date position on which to calculate a 5 year effective housing land supply for each Housing Market Area within the SESplan area. These documents provide a more up to date position on the housing land requirement and allow the Council to continue to assess and provide a 5-year effective housing land supply. These have been used to create the Housing Land Audit 2019 and HLA 2019 is therefore considered the most up to date position on housing land supply in Fife.

3.2.27 Although the view of the Planning Authority is that housing land supply position derived from HNDA 2, Housing Background Paper and SESplan 2 Examination Report are of significant material weight as the most up to date and applicable position in establishing housing land requirements, it is noted that SESplan 1 is the approved Strategic Plan for the central Fife area containing this site. Accordingly, SESplan 1 alongside the Adopted FIFEplan, comprises the Development Plan for this application. It is noted however that SESPlan (2013) is more than five years old, and the SPG associated with SESPlan (2013) which established the housing land supply for each of the Council authorities is dated November 2014. The SESPlan (2013) is

therefore considered out of date in accordance with 33 of the SPP (2014). The Planning Authority considers that the housing figures within SESPlan (2013) should not be relied upon for this reason. Further to this, the housing figures within SESPlan (2013) only provide a supply sufficient to calculate a five year housing land supply up to 2019. SESPlan (2013) therefore cannot be relied upon to calculate a five year housing land supply at this time and is considered out of date in line with SPP (2014). For these reasons, SESPlan (2013) has not been used for HLA (2019) and should be given less material weight in determining the application.

3.2.28 Paragraph 28 of Scottish Planning Policy (SPP) states that the planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost. SPP Paragraph 32 of SPP advises that for proposals that do not accord with up-to-date development plans, the primacy of the plan is maintained and this SPP and the presumption in favour of development that contributes to sustainable development will be material considerations. Paragraph 33 adds that where relevant policies in a development plan are out of date then the presumption in favour of development that contributes to sustainable development will be a significant material consideration.

3.2.29 SPP states that policies and decisions should be guided by the following principles:

- giving due weight to net economic benefit;
- responding to economic issues, challenges and opportunities, as outlined in local economic strategies;
- supporting good design and the six qualities of successful places;
- making efficient use of existing capacities of land, buildings and infrastructure including supporting town centre and regeneration priorities;
- supporting delivery of accessible housing, business, retailing and leisure development;
- supporting delivery of infrastructure, for example transport, education, energy, digital and water;
- supporting climate change mitigation and adaptation including taking account of flood risk;
- improving health and well-being by offering opportunities for social interaction and physical activity, including sport and recreation;
- having regard to the principles for sustainable land use set out in the Land Use Strategy;
- protecting, enhancing and promoting access to cultural heritage, including the historic environment;
- protecting, enhancing and promoting access to natural heritage, including green infrastructure, landscape and the wider environment;
- reducing waste, facilitating its management and promoting resource recovery;
- and avoiding over-development, protecting the amenity of new and existing development and considering the implications of development for water, air and soil quality.

3.2.30 The proposal would make efficient use of a brownfield site, a large proportion of which currently houses vacant business and industrial units. It would utilise and improve upon the existing infrastructure and potentially retain and refurbish some of the existing units within the site. The proposal would result in a mixed use development comprising both employment and residential uses to ensure that the capacity of the site is fully utilised. The proposed development would support the delivery of accessible housing and business development by providing choice to potential occupiers and users, offering a range of house types and business premises. The proposal has potential to improve health and well-being to both neighbouring and new residents by offering opportunities for social interaction including a growing residential community. The proposal could result in amenity benefits for the neighbouring residents by

removing the bulk of a dilapidated industrial estate which is currently having a negative impact on visual amenity. Although this is an application for planning permission in principle, the applicant has confirmed that they are committed to incorporating a range of sustainable measures within the future development. These would be detailed further under application(s) for matters specified in conditions. The application submissions have demonstrated that the proposal would not increase the risk of flooding on the application site or elsewhere. The proposed development could promote access to natural heritage by introducing new green infrastructure into the site which currently has very limited natural heritage assets. This green infrastructure would be in the form of new open spaces and landscaping and green buffer zone to provide separation between the residential and employment areas, all of which could assist in promoting biodiversity. Overall, the proposal would result in a development that would contribute to sustainable development in accordance with the relevant SPP sustainability principles.

3.2.31 While the development is contrary to Policies 1, 3 and 5 of the adopted FIFEplan in terms of the resultant loss of business and industrial land, it is considered that there are a number of positive material considerations which outweigh this. The proposed development would involve redevelopment of brownfield land within the settlement boundary of Cowdenbeath on an industrial estate which currently houses a high proportion of vacant units which are past their useful life. Whilst the development would result in the loss of a proportion of a Safeguarded Employment Area as designated in the adopted FIFEplan, the applicant has demonstrated that the site and buildings have been extensively marketed with limited success due to the age, condition and configuration of the units which do not meet the modern requirements of potential occupiers. The most viable solution is to allow some residential development on the site and retention of a proportion of land for business and industrial uses. It is noted that the previous site allocation in the adopted Mid Fife Local Plan accepted that an element of residential development on the site (up to 70%) could be provided in order to cross-subsidise the refurbishment of the existing industrial facilities, or the redevelopment of the same for such uses with a minimum of 30% of the site retained for employment purposes. The proposed development includes retention of a minimum of 3.35 hectares of business and industrial land within the site, the loss of 4.26 hectares of employment land to residential use which would be compensated against by a commuted sum as required by FIFEplan Policies 4 and 5. The commuted sum would be invested within the retained employment area as outlined previously. The proposed development would result in a development that would contribute to sustainable development in accordance with the relevant SPP sustainability principles. Overall, the principle of the proposed development is considered to be acceptable subject to a Section 75 legal obligation to secure a commuted sum and the noted conditions.

2.4 Amenity

2.4.1 Adopted FIFEplan Policy 10: Amenity advises that development will only be supported if it does not have a significant detrimental impact on the amenity of existing or proposed land uses. Development proposals must demonstrate that they will not lead to a significant detrimental impact on amenity in relation to a number of factors including noise; odour; construction impacts; impacts on the operation of existing or proposed businesses and commercial operations and impacts on operation of existing waste management facilities.

2.4.2 PAN 1/2011 (Planning and Noise) establishes the best practice and the planning considerations to be taken into account with regard to developments that may generate noise, or developments that may be subject to noise. The PAN promotes the principles of good acoustic design and a sensitive approach to the location of new development. It states that it promotes a pragmatic approach to the location of new development within the vicinity of existing noise

generating uses, to ensure that quality of life is not unreasonably affected and that new development continues to support sustainable economic growth. The WHO Guidelines (2015) are referred to as the standards which should be achieved for environmental noise. These include 50dB for external space with 55dB being considered an upper limit, 35dB for internal space through the day and 30dB for internal space through the night.

2.4.3 The submitted Noise Impact Assessment by RMP (dated 20th May 2020) confirmed that the primary source of noise which may impact on any future residential development on the site is road traffic noise from the A92 which is situated to the south of the site beyond the existing football ground. The assessment estimates that predicted internal noise levels of 33dB could be achieved for internal space during daytime and 26dB for internal space at night. These levels could be achieved using standard double glazed windows consisting of 4mm glass, 12mm cavity, 4mm glass or glazing. The report recommended that the facades with this type of glazing should also be fitted with attenuated ventilation units.

2.4.4 For external areas the NIA predicted that 60dB would be achieved in the daytime and 53dB at night. As the measured road traffic levels are above the BS8233 upper guideline value for the proposed external amenity areas, the NIA recommended that a 2 metre close boarded fence be constructed along the southern and eastern site boundaries. Installation of this acoustic barrier would result in attenuation of around -10dB and would therefore achieve 50dB during the day and 43dB at night which sit between the lower and upper WHO and BS8233 guideline values.

2.4.5 Given that this is an application for planning permission in principle, a detailed Noise Impact Assessment would require to be submitted with any future application for matters specified in conditions to provide a more detailed assessment of any proposed residential layout. The assessment would also be required to assess the impact of the retained employment area when the exact uses and layout would be confirmed. The requirement for a detailed Noise Impact Assessment would be secured via condition.

2.4.6 The Fife Council Environmental Health Officer reviewed the submitted NIA and queried whether the assessment was undertaken on the basis of a closed window scenario. He advised that the REHIS Briefing Note 017 Noise Guidance for New Developments advises that only in exceptional circumstances should satisfactory internal noise levels only be achievable with windows closed and other means of ventilation provided. Predictions of internal noise levels within noise sensitive premises must be calculated based on an open window scenario. The degree of sound reduction afforded by a partially open window should be taken as 13dB. For the purposes of this guidance exceptional circumstances are considered to be proposals which aim to promote sustainable development and transport within the local authority area and which would provide benefits such as:

- (a) reducing urban sprawl
- (b) reducing uptake of greenfield sites
- (c) promoting higher levels of density near transport hubs, town and local centres
- (d) meeting specific needs identified in the local development plan

2.4.7 Exceptional circumstances will, therefore, generally apply only to sites, which are small to medium in scale, within urban areas. This may include sites in established residential areas; brownfield sites; town and village centres, and sites near public transport hubs. The Environmental Health Officer concluded that he would only be able to support the application if the site fulfils the 'exceptional circumstances' criteria.

2.4.8 The applicant confirmed that the NIA was undertaken on the basis of a closed window scenario for the calculation of internal noise levels generated by road traffic noise noting that PAN 1/2011 recognises that satisfactory internal noise levels with open windows may not always be achievable. They set out a case for the site to be considered under the exceptional circumstances criteria as set out in the REHIS Briefing Note 017. The proposed development is located on a brownfield site in close proximity to Cowdenbeath Town Centre. It is currently a run-down industrial estate with a vacancy rate of over 50% and is nearing the end of its useful life. Redevelopment of the site for residential use would have significant benefits by providing residential units close to the town centre, on a brownfield site adjacent to an existing residential area. The proposal will help in reducing urban sprawl and therefore, reduce the need to develop greenfield sites. As confirmed in the submitted Transport Assessment, the site is well located to benefit from a range of transport modes. There is a wide range of facilities within walking distance of the site. The applicant concluded that the proposal meets the exceptional circumstances criteria as a medium scale residential development within an established residential area on a brownfield site, in close proximity to the town centre and to public transport. It is considered that the closed window approach should be acceptable for the proposed development at this planning permission in principle stage. The required noise levels can be met using mechanical ventilation and the benefits of approving the application must be balanced against the use of a closed window approach. The reasons put forward by the applicant to justify the development as an exceptional circumstance are accepted.

2.4.9 Following a request from the Fife Council Environmental Health Officer, the applicant submitted an Odour Assessment to assess the impact of the neighbouring waste water treatment works on the future residential development. The assessment found that in terms of the predicted worst case odour impact, the odour concentrations are predicted to be less than 1.5 OUE/m³ 1 hour 98%ile at existing odour sensitive receptors, except at the southwest corner of the adjacent golf course. Predicted odour concentrations at all existing receptors, including the golf course, are below the 5 OUE/m³ 1 hour 98%ile threshold that would normally trigger odour related complaints. The odour across the northern part of the proposed development site is predicted to exceed the 1.5 OUE/m³ 1 hour 98%ile criterion. Odour in this part of the site is predicted to be of Moderate Adverse significance. The impacts at the proposed development site are of Slight Adverse significance or less where odour is predicted to be < 1.5 OUE/m³ 1 hour 98%ile. The proposed area for residential development would appear to fall within the latter zone, where there would be slight adverse impacts, at levels which are below the threshold that would normally trigger odour related complaints. The main sources of odour from normal activity within the sewage works affecting the proposed development site are the inlet works and the leachate reception facility. Odour from these sources could be enclosed and treated to reduce odour from the works however, this would require the active co-operation of Scottish Water and Scottish Horizons. This would require an agreement between the applicant and Scottish Water and therefore, is outwith the scope of this planning application. Given that the area noted for residential development on the south side of the site falls below the relevant threshold this is considered to be acceptable. The odour across the northern part of the proposed development site is predicted to exceed the relevant threshold. This northern section of the site is where the retained employment area is to be located. Business and industrial uses are already located within this part of the site and therefore, appear to co-exist with the waste water treatment works without any significant impact on amenity. The Environmental Health Officer confirmed on his consultation response that there are no records of any odour complaints being received to date. A further Odour Assessment should be carried out once the detailed layout for the proposed residential development has been confirmed at the application for matters specified in conditions stage to ensure that that the current odour situation and impacts are still valid.

2.4.10 FIFEplan Policy 2 states that all housing proposals must include provision for appropriate screening or separation distances to safeguard future residential amenity and the continued operation of lawful neighbouring uses in cases where there is potential for disturbance. With regard to amenity FIFEplan Policy 5 states that in all cases, an assessment must be undertaken to identify the potential impact on established business operations from the proposed use; on the amenity of the new use given the industrial or business nature of the surrounding uses; and on the amenity of surrounding land uses with particular emphasis being given to the impact on residential amenity.

2.4.11 In accordance with FIFEplan Policy 2, the submitted Indicative Site Layout Plan shows a landscaped buffer zone running through the middle of the site in order to separate the employment and residential uses. The principle of such a buffer at this location is an acceptable solution. A further Noise Impact Assessment required by condition would provide a more detailed assessment of any potential noise impacts on any future residential development and offer any required mitigation measures accordingly. It is noted that business and industrial uses at Thistle Industrial Estate have successfully co-existed alongside the existing residential area for years. The proposal could lead to a number of benefits for the amenity of local residents by removing the vacant and dilapidated industrial buildings and allowing for development of a new residential scheme which would be more in-keeping with the surrounding residential area. The proposed residential development would introduce green infrastructure and landscaping. These factors could result in significant improvements in visual amenity for local residents. The proposal would result in a reduced level of industrial traffic such as HGVs travelling through the existing residential area in order to access the industrial estate.

2.4.12 The proposed development is in accordance with FIFEplan Policy 10 in principle with regard to noise and odour, subject to conditions requiring detailed Noise Impact and Odour Assessments of future detailed residential layouts. In order to minimise any potential impact resulting from construction the Fife Council Environmental Health Officer has recommended conditions requiring submission of a Scheme of Works prior to the commencement of development and limiting the hours within which construction activities can take place. In accordance with FIFEplan Policy 2 the proposed landscaped buffer would provide screening between the retained employment area and the residential development. Further details of the buffer will be required via condition. It is considered that there would be no impacts on the operation of the retained employment area as a result of the proposed residential development, with Thistle Industrial Estate having been in operation alongside the neighbouring residential area for years. The retained employment area could function separately from the residential area with its own separate, dedicated road access and internal road layout. Overall, the proposal is in accordance with FIFEPlan Policies 2, 5 and 10 in relation to amenity, subject to the noted conditions.

2.5 Road Network and Parking

2.5.1 Scottish Planning Policy (SPP) indicates that the planning system should support patterns of development which optimise the use of existing infrastructure and reduce the need to travel. Development should be supported in locations that are accessible by walking, cycling and public transport, making best use of or adding to existing networks. The amount of associated car parking permitted should be controlled to encourage more sustainable travel choices.

2.5.2 FIFEplan Policy 3 states that development must be designed and implemented in a manner that ensures it delivers the required level of infrastructure in a sustainable manner. This

includes local transport and safe access routes which link with existing networks, including for walking and cycling.

2.5.3 The submitted Transport Assessment (dated 29th January 2019 by Systra), confirms that the application site is well served by public transport with the nearest bus stops located within 125 metres of the site entrance along Church Street. The closest bus stop to the site is located on Watson Street, adjacent to the Church Street access. This stop is served by Bay Travel service 17B which operates on an hourly basis between Mossgreen, Crossgates, Cowdenbeath and Kelty. Other bus stops are located on Church Street and along the length of the High Street/Bridge Street corridor providing services to further afield. Cowdenbeath Rail Station is approximately 650m from the application site. The site is well connected to Cowdenbeath High Street and beyond, via the local footpath network. Core paths are situated to the north west corner of the site. The primary pedestrian route towards High Street is via Church Street, with a secondary shared-path link extending north-west wards from Seco Place to the junction of High Street and Hall Street. An off-road shared-path extends in a south-westwards direction from the south-western corner of the site on Seco Place, beneath High Street and towards residential development at Arthur Place and Selkirk Avenue. There are currently no National Cycle Routes in Cowdenbeath however, given the close proximity to the town centre and the presence of both traffic-free and on-road cycle routes, the site could be easily accessed via bicycle.

2.5.4 Following a review of the submitted Transport Assessment the Fife Council Transportation Officer noted that an assessment was carried out of the four nearby junctions. In general, the assessed junctions operate well within their practical capacity. Regarding the High Street/Broad Street mini-roundabout, the High Street (south) operates over its practical capacity in the 2017 PM peak and over its practical capacity in the 2023 PM base plus committed development and 2023 PM base, committed development plus development scenarios. However, the additional car trips generated by the proposed housing development (some 1 vehicle per 5 - 8 minutes) result in the difference between the 2023 scenarios being negligible. There is no justification for the proposed development to provide a mitigation measure at the High Street/Broad Street mini-roundabout. The Transportation Officer noted that the Transport Assessment does not include any specific measures to promote the use of sustainable modes of transport other than the promotion of a Travel Plan, which would include a welcome pack for first time residents. Notwithstanding this the conclusions of the Transport Assessment are acceptable. The Transportation Officer confirmed that he has no objection to the proposed development subject to conditions in relation to wheel cleaning facilities, garages, car parking, visibility splays, driveways, footpath provision and road works.

2.5.5 Transport Scotland were consulted on the planning application given the proximity to and therefore, potential of the development to impact on the A92 trunk road. They provided a response in October 2019. The submitted Transport Assessment was on the basis of the original proposal which sought residential development on the full extent of the application site. The report assessed the impact of a residential development comprising up to 250 residential units. Transport Scotland recommended a condition limiting the number of residential units to 250. They noted that as there would be no direct trunk road access and no indirect impacts such as queue impacts on the A92 that the consideration of site access proposals is regarded as a matter for consideration by the Council. Transport Scotland highlighted that there is a significant history of accidents in the vicinity of the proposed development. This has been confirmed through a review of Transport Scotland's accident data. In consulting with the Operating Company (Bear Scotland) and Transport Scotland's Road Safety Team on the existing road safety issues, Jacobs (advisor to Transport Scotland) have been advised of the planned implementation of a road safety scheme targeting collisions immediately east of the

A92(T)/Bridge street grade separated junction. The scheme has been developed by the Operating Company for Transport Scotland's Collision Reduction Team and is intended to be completed by March 2020. Jacobs would advise that the implementation of the planned road safety scheme prior to the commencement of development at the proposed site is conditioned. Transport Scotland's request is noted however, such a condition as worded would not meet the requirements of the condition tests as set out in Circular 4/1998. Given that this is an application for planning permission in principle, an application(s) for matters specified in conditions would need to be submitted and approved (should committee decide to approve the current application) and therefore, the construction of any housing on the application site would commence significantly later than the planned completion date for the noted road safety improvements and the condition would not be necessary. Transport Scotland requested submission of a Demolition Management Plan prior to the commencement of works to ensure that there would be no impacts on the safety and operation of the A92 with regard to dust, dirt, debris, lighting, trunk road network drainage impacts; site access and trip generation associated with demolition works. Transport Scotland also requested conditions in relation to vegetation removal works, fencing, drainage connections and submission of a Residential Travel Plan.

2.5.6 The proposed development would be easily accessible via a range of sustainable transport modes and there is capacity to accommodate the traffic generated by the proposal on the local road network. The proposal is considered to comply with the requirements of SPP, Policy 3 and Making Fife's Places subject to the noted transport related conditions.

2.6 Contamination, Land Stability and Air Quality

2.6.1 PAN 33 advises that suspected and actual contamination should be investigated and, if necessary, remediated to ensure that sites are suitable for the proposed end use. FIFEplan Policy 10: Amenity states that development proposals must demonstrate that they will not lead to a significant detrimental impact in relation to air quality, contaminated and unstable land.

2.6.2 The application site lies within a Coal Authority Development High Risk Area therefore, the applicant was required to submit a Coal Mining Risk Assessment Report in order to assess the potential risks to the proposed development which may result from the coal mining legacy.

2.6.3 The Coal Authority advised that their records indicate that within around 20 metres of the planning boundary there are three recorded mine entries (two on-site relate to coal; one off-site relates to ironstone workings) together with both recorded and historic unrecorded underground coal mining at shallow depth. The Coal Authority hold no treatment details for these recorded mine entries and due to plotting inaccuracies, there could be some deviation, by several metres from the inferred positions. In addition, the site marginally intersects the boundary of a site from which coal has been removed by surface mining (opencast) methods.

2.6.4 The applicant submitted a Coal Mining Risk Assessment (dated 6th February 2018 by Curtins Consulting Ltd). The Coal Authority advised that the report identifies that there are associated risks to this site due to: deep coal mining (multiple coal seams that may be present within 70m beneath the surface of the development site (potential for cumulative collapses to occur if all three seams are worked); shallow coal mining within the coal seams present within 40m of the site surface; and the presence of the mine entries. In order to establish the exact ground conditions present beneath / within this site, appropriate recommendations have been made that intrusive site investigations in the form of rotary boreholes (to determine the presence or otherwise of shallow workings) and trial trenching (to determine the location / condition of the mine entries) is required. As part of the investigations The Coal Authority would also expect the

depth to rockhead adjacent to these mine entries to be established in order that the applicant's technical consultants can calculate the zone of influence (no build exclusion zone) of all mine entries found present within or within influencing distance from the site in order to inform the layout of the development. The report author goes on to state that in the event that workings have taken place, consolidation / stabilisation of these workings (drill and grout programme) will be required. In addition, should the mine entries be found within the site, these too will also need to be treated (filled / concrete capping etc). Once the exact ground conditions within / beneath the site have been established the applicant's technical consultants can then design the required remedial measures to be implemented to ensure that the proposed development would be safe and stable. The Coal Authority concluded that they have no objection to the proposed development subject to conditions in relation to intrusive site investigations (for the mine entries and shallow coal workings); a layout plan which identifies appropriate zones of influence of the mine entries affecting this site, and the definition of suitable 'no-build' zones; a scheme of remedial works / treatment for shallow coal workings and mine entries respectively and the implementation of remedial works.

2.6.5 A Phase 1 Preliminary Risk Assessment (dated 14 December 2017 by Curtins Consulting Ltd). submitted with the planning application found that due to the site's historical use and subsequent remediation it is considered there is a moderate risk of contamination within site soils that may pose a risk to site end-users. The risk posed to the groundwater environment is considered to be low taking account of the expected underlying geology (low permeability of superficial deposits) and the risk posed to surface water is moderate due to the proximity to the Lochgelly Burn. The risk from potential ground generating gases posed to end-users is considered to be moderate. There is a risk from compressible ground potentially associated with the peat in the north of the site. The report advised that geotechnical consideration should be given to the risk of subsidence post-development from historic coal mining and shafts onsite. There may be subsurface obstructions, voids and relic foundations associated with the former central works. The report recommended that intrusive ground investigations are undertaken including generic quantitative risk assessments and that ground gas monitoring would be required.

2.6.6 Following a review of the submitted Phase 1 Preliminary Risk Assessment the Fife Council Land and Air Quality Team recommended that any planning permission granted should be subject to conditions requiring submission of a Phase 2 Site Investigation Report, Remedial Action Statement and Verification Report and also on the reporting of unexpected contamination should this be discovered during the construction process.

2.6.7 In relation to air quality, the Land and Air Quality Team advised that given the scale of the development an Air Quality Impact Assessment would be required. This requirement would be subject to a condition prior to the commencement of development.

2.6.8 The proposed development is therefore considered to be acceptable and in accordance with FIFEplan Policy 10 subject to the above noted conditions.

2.7 Flooding and Drainage

2.7.1 The national context on the flooding and drainage risk associated with new developments is set out in SPP. Planning Authorities must take into account the probability of flooding from all sources when determining planning applications. Flood risk can be a secondary impact from poorly designed surface water drainage systems.

2.7.2 FIFEplan Policy 3: Infrastructure and Services requires development to be designed and implemented in a manner that ensures it delivers the required level of infrastructure and functions in a sustainable manner. Such infrastructure includes foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS).

2.7.3 FIFEplan Policy 12: Flooding and the Water Environment states that development proposals will only be supported where they can demonstrate compliance with a number of criteria including, they will not, individually or cumulatively increase flooding or flood risk from all sources (including surface water drainage measures) on the site or elsewhere.

2.7.4 The submitted Flood Risk Assessment (Revision 8, dated 10th August 2020 by Curtins Consulting Ltd) notes that the SEPA Flood Maps indicate that the site may be at high risk of flooding (1 in 10, or 10%, annual probability of occurring) from the Lochgelly Burn along the northern boundary of the site. The high risk area shown does not appear to encroach beyond the boundary line into the site interior. A very small area in the east of the site is shown to be at medium risk of flooding (1 in 200, or 0.5%, annual probability) from the Lochgelly Burn. The interior of the site, in a band between the burn channel to the north and the channel along the eastern boundary, is shown to be at low risk of flooding (1 in 1000, or 0.1%, annual probability of occurring). With regard to surface water flooding, the SEPA Flood Maps show that there are some areas within the application site are at medium (1 in 200, or 0.5%, annual probability) to high (1 in 10, or 10%, annual probability) risk of surface water flooding.

2.7.5 In their initial consultation response dated 22nd August 2019, SEPA objected to the proposed development due to a lack of information and on the grounds that it may place buildings and people at flood risk contrary to Scottish Planning Policy. They requested further information and raised various queries in relation to the submitted Flood Risk Assessment. SEPA continued to raise various technical queries over the course of the application process. They subsequently withdrew their objection on 1st October 2020.

2.7.6 Following a review of the Flood Risk Assessment, proposed drainage scheme and submitted design and check certificates, Fife Council Harbours, Flood and Coast Team requested further information on freeboards and finished floor levels. They also requested evidence of Scottish Water's approval for connection to the Scottish Water sewer at the rate stated. They subsequently raised queries with regard to the viability of the surface water drainage options. In their final consultation response dated 1st June 2020 they recommended that conditions are attached should planning permission be granted requiring a copy of the approval from Scottish Water for connection to the Scottish Water sewer at the run-off rate stated in the drainage calculations. Updated design and check certificates would also be required.

2.7.7 Scottish Water were consulted and confirmed that they have no objection to the planning application. They confirmed that as at August 2019, there is sufficient capacity in the Glen Devon Water Treatment Works and the Levenmouth Waste Water Treatment Works to accommodate the proposed development.

2.7.8 The proposed development is in accordance with FIFEplan Policies 3 and 12 and meets the requirements of the Fife Council Sustainable Drainage Systems (SUDS) - Design Criteria Guidance Note subject to the noted conditions.

2.8 Affordable Housing

2.8.1 Scottish Planning Policy recommends that affordable housing should allow the creation of sustainable mixed communities and the need for affordable housing should be met, where possible, in the housing market area where it arises. PAN 2/2010, Affordable Housing and Housing Land Audits, provides that delivery of affordable housing through the planning system should be sought as a percentage from new housing developments, as long as this is justified by the Housing Need and Demand Assessment and included in the Local Housing Strategy and Development Plan.

2.8.2 FIFEplan Policy 2 states that open market housing development must provide affordable housing at the levels shown in Figure 2.1 for each Housing Market Area (HMA), consistent with the Affordable Housing Supplementary Guidance. The affordable housing requirement for the Cowdenbeath Housing Market Sub-Area is 5%. This should be fully integrated into new development and be indistinguishable from other forms of housing. In order to achieve mixed and balanced communities, mixed tenure developments will be promoted. More detailed guidance on the various forms of delivery and standards of design is provided in Fife Council's Supplementary Guidance on Affordable Housing (2018).

2.8.3 Fife Council's Housing and Neighbourhood Service reviewed the proposals and confirmed that the required affordable units should comprise a mix of 2 and 3 bedroom bungalows and 2, 3 and 4 bedroom two storey houses.

2.8.4 The proposed development could meet the requirements of Policy 2 subject to securing the provision and full details of the required affordable housing, including method of delivery via a Section 75 legal obligation.

2.9 Education

2.9.1 FIFEplan Policy 4 states that developer contributions will be sought in relation to development proposals that will have an adverse impact on infrastructure capacity including education. The contributions will mitigate development impact by making a contribution to existing infrastructure, or providing additional capacity or improving existing infrastructure; or providing new infrastructure. This is reinforced in the Planning Obligations Framework Supplementary Guidance.

2.9.2 The application site lies within the catchment areas of Cowdenbeath Primary School, St Bride's Roman Catholic Primary School, Beath High School and St Columba's Roman Catholic High School. The site is also within the Cowdenbeath local nursery area. Fife Council Education Service confirmed in their consultation response in November 2019 that there are currently no capacity risks at any of the catchment schools. However, they were re-consulted following changes to the extent of the residential land being proposed by the applicant. In July 2020 the Education Service advised that the development would not be expected to create or contribute to a capacity risk at the schools within the catchment area of the development. However, they advised that there is insufficient space within the locality to accommodate additional nursery pupils and a feasibility study would be required to consider any surplus space within local primary schools which could potentially be utilised to provide further nursery capacity. Further to receipt of these comments nursery capacity was discussed with the Education Service who concluded that while nursery capacity is very limited in the local nursery area with extremely limited partner provision, that after considering the projected annual number of nursery pupils which could arise from the proposed development the Education Service can manage this within the existing nursery capacity.

2.9.3 In conclusion, no financial contributions towards alleviating any education capacity risks are required from this development, in accordance with FIFEplan Policy 4 and the Planning Obligations Framework Supplementary Guidance.

2.10 Developer Contributions

2.10.1 FIFEplan Policy 4 states that developer contributions will be sought in relation to development proposals that will have an adverse impact on infrastructure capacity. The kinds of infrastructure to which this policy applies include transport, schools, affordable housing, greenspace, public art and employment land. The contributions will mitigate development impact by making a contribution to existing infrastructure, or providing additional capacity or improving existing infrastructure; or providing new infrastructure. FIFEplan Policy 4 sets out a list of the types of development which are exempt from the payment of contributions this excludes development which would involve a change of use of employment land. FIFEplan Policy 4 states that the provision of employment land will be sought where the proposed development would result in loss of land that is (a) in use as employment land; or (b) designated as a “safeguarded employment area. With regard to a change of use proposed on an employment site, a commuted sum payment will be sought to offset the loss of the land for that use and allow reinvestment.

2.10.2 As part of the proposal, the applicant intends to retain 3.35 hectares of the site as employment land and has agreed to payment of a commuted sum. The commuted sum accounted for in the development appraisal submitted by the applicant was to the sum of £123,500 per hectare of the gross area of employment land lost to residential use. The District Valuer has confirmed that £123,500 per hectare would be a suitable amount taking into account the current market conditions in Cowdenbeath.

2.10.3 Within the employment land to be retained, the applicant has also confirmed that three of the existing industrial units would be suitable for retention plus potential refurbishment and subdivision. These units and the adjacent land could be utilised to re-house existing tenants within the industrial estate who would need to relocate as a result of the proposed development. These items would be secured via a Section 75 obligation and pre-commencement conditions requiring submission of an Investment Plan and mitigation strategy as outlined in Section 2.3 on the Principle of Development.

2.10.4 The proposed development does not fall within any of the exempt categories of development and therefore, the applicant would be liable for a range of planning obligations in order to mitigate the impact of the development. In addition to affordable housing, as noted above, contributions would also be required towards public art and greenspace infrastructure including the provision of biodiversity enhancements. The application site lies within the Dunfermline Outer Zone (Figure 4 of the Planning Obligations Framework Supplementary Guidance) where developments are required to contribute £456 per dwelling, excluding affordable housing. However, taking into account the level of traffic generated from the existing employment use, it is the uplift in trips that any contribution would be based on. This could equate to some £33,640 which was not accounted for in the development appraisals undertaken by the applicant and the District Valuer. Payment of a strategic transport contribution would not be viable for the proposed development.

2.10.5 The Planning Obligations Framework Supplementary Guidance advises that public art should be incorporated within development proposals and for residential developments the value

of this should equate to £300 per unit. Given that this is an application for planning permission in principle, the requirement for submission of a public art strategy can be conditioned.

2.10.6 The open space requirement for residential developments over 51 units is 60 sq.m per house as set out in Making Fife's Places Supplementary Guidance and the Planning Obligations Framework Supplementary Guidance. Any future residential development on the site would need to demonstrate that the proposal meets this requirement.

2.10.7 The proposed development is therefore in accordance with FIFEplan Policy 4 and the Planning Obligations Framework Supplementary Guidance subject to a Section 75 legal obligation and appropriate conditions being imposed to secure the necessary contributions.

2.11 Sustainable Development

2.11.1 Scottish Planning Policy (paragraph 154) notes that the planning system should support the transition to a low carbon economy consistent with national objectives and targets. To achieve this, planning should seek to reduce emissions and energy use in new buildings and from new infrastructure by enabling development at appropriate locations that contributes to energy efficiency, heat recovery, efficient energy supply and storage, electricity and heat from renewable sources and electricity and heat from non-renewable sources where greenhouse gas emissions can be significantly reduced.

2.11.2 FIFEplan Policy 11: Low Carbon states that planning permission will only be granted for new development where it has been demonstrated that:

- 1. The proposal meets the current carbon dioxide emissions reduction target (as set out by Scottish Building Standards), and that low and zero carbon generating technologies will contribute at least 15% of these savings from 2016 and at least 20% from 2020. Statutory supplementary guidance will provide additional advice on compliance with this requirement;*
- 2. Construction materials come from local or sustainable sources;*
- 3. Water conservation measures are in place;*
- 4. Sustainable urban drainage measures will ensure that there will be no increase in the rate of surface water run-off in peak conditions or detrimental impact on the ecological quality of the water environment; and*
- 5. Facilities are provided for the separate collection of dry recyclable waste and food waste.*

All development should encourage and facilitate the use of sustainable transport appropriate to the development, promoting in the following order of priority: walking, cycling, public transport, cars.

2.11.3 Fife Council's Low Carbon Fife Supplementary Guidance (January 2019) notes that all major development should provide information about the energy use of a development to demonstrate that the requirements of FIFEplan Policy 11 regarding CO2 emission reduction targets have been met (including how renewable and low-carbon energy technologies will be incorporated into the development); and will ensure that energy is an integral part of the development's design and evolution.

2.11.4 The Energy Statement of Intention submitted with the planning application acknowledges that this application is for planning permission in principle and therefore, details are limited in relation to the sustainable measures that can be confirmed at this stage. The report makes a number of commitments, stating that local or sustainable materials will be used where possible;

facilities for the storage of dry recyclable waste and food waste would be provided; a Travel Plan and information travel packs would be provided to new residents to encourage sustainable travel; the site layout would be designed to ensure that as many units as possible are dual aspect to maximise light and solar gain; the buildings would be constructed to a level that meets or exceeds current building regulations with regard to wall insulation and air leakage; use of energy efficient boilers and low energy light fittings and installation of electric vehicle charging points. A sustainable urban drainage system is proposed.

2.11.5 The nearest district heat network is some distance from the site, well over 1km. No further investigation into the feasibility of the development connecting to a district heat network is required.

2.11.6 Given that minimal details of the future development proposed on the application site are known at this stage, a detailed Energy Statement of Intention will be required via condition prior to the commencement of development at the application for matters specified in conditions stage.

2.11.7 The proposed development is in accordance with FIFEplan Policy 11 and SPP in relation to low carbon and sustainability subject to the noted condition.

CONSULTATIONS

Scottish Water	No objection. Currently sufficient capacity in the Glen Devon Water Treatment Works and the Levenmouth Waste Water Treatment Works.
Scottish Environment Protection Agency	Initially objected on the grounds that it may place buildings and persons at flood risk contrary to Scottish Planning Policy. Further to submission of various revisions of the Flood Risk Assessment and drainage information SEPA confirmed withdrawal of their objection.
Community Council	No response.
Transport Scotland	No objection. Subject to conditions.
NatureScot	No comment.
The Coal Authority	No objection. Subject to a condition requiring further site investigations.
NHS Fife	No response.
Development Plan Team (West Fife Area)	The proposal is within the defined settlement boundary of Cowdenbeath and a designated Safeguarded Employment Area in FIFEplan (2017). It is the intention of FIFEplan to protect Safeguarded Employment Areas as such the proposal is not supported in principle. However, the proposal may be

<p>Town Centre Development Unit Natural Heritage - EPES Land And Air Quality - EPES</p>	<p>acceptable if it is compliant with polices for the area mainly Policy 5 (Employment Land and Property). No response. No response. Recommended conditions requiring an Air Quality Assessment, site investigation, remediation strategy and verification reports.</p>
<p>Education (Directorate)</p>	<p>The development would not be expected to create or contribute to a capacity risk at the schools within the catchment areas of the development site.</p>
<p>Housing And Neighbourhood Services</p>	<p>Confirmed that the affordable housing requirement for the site is 5% and provided advice in relation to the affordable housing mix required.</p>
<p>Structural Services - Flooding, Shoreline And Harbours</p>	<p>Requested further information on freeboards, finished floor levels, Scottish Water approval and surface water drainage options. Further to receipt of this information they confirmed that they had no objection subject to conditions.</p>
<p>Environmental Health (Public Protection) - EPES</p>	<p>Required submission of an odour assessment to assess the impact of odour from the adjacent waste water treatment works. Raised queries in relation to the submitted Noise Report. Recommended conditions requiring submission of a scheme of works and limiting construction hours.</p>
<p>Transportation Parks Development And Countryside Education (Directorate)</p>	<p>No objection. Subject to conditions. No response. No capacity risks at any of the catchment schools. Insufficient space within the locality to accommodate additional nursery pupils and a feasibility study would be required. Subsequently reviewed the local nursery capacity and confirmed that there would be sufficient capacity to accommodate the development.</p>
<p>Business And Employability - EPES</p>	<p>Support the proposal subject to securing retention of 3.35 ha of employment land and a planted buffer zone; retention of 3 units; and payment of a commuted sum.</p>

REPRESENTATIONS

No representations have been received in relation to this application

CONCLUSIONS

The proposed development was assessed against the provisions of national planning policy, the Development Plan and other guidance in relation to the principle of development; amenity; impact on the road network and parking; contamination and land stability; air quality; flooding and drainage; affordable housing; developer contributions; education and sustainable development. The proposed development would result in the loss of 4.26 hectares of a designated Safeguarded Employment Area to residential use and therefore, is contrary to FIFEplan Policy 5 however, the proposal includes retention of 3.35 hectares of employment land and provision of a commuted sum which considered to provide sufficient mitigation against the loss of employment land. The proposal has demonstrated compliance with the criteria for a change of use of employment land and comprises development that would contribute to sustainable development in accordance with the relevant SPP sustainability principles. On balance, the proposal is acceptable and in accordance with the Development Plan and relevant guidance subject to the Section 75 legal obligation and planning conditions noted below.

RECOMMENDATION

It is accordingly recommended :

- A. That the application is approved subject to the undernoted conditions and reasons, following the conclusion of an agreement to secure the necessary planning obligations, namely:-
 - 1) The provision of affordable housing in line with the relevant Supplementary Guidance;
 - 2) A commuted sum equating to £123,500 per hectare of employment land lost to non-employment use(s).
 - 3) Retention of a minimum of 3.35 hectares of employment land
- B. That authority is delegated to the Head of Planning Services in consultation with the Head of Legal & Democratic Services to negotiate and conclude the legal agreement necessary to secure the planning obligations.
- C. That should no agreement be reached in relation to the planning obligations within 6 months of the Committees decision, authority is delegated to the Head of Planning Services in consultation with the Head of Legal & Democratic Services to refuse the application.

and the following conditions and reasons:

1. A further application(s) for the following matters shall be submitted for the approval of the Planning Authority:
 - (a) The construction of market residential units and associated infrastructure;
 - (b) The construction of affordable residential units (5% of the total number of units for the site) as defined by Fife Council Supplementary Guidance on Affordable Housing and associated infrastructure;
 - (c) The construction or refurbishment of business units and any associated infrastructure;

- (d) Sustainable Drainage System (SuDS) and drainage infrastructure;
- (e) Roads, access, footpath and cycle path provision; and,
- (f) Open space and community areas

No work shall be started on the development until the written permission of the Planning Authority has been granted for the proposals. The details thereby permitted shall be implemented as part of the development.

Reason: Considering this application is made for Planning Permission in Principle only; to comply with Section 59 of The Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006.

2. Every application for approval of matters specified by Condition 1 shall be submitted for the written approval of the Planning Authority with the following information, where relevant:-

- (a) A location plan of all the existing site to be developed at a scale of not less than 1:2,500 showing generally the site, any existing trees, hedges, walls (or other boundary markers), layout of roads and sewers, and the position of all buildings.
- (b) A detailed plan to a scale of not less than 1:500 showing the site contours, the position and width of all proposed roads and footpaths including public access provision, the siting of the proposed buildings, including the proposed affordable housing units, finished floor levels, new walls and fences, details of proposed landscape and public realm treatment (including materials), and a phasing plan with accompanying statement for all proposed works on site.
- (c) Detailed plans, sections and elevations of all buildings proposed to be erected on the site, together with details of the proposed method of drainage and the colour and type of materials to be used externally on walls and roofs.
- (d) Detailed plans of the landscaping scheme for the site including the number, species and size of all trees or shrubs to be planted and the method of protection and retention of any trees and details of all hard landscape elements, including surface finishes and boundary treatments.
- (e) A detailed plan to a scale of not less than 1:500 showing existing site sections and a detailed plan to a scale of not less than 1:500 showing proposed site sections.
- (f) A detailed plan to a scale of not less than 1:500 illustrating the siting of areas of formal and informal open space and landscaping. This plan shall be accompanied by a supporting statement, which shall explain the utility of these areas of open space for a broad range of users that includes: toddlers, young children, teenagers, adults, older people, and disabled persons.
- (g) A Development Framework Plan for the whole site comprising the following: (i) a landscape framework; (ii) a drainage strategy; (iii) a design framework; (iv) a public art strategy for the whole site.
- (h) Detailed designs including appropriate technical reports for the SUDS and other drainage infrastructure associated with the development, including management of surface water drainage and potential flooding.
- (i) Details of street lighting.
- (j) A Design and Access Statement and a block plan in accordance with Making Fife's Places Supplementary Guidance or any revision of this document.

Reason: To specify the supporting information required for each application for approval of matters specified by condition.

3. The detailed plans required by Condition 2 of the consent shall clearly illustrate, in cross-section form, the existing ground level, the event of any underbuilding, the finalised floor level of the proposed development in relation to the levels of adjacent land and buildings (including

windows of buildings within 18 metres) and any intervening existing or proposed screening (walls or fences). The floor levels shall clearly relate to a fixed datum point on or nearby the site such as a road or pavement which shall be identified on the submitted plans.

Reason: In the interests of residential and visual amenity; a) to ensure that there is no significant detrimental impact on adjacent properties, and b) to avoid excessive underbuilding.

4. The first application for approval of matters specified under the terms of Condition 1(a) and/or 1(b) shall be submitted with the information set out in Condition 2 and the following information:

- a) Intrusive Site Investigation (Phase 2 Investigation Report);
- b) Air Quality Impact Assessment;
- c) Energy Statement of Intention as set out in the Fife Low Carbon Supplementary Guidance (2019) or any subsequent revision;
- d) Construction Method Statement and Management Plan, including an Environmental Protection Plan, Scheme of Works relating to construction activities on site, details of the proposed construction traffic routes and wheel cleaning facilities;
- e) Public Art Strategy for the site in accordance with Making Fife's Places Supplementary Guidance, or as superseded;
- f) Noise Impact Assessment;
- g) Landscape and Open Space Strategy for the whole site including details of the landscaped buffer required to provide separation between the employment and non-employment areas;
- h) Outdoor Access Strategy for the whole site;
- i) SuDS and Drainage Strategy and Flood Risk Assessment for the whole site;
- j) Details of the intended methodology and delivery of the onsite affordable housing, including a tenure and timetable for delivery;
- k) Residential Travel Plan to be provided to each new home owner, detailing the public transport, active travel options and other measures available to reduce the reliance on trips by private car;
- l) Development Framework Plan showing the whole site, including a phasing plan.
- m) Odour Assessment.
- n) Bat Survey of vacant buildings prior to demolition.

Reason: To specify the supporting information required for an application for approval of matters by condition.

5. BEFORE ANY HOUSING IS GRANTED PERMISSION UNDER THE TERMS OF CONDITION 1, the Development Framework, required by Condition 2(g) and 4(l) shall be submitted and approved by Fife Council as Planning Authority. Thereafter any subsequent applications for housing submitted for approval specified by condition shall fully accord with the approved Development Framework.

Reason: To ensure that a coordinated plan for the design and delivery of the development is in place to inform the assessment of all subsequent applications.

6. In the event that changes are required at any time over the life of this permission to the Development Framework document required by Condition 5, notice of intention to vary the framework shall be submitted to the Planning Authority with an accompanying justification for why such an amendment is required. Thereafter an amended Development Framework shall be submitted to the Planning Authority as a further application for approval specified by condition. Once approved, any subsequent applications requiring approval specified by condition shall be designed in a way that fully accords with any such amended document as required by Condition 2(g) and 4(l).

Reason: To allow for the flexibility and certainty in the permission.

7. The maximum number of homes permitted on this site is 159. This figure can be varied by the written agreement of the planning authority where this is justified by the supporting information required under the terms of Conditions 1, 2, and 4 and where the applicant can demonstrate there is sufficient infrastructure capacity to support additional homes above 159 units.

Reason: To specify the total number of homes approved for the site and provide the flexibility to increase the capacity of the site where this can be fully justified through a robust and credible design process.

8. Prior to the commencement of development, the applicant shall submit an Investment Plan for the written approval of Fife Council. The Investment Plan must set out the proposals for the investment of the commuted sum on the Retained Employment Area. For the avoidance of doubt, this should include a costed proposal in respect of how such investment will be made in respect of site servicing, building repair and/or refurbishment to create serviced employment land and/or premises for uses within Class 4, 5 and/or 6. Development shall not start until written approval is given by Fife Council.

Reason: In order to ensure sufficient mitigation against the loss of employment land.

9. Prior to the commencement of development, the applicant shall submit to, for the written approval of Fife Council, a strategy to mitigate the impact of the proposals in respect of any existing businesses (falling within uses Class 4, 5 or 6) who will be affected by the development and set out how the developer will help support the relocation of such businesses to sites or premises within the Retained Employment Area or the Fife Council area. Development shall not start until written approval is given by Fife Council.

Reason: In order to ensure sufficient mitigation against the loss of employment land.

10. The Scheme of Works required under the terms of Condition 4(d) shall include measures to mitigate the effects on sensitive premises/areas etc. of dust, noise, vibration from construction activities. For the avoidance of doubt, the use of British Standard BS 5228: Part 1:2009 'Noise and Vibration Control on Construction and Open Sites' and BRE Publication BR456 (February 2003) 'Control of Dust from Construction and Demolition Activities' shall be referred to and complied with, where applicable. Once approved the construction of the development on the site shall be undertaken entirely in accordance with the provision of the approved Scheme. Any amendment to such a Scheme will require the prior written approval of the Planning Authority following appropriate consultation.

Reason: In the interests of residential amenity protection; to ensure construction activities are not undertaken at times that are likely to result in a significant noise and vibration disturbance or dust generating nuisance to neighbouring occupiers.

11. For the avoidance of doubt, no development shall commence until a Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the planning authority. Where site remediation is recommended in the said Phase II Report, development shall not commence until a Remediation Strategy has been submitted to and approved in writing by the planning authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Remediation of the site shall be undertaken in accordance with the approved Remediation Strategy. Where remediation cannot be undertaken in accordance with the said Strategy, or where previously unidentified contamination is encountered on site, all works shall cease (except site investigation works) and the planning authority notified within two working days. Unless otherwise agreed in writing with the planning authority, works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and agreed in writing by the planning authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy. Following completion of the measures in the Remediation Strategy, a Verification Report shall be submitted for the written approval of the planning authority. Unless otherwise agreed in writing, no part of the development shall be carried out until the planning authority is satisfied the remediation of the site has been completed in accordance with the agreed Remediation Strategy.

For the avoidance of doubt, all contamination reports shall be prepared in accordance with CLR11, PAN 33 and the Council's Advice for Development of Contaminated Land documents.

Reason: To avoid unacceptable risks to human health and the environment, to ensure the land is remediated and made suitable for its proposed use.

12. In the event that contamination not previously identified prior to the grant of planning permission or approvals of matters specified in conditions is encountered during the development, all works on site (except site investigation works) shall cease immediately and the planning authority notified within two working days. Unless otherwise agreed in writing with the planning authority, no works shall recommence until the requirements set out in Condition 11 have been followed with respect to the new source of contamination encountered.

Reason: In the interests of residential amenity; to ensure there is no risk from any site contamination to the proposed properties; to ensure no threat to public health.

13. All works done on or adjacent to existing public roads shall be constructed in accordance with the current Fife Council Transportation Development Guidelines within the Making Fife's Places Supplementary Guidance.

Reason: In the interests of road safety; to ensure the provision of an adequate design layout and construction.

14. All roads and associated works serving the proposed development shall be constructed in accordance with Making Fife's Places Supplementary Guidance August 2018 and the current Fife Council Transportation Development Guidelines (Appendix G) to a standard suitable for adoption. Work shall include a 2 metre wide footway on the Seco Place and Watson Street

frontages of the site, including the stopping-up of any redundant accesses; traffic calming measures on Seco Place and; footpath links to the existing adopted shared path network at the northwest corner of the site.

Reason: In the interest of road safety; to ensure the provision of an adequate design layout and construction

15. Prior to the occupation of each house, the access driveways shall be constructed to the satisfaction of Fife Council as Planning Authority at a gradient not exceeding 1 in 10 (10%). The driveway widths shall not exceed 5 metres.

Reason: In the interest of road safety; to ensure the provision of an adequate design layout and construction.

16. Prior to occupation of the first house, visibility splays 2.4 metres x 25 metres shall be provided and maintained clear of all obstructions exceeding 600mm in height above the adjoining road channel level, at the junction of the proposed vehicular accesses vehicular with Seco Place and Watson Street and at all internal junctions, in accordance with the current Fife Council Transportation Development Guidelines. The visibility splays shall be retained through the lifetime of the development.

Reason: In the interest of road safety; to ensure the provision of adequate visibility at the junctions of the vehicular access with the public road.

17. Prior to occupation of each house, all roadside boundary markers shall be provided and thereafter be maintained at a height not exceeding 600mm above the adjacent road channel level through the lifetime of the development.

Reason: In the interest of road safety; to ensure the provision of adequate visibility at road junctions.

18. Prior to occupation of each dwelling, off street parking, including cycle and visitor parking spaces, shall be provided in accordance with the current Fife Council Parking Standards contained within Making Fife's Places SG and the current Fife Council Transportation Development Guidelines (Appendix G). The parking spaces shall be retained through the lifetime of the development.

Reason: In the interest of road safety; to ensure the provision of adequate off-street parking facilities.

19. All garages adjacent to or within dwellings shall be located at least six metres from the road boundary and all driveways in front of dwellings having a minimum length of six metres from the road boundary.

Reason: In the interest of road safety; to ensure the provision of adequate space for vehicles to stand clear of the public road.

20. Before any works (including demolition works) start on site, full details of wheel cleaning facilities to be provided at the entrance/exit to the site to ensure that no mud, debris or other deleterious material is carried by vehicles onto the public roads shall be submitted for approval

in writing by the Planning Authority. The approved facilities shall be provided, retained and maintained for the duration of operations on the site.

Reason: In the interest of road safety; to eliminate the deposit of deleterious material on public roads.

21. No development shall take place on site until such time as a scheme of landscaping has been submitted to and approved in writing by the Planning Authority. The scheme shall include hard and soft landscaping works, boundary treatment(s), details of trees and other features which are to be retained, and a programme for the implementation/phasing of the landscaping in relation to the construction of the development.

Reason: In the interests of visual amenity.

22. All planting carried out on site shall be maintained by the developer to the satisfaction of this planning authority for a period of 5-years from the date of planting. Within that period any plants which are dead, damaged, missing, diseased, or fail to establish shall be replaced annually.

Reason: In the interests of visual amenity and effective landscape management; to ensure that adequate measures are put in place to protect the landscaping and planting in the long term.

23. BEFORE ANY WORKS COMMENCE ON SITE, details of the future management and aftercare of the proposed landscaping and planting shall be agreed in writing by Fife Council as planning authority.

Reason: In the interests of visual amenity; to ensure that adequate measures are put in place to protect the landscape and planting in the long term.

24. No activities relating to the demolition, erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of 08.00 and 18.00 hours Mondays to Fridays; 08.00 and 13.00hours Saturdays. With no working Sundays or Public Holidays unless otherwise agreed in writing with the Planning Authority.

Reason: In the interests of protecting amenity.

25. Prior to the commencement of demolition works a Demolition Management Plan is required to be prepared by the applicant and approved by Fife Council, in consultation with Transport Scotland as Trunk Roads Authority.

Reason: To maintain safety for both the trunk road traffic and the traffic moving to and from the development; and To ensure that there will be no distraction or dazzle to drivers on the trunk road and that the safety of the traffic on the trunk road will not be diminished.

26. Prior to the occupation of the development, vegetation removal works in the vicinity of the A92(T)/Bridge Street grade separated junction are required to be completed, in consultation with Bear Scotland as Trunk Road Operating Company.

Reason: To maintain safety for both the trunk road traffic and the traffic moving to and from the development.

27.No development shall take place until fencing has been erected in a manner and position to be agreed with the Planning Authority, after consultation with Transport Scotland, as the Trunk Roads Authority The fencing shall be provided and maintained by the developer or subsequent owner of the land along the boundary of the site with the trunk road.

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

28. For the avoidance of doubt, there shall be no drainage connections to the trunk road drainage system.

Reason: To ensure that the efficiency of the existing drainage network is not affected and that the standard of construction is commensurate with that required within the road boundary.

STATUTORY POLICIES, GUIDANCE & BACKGROUND PAPERS

In addition to the application the following documents, guidance notes and policy documents form the background papers to this report.

National Policy and Guidance:

Scottish Planning Policy (June, 2014)
PAN 33 (revised) Contaminated Land
PAN 1/2011 Planning and Noise

Development Plan and Supplementary Guidance:

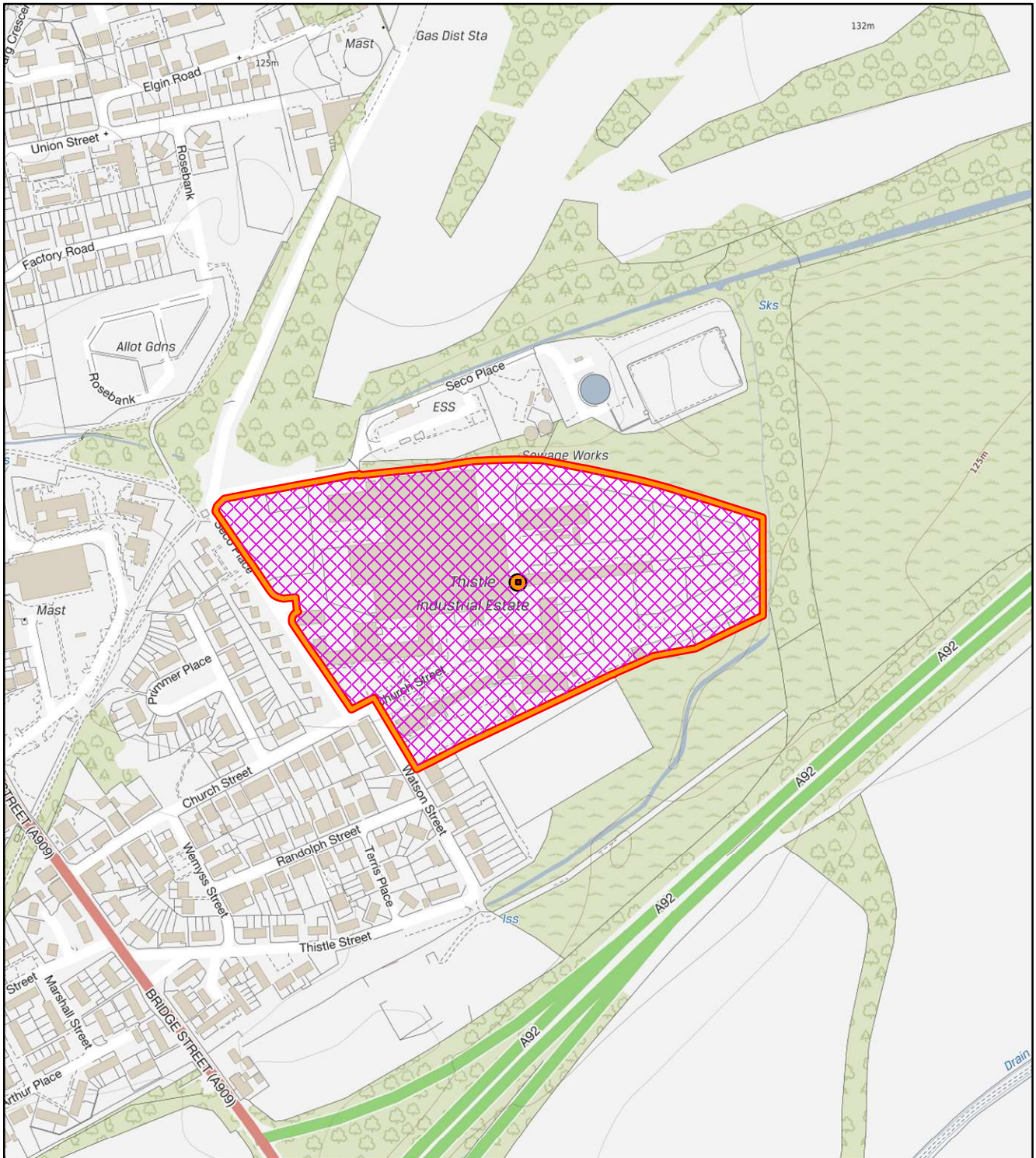
SESplan Strategic Development Plan (June, 2013)
FIFEplan Local Development Plan (September, 2017)
Making Fife's Places Supplementary Guidance (August, 2018)
Fife Council Affordable Housing Supplementary Guidance (September, 2018)
Fife Council Sustainable Drainage Systems (SUDS) - Design Criteria Guidance Note
Fife Council Planning Obligations Supplementary Guidance (February, 2017)
Fife Council Planning Low Carbon Supplementary Guidance (January, 2019)

Other material considerations:

Fife Housing Land Audit 2019 (May, 2020)
Adopted Mid Fife Local Plan (January, 2012)
Fife Council Employment Land Audit 2019 (June, 2020)
Fife Employment Land Strategy 2014 – 2021
World Health Organisation (WHO) Guidelines for Community Noise (2015)
Fife Development Plan Update – SESplan Housing Position Statement and Proposed Approach (January 2020)
SESplan Housing Need and Demand Assessment 2 (March 2015)
SESplan Housing Background Paper (October 2016)
REHIS Briefing Note 017 Noise Guidance for New Developments

Report prepared by Katherine Pollock, Chartered Planner

Report reviewed and agreed by Mary Stewart, Service Manager & Committee Lead



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Legend	
 Application Boundary	
	
 Economy, Planning & Employability Services	

ITEM NO: 6

APPLICATION FOR FULL PLANNING PERMISSION REF: 19/03673/FULL

SITE ADDRESS: LAND TO THE EAST OF JAMPHLARS COURT BOWHILL

PROPOSAL : ERECTION OF 59 AFFORDABLE HOUSING UNITS WITH ASSOCIATED ROADS, PARKING AND LANDSCAPING

**APPLICANT: MS LINDA DUFF
PITREAVIE DRIVE PITREAVIE BUSINESS PARK
DUNFERMLINE**

**WARD NO: W5R08
Lochgelly, Cardenden And Benarty**

CASE OFFICER: Natasha Cockburn

DATE REGISTERED: 22/01/2020

REASONS FOR REFERRAL TO COMMITTEE

This application requires to be considered by the Committee because:

The application is defined as a Major Development in terms of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009.

SUMMARY RECOMMENDATION

The application is recommended for:

Conditional Approval

ASSESSMENT AGAINST THE DEVELOPMENT PLAN AND OTHER MATERIAL CONSIDERATIONS

Under Section 25 of the Town and Country Planning (Scotland) Act 1997, the determination of the application is to be made in accordance with the Development Plan unless material considerations indicate otherwise.

1.0 BACKGROUND

1.1 Site Description

1.1.1 The application site is around 4 hectares of brownfield land within the Jamphlars area of Cardenden, to the north west of Cardenden. The land was previously a colliery and railway siding. The site lies to the south of the B981 Jamphlars Road, and is accessed from Balgonie Grove via Bowhill View, a private residential development to the west. The site is bounded to the south and east by protected open space and semi-mature woodland that forms part of the existing green network asset of Cardenden. This green network asset continues across Jamphlars Road with protected open space covering a reservoir and Auchterderran Golf Course to the north. The Kirk Burn and other small watercourses cross this area of protected open space to the north of the site, whilst the River Ore runs through Cardenden to the south. There is an existing core path (No 449) which crosses the development site from Woodend Road and Bargeddie Road to the north, connecting into a network of footpaths within the woodland to the south and the centre of Cardenden.

1.1.2 The site has a relatively level topography with ground banking away at the southern boundary at the west and beyond the eastern boundary. The low point is to the south-west at the existing surface water attenuation and high point is to the south-east of the sub-station. The site is crossed in the centre by overhead powerlines running approximately north to south from two large electricity pylons, one of which is within the development boundary. Much of the site is occupied by groups of self-seeded young trees, predominantly Alder, regenerated from the adjacent planted woodland.

1.1.2 The site is identified in FIFEplan (2017) as CDD001 and is allocated as a Housing Opportunity Site with an estimated capacity of 27 units.

1.2 Proposal

1.2.1 The proposed development includes the construction of 59 affordable residential units with associated SUDS, access, and infrastructure. The units are proposed to be social rent, for Kingdom Housing Association. The proposals comprise of predominantly 2 storey, terraced and semi-detached dwellings with some single storey bungalows. There would be a mix of 2, 3 and 4 bedroom houses. The site would have one access from Balgonie Grove to the west. Existing properties front the access and further terraced properties would also front the access to the south side. The site would contain parking courts throughout, with some allocated spaces in front and to the rear of properties. A path is proposed to the south west of the site, linking to Local Path LP346. Existing Scottish Water attenuation is situated in the south west corner, which would be bounded by a hedge on the east side. No building is proposed underneath the overhead power lines, this would be a parking court and landscaping. Front boundary treatments include hedges and walls and the parking courts are screened by hedging and other planting throughout.

1.3 Site History

1.3.1 The site is subject to an extant planning approval for 27 detached private dwelling houses (Ref 04/04441/CFULL). Consent was granted in 2007, with two of the dwellings being constructed and occupied since 2008. A further two units were commenced up to sub-structure level, however works were halted during the recession. The site has since changed ownership.

1.3.2 In April 2013 a Planning Application for the erection of residential care home with associated access road, parking and landscaping on part of the site was submitted to Fife Council (Ref 13/01040/FULL) but was withdrawn prior to determination.

1.4 Application Process

1.4.1 The proposed development comprises more than 50 residential units and therefore, falls within the Major Development category under the Town and Country Planning (Hierarchy of Developments) Regulations 2009. The applicant has carried out the required pre-application consultation through holding public information events. A Pre-Application Consultation Report outlining comments made by the public has been submitted as part of this application. The manner of the consultation exercise, including the notification and media advertisement process complied with the relevant legislation. This included a public consultation event held on 24th April 2019 at Bowhill Centre, Cardenden. The public event was advertised in the Central Fife Times on 18th April 2019.

1.4.2 The application was advertised in the local press on 10th February 2020 for neighbour notification purposes.

2.0 EXECUTIVE SUMMARY

2.1 The application site is located within the settlement boundary and is allocated as a Housing Opportunity Site (CDD 001) within the Adopted FIFEplan (2017). The Estimated Capacity of the site is 27 residential units and this application proposes 59 residential units, which is well above the estimation. Whilst the residential land use is supported in principle on this site, the number of units proposed in this application is a further point that has been considered. In this regard, although FIFEplan provides a figure of the site's capacity, this is as an estimate, based on the planning permission that has already been granted and there is scope for deviations from this where appropriate. In particular the number of units is of relevance in the consideration of visual impact, parking and access, education and residential amenity. Whilst it is noted that the proposed number of units far exceeds the Estimated Capacity of the site, this in itself is not a reason to refuse the application and it is further noted that the estimated capacity is based on a planning approval. Rather the acceptability of the proposals must be assessed in terms of the impact of this number of units being provided. On balance, having assessed the proposals in terms of its layout and visual impact, flooding and drainage, green infrastructure, natural heritage, residential amenity, road network and parking, contamination and land stability, air quality, affordable housing, education, developer contributions and low carbon requirements, it is considered that the uplift in numbers is acceptable and would not be a reason to refuse the planning application. The units on the site fit in well with the surrounding area, respond to the constraints of the site and provide affordable housing to meet an established need. Given the unit sizes are predominantly smaller than those previously approved, the development would contain smaller plot sizes whilst still being able to meet an appropriate level of amenity for the properties. Overall, the application is considered to be acceptable in principle.

2.2 The proposed development is acceptable in design, layout, scale, density and form, including elements of Designing Streets such as permeability, connectivity, unit location and siting and detailing. The site would create a good sense of place through a high-quality design and layout and with the level of planting proposed. Enhancements to the streetscape, such as planting, hedges to screen parking and to define public and private space throughout, plus the addition of feature walls to prominent locations, creates good quality boundaries and a visually

appealing layout. The development would integrate with the surrounding area with the addition of two new links through the development, into the woodland and existing core path to the south, the proposals would enhance the permeability of the site, providing attractive and overlooked links to the existing amenity spaces outwith the site. The proposal meets the requirements of the Development Plan in this regard.

2.3 The site contains two cul de sacs, which would not usually be accepted for a development of this scale. However, it is acknowledged that the shape of the site and overhead power lines do not provide scope for varying the street layout and it would not be possible to provide a second means of vehicular access, nor a loop road within the site. In this regard, it is acknowledged that the proposed site layout does not comply with Making Fife's Places Supplementary Guidance, however, on balance, there is little room for improvement given the aforementioned site constraints. The proposed layout would therefore be acceptable in the circumstances. A Transport Statement and Addendum have been submitted, and Fife Council Transportation Development Management are not concerned that the corner at Bowhill View would be an issue for the additional vehicles and advise that there is sufficient capacity on the surrounding roads for additional vehicle resulting from the development.

2.4 The development would not have any significant detrimental impact on existing properties in terms of loss of sunlight/ daylight or privacy. Potential noise impact has been assessed through a Noise Impact Assessment (NIA), from road traffic and noise from the generator adjacent to the site. The NIA concludes that there would be no significant adverse impact on the proposed residential units in terms of noise and no mitigation measures would be required. Fife Council Public Protection Officers are satisfied with the conclusions of the NIA. Overall, the development is therefore considered to comply with the Development Plan in this regard.

2.5 The application would have no significant impact on the schools within its catchment and no contributions are therefore sought in this instance. The proposal is considered to be in accordance with the Development Plan and draft Supplementary Guidance in this regard.

2.6 Taking all the relevant issues and concerns into account the proposal is considered acceptable and in accordance with the Development Plan.

3.0 PLANNING ASSESSMENT

3.1 The issues to be assessed against the Development Plan and other material considerations are as follows:

- Principle of Residential Development
- Design and Layout
- Transportation
- Water/ Drainage/ Flood Risk
- Residential Amenity
- Open Space, Play Provision, Landscaping
- Natural Heritage/ Trees
- Site Conditions, Stability and Minerals
- Affordable Housing
- Education
- Public Art
- Air Quality
- Low Carbon Fife

3.2 Principle of Residential Development

3.2.1 The site is located within the settlement boundary of Cardenden and is allocated as a Housing Opportunity Site (CDD 001) within the Adopted FIFEplan (2017). Scottish Planning Policy (SPP) (2014) seeks to promote successful sustainable places with a focus on low carbon place; a natural, resilient place; and, a more connected place. Scottish Planning Policy (SPP) promotes the use of the plan-led system with plans being up-to-date and relevant, thus reinforcing the provisions of Section 25 of the Act. The SPP (Enabling the Delivery of New Housing) also requires the Development Plan to identify a generous supply of housing land, within a range of attractive, well designed sites that can contribute to the creation of successful and sustainable places. The Development Plan is the preferred mechanism for the delivery of housing / residential land rather than individual planning applications.

3.2.2 The development plan comprises the SESplan Strategic Development Plan 2013 - 2032 (2013) and the Adopted FIFEplan (Fife Local Development Plan) (2017). Approved SESplan - Strategic Development Plan (2013) Policy 1A advises that local development plans will indicate the phasing and mix of uses as appropriate to secure the provision and delivery of infrastructure to accommodate development and identify any areas of restraint as a result of environmental and infrastructure constraints. Further to this, proposals should ensure (under Policy 1, Part B) there are no significant adverse impacts on national and local natural or built or cultural designations, they must have regard to the quality of local communities, create more healthy and attractive places to live, contribute to the response to climate change and have regard to the need for high quality design, energy efficiency and use of sustainable building materials. Policy 1, Part C advises that development proposals must be supported by the relevant information or assessments to demonstrate that they will comply with policy criteria. The examination of the Proposed SESplan - Strategic Development Plan (October 2016) has now been completed however this Plan has not been approved. The Scottish Government has declined to adopt SESplan 2 due to insufficient assessment of the cumulative transport impact of the Plan.

3.2.3 Allocation Policy CDD001 (Bowhill Colliery) is designated as a housing opportunity site of with an estimated capacity of 27 residential units and sets out the following requirements:

- Developer should consider, through a feasibility study, the potential for restoration and improvement of the water environment through the site design. A 6m buffer strip is required between waterbody and built development. High quality Sustainable Urban Drainage System (SUDS) required.

3.2.4 Policy 1 of the Adopted FIFEplan (2017) states that the principle of development will be supported if it is either within a defined settlement boundary and in compliance with the policies for the location or in a location where the proposed use is supported by the Local Development Plan. The proposal must also meet the criteria set out within parts B and C of the policy. Where relevant, these will be addressed in subsequent sections of this report.

3.2.5 The Fife Partnership's Plan for Fife - Local Outcome Improvement Plan 2017-2027 (2017) is Fife's new overall community plan, which aims to deliver real improvements for the people of Fife over the next 10 years resulting in a fairer Fife. The plan provides a clear focus for all other plans and sits alongside the Local Development Plan (FIFEplan), which deals with physical and spatial planning issues, and the Climate Change Strategy, which sets out what the Partnership aim to do to address climate change and its likely impacts. The vision for a fairer Fife is based on 4 priority themes - Opportunities for All; Thriving Places; Inclusive Growth and jobs; and

Community Led Services. In summary, the 12 ambitions aim to make Fife - poverty free; fair work, affordable, connected, empowered, skilled and healthier. The proposal would contribute towards delivering 3 of the 4 objectives of this document.

3.2.6 The site is located within the settlement boundary and the principle of development is set by Allocation CDD001. The principle of residential development on this site is therefore accepted in accordance with Policy 1 part A of the Adopted FIFEplan (2017). This report will first generally consider compliance with Allocation CDD001 and then consider each of the proposed land use implications.

3.2.7 The terms of Policy CDD001 are set out within section 3.2.3 of this report. The Estimated Capacity of the site is considered to be 27 residential units and this application proposes 59 residential units. The residential land use is supported in principle on this site, although the number of units proposed in this application is a further point that must be considered. In this regard, although FIFEplan provides a figure of the site's capacity, this is as an estimate, based on the planning permission that has already been granted (outlined in paragraph 1.3.1) and there is scope for deviations from this where appropriate. However, the number of dwellings proposed is a significant material consideration that still needs to be assessed in terms of its acceptability in relation to a range of material planning considerations. In particular the number of units is of relevance in the consideration of visual impact (section 3.4), parking and access (3.5), education (3.11) and residential amenity (3.6). Notwithstanding this, in land use terms, the principle of residential development for the site is accepted. Whilst it is noted that the proposed number of units far exceeds the Estimated Capacity of the site, this in itself is not a reason to refuse the application and it is further noted that the estimated capacity is based on a planning approval. Rather the acceptability of the proposals must be assessed in terms of the impact of this number of units being provided.

3.2.8 In terms of the other requirements of the Allocation Policy, a requirement to explore the potential for restoration and improvement of the water environment through the site design and to provide a 6m buffer between the waterbody and built development is set out. A Flood Risk Assessment has been carried out and the development has been set back a significant distance from the water course and therefore there is limited opportunity to restore or improve the water environment although planting is proposed along the watercourse corridor which would assist in improving the watercourse corridor. Small areas of standing water were identified within areas of the site. These are considered to have formed due to impeded drainage and are not considered to be groundwater dependent. In regards to the requirement to provide high quality SUDS, the proposals utilise and adapt the existing infrastructure that was previously installed for the extant Planning Approval. This includes Foul and surface sewers and an Aquacell Attenuation system. There is therefore limited opportunity to create a new, higher quality SUDS than was already approved and built out, however there will be planting and access through the SUDS to the south west of the site. Overall, it is considered that the development meets the requirements of Allocation Policy CDD001.

3.2.9 The site is within the River Ore Green Network (CDDGN01). There are no specific requirements set out for CDD001, however the development includes a link to Core Path R449, which ultimately links to Local Path LP342 into the woodland. Whilst some trees would be lost as a result of the development, replacement planting is proposed, in keeping with the local landscape and character of the area. Such planting will help to integrate the development with the surroundings to ensure long term amenity. Species choice would reflect the site and ecological conditions, planting conditions, future growth in relation to infrastructure and tolerance of disease.

3.2.10 The application is considered to largely comply with Allocation Policy CDD01 in principle. The development is also considered to be in compliance with Policy 1 of the Adopted FIFEplan in terms of the development within the policy designation however this would be subject to compliance with the criteria set out within Parts B and C of this policy which will be discussed throughout the report.

3.3 Design and Layout

3.3.1 The SPP (Placemaking) advises that planning should take every opportunity to create high quality places by taking a design-led approach and planning should support development that is designed to a high-quality, which demonstrates the six qualities of successful place. These six qualities are distinctive; safe and pleasant; welcoming; adaptable; resource efficient and easy to move around and beyond. This is further expanded upon within the Scottish Government Policy document *Designing Streets* which states that an emphasis should be placed on design providing a sense of place and taking cognisance of the history and context of the surrounding area and design should connect and relate to the surrounding environment.

3.3.2 Policy 14 of the Adopted FIFEplan (2017) states that the Council will apply the six qualities of successful places when considering development proposals. New development will need to demonstrate how it has taken account of and meets each of the following six qualities: distinctive; welcoming; adaptable; resource efficient; safe and pleasant; and easy to move around and beyond. Guidance on how these qualities will be interpreted by the Council and addressed by those proposing development will be provided in the *Making Fife's Places Supplementary Guidance* (2018).

3.3.3 Fife Council's *Planning Customer Guidelines on Garden Ground* (2007) advises that detached and semi-detached dwellinghouses shall have private garden ground of at least 100 square metres per dwellinghouse with 50 square metres of private amenity ground for flats. Rear gardens should be a minimum of 9m in length. For new houses, the ratio of buildings to garden must be at least 1:3.

3.3.4 The development proposes a single point of access from Balgonie Grove, which ends in two cul de sacs. The constrained nature of the site does not allow for a second point of access to be formed so the applicant has proposed footpath connections to the woodland to the south west of the site, and an informal footpath in the centre of the site, to the south of a parking courtyard, to provide further permeability through the site into the surrounding area.

3.3.5 Boundary hedges would be provided to front gardens to provide a clear definition between public and private space and, in visually prominent locations, feature walls are proposed. All building gables facing onto parking courtyards would have activity and/or dual frontage to ensure informal surveillance can occur and to visually activate the buildings in this location – particularly looking towards the footpath to the south west. The north, south and east site/garden boundaries and around the attenuation basin should be native species-rich hedgerows to provide a natural edge to the woodland. This is recommended as a condition.

3.3.6 The parking courtyards have an element of screening at their entrance – generally hedging or tree planting – which would help to draw the eye away from the car parking and thus visually break up the influence of parked cars within the streetscape. Trees are proposed within front gardens and, where possible, parking has been set back from the street or to the side of dwellings and, where that has not been possible, screening has been provided.

3.3.7 Given the construction of this site had already begun some time ago, there are elements which have influenced the layout, such as the SUDS and the two properties at the entrance into the site. The proposals include a terraced block of units to the south side of the entrance, which would provide an attractive, active entrance into the site, with hedges along the front boundary. Additionally, immediately facing the entrance would be tree planting and hedging to the gable of Plot 31, which would provide a visually attractive view when entering the development.

3.3.8 In the overhead powerline exclusion zone, no buildings are proposed however the landscaping is mainly amenity grassland. This should be long/wildflower grassland with some shrubs that would benefit pollinators and other wildlife, with mowed paths for access if required. This is set out within a condition.

3.3.9 Overall, the proposal is reasonable in its design and layout, addressing a number of key placemaking principles. It does however, present concerns over the street design and its ability to address the needs of different users in a safe and balanced way, alongside continuing concerns in relation to the overlooking of parking courtyards and the delineation of public/private space to the front of all buildings.

3.3.10 All of the plots within the site meet the minimum rear garden length specified within the minimum garden ground customer guidance document. The terraced and some semi-detached units do not meet the minimum garden ground standard with the lowest garden ground being 50sqm for a terraced unit. The garden grounds reflect the size of units proposed which are relatively small. As these are smaller units which are attached to other units, it is more difficult to meet the minimum standard without having disproportionately longer gardens. The larger and detached units on site comply with the minimum garden standards. It is noted that the garden shapes and size reflect the location and constraints of the site. The minimum garden ground standards are set out as a guidance and are not a statutory policy because it is considered that garden size should reflect the context of the site and they should reflect an aim for a site rather than a requirement. Flexibility must be provided for sites with the overall aim being to ensure that a suitable standard of amenity is provided for future residents. This is achieved here. Overall it is considered that an acceptable level of garden ground is being provided for the proposed units with the smaller units not meeting the standard. Nonetheless, these smaller properties would be provided with a sufficient standard of garden relative to the dwelling size and would have sufficient garden ground to provide a good level of amenity for future occupants.

3.3.11 The site incorporates a good degree of landscaping. An area of space to the north of the site, adjacent to the electrical substation, would be enhanced with structure tree and shrub planting, which would provide a buffer between the properties in that location and the substation. Hedgerow and tree planting is shown throughout the site, although it is considered that the site would benefit from hedgerow planting to the boundaries with the woodland, to help the site integrate with this natural edge. Subject to the aforementioned conditions, overall, the proposed landscaping is considered acceptable.

3.3.12 Overall, on balance, the proposed development is considered acceptable in design, layout, scale, density and form particularly when considered relative to the context and constraints of the site. The proposal would meet the six tests of creating places within Policy 14 of the Adopted FIFE Plan and proposes an attractive space for future residents. It would integrate well with the surrounding area and provide a new settlement edge. The development is therefore in accordance with National Policy, and the Development Plan in this regard.

3.4 Transportation

3.4.1 The national context for the assessment of the impact of new developments on transportation infrastructure is set out in SPP (A connected Place). The SPP (Promoting Sustainable Transport and Active Travel) indicates that the planning system should support patterns of development which optimise the use of existing infrastructure and reduce the need to travel. The overarching aim of this document is to encourage a shift to more sustainable forms of transport and reduce the reliance on the car. Planning permission should also be resisted if the development would have a significant impact on the strategic road network. The design of all new development should follow the place-making approach set out in the SPP and the principles of Designing Streets, to ensure the creation of places which are distinctive, welcoming, adaptable, resource efficient, safe and pleasant and easy to move around and beyond.

3.4.2 Policy 1 Part C (2) of the Adopted FIFEplan states that the site must provide required on-site infrastructure or facilities, including transport measures to minimise and manage future levels of traffic generated by the proposal. Policy 3 (Infrastructure and Services) states that development must be designed and implemented in a manner that ensures it delivers the required level of infrastructure and functions in a sustainable manner. The Transportation Development Guidelines within the Making Fife's Places Supplementary Guidance (2018) provide details of expected standards to be applied to roads and parking etc.

3.4.3 Objection comments note concern that there is only one access road into the estate and 59 extra properties with one or more vehicles per household will be too much extra congestion on the access road. They note that the road narrows at the first corner of Bowhill View, which can currently be dangerous and extra vehicles will only make this worse.

3.4.4 In response to this, the application is supported by a Transport Statement, which has considered person trips, not car trips and covered access by all modes of transport - walking, cycling, public transport and private cars, to show how the site is being developed to encourage the use of sustainable modes of transport and how it would fully integrate with the existing community. A Transport Statement Addendum providing a traffic impact analysis of the existing Bowhill View/Jamphlars Road junction has been submitted. This shows that the existing junction would operate well within its practical capacity (below 10% of its capacity) during the AM and PM peaks with the addition of the vehicle trips generated by 59 dwellings. Transportation Development Management (TDM) has reviewed the TS and is satisfied that the proposals would not create too much extra congestion on the road. TDM are therefore not concerned that the corner at Bowhill View would be an issue for the additional vehicles.

3.4.5 The proposed site layout shows the provision of a vehicular access from Balgonie Grove, which is a private road. The existing private road would have to be included within the planning application and Construction Consent application, to ensure it is upgraded to a standard suitable for adoption.

3.4.6 The proposed site layout shows the provision of two cul-de-sacs, which is a layout very similar to the extant planning permission. The shape of the site and overhead power lines would not allow much scope for varying the street layout. It would not be possible to provide a second means of vehicular access, nor a loop road within the site. The streets have been amended at TDM's request, to provide a raised table at the T-junction and a raised table at the junction with the vehicular access to the parking court beneath the overhead power lines. It is acknowledged that the proposed site layout does not comply with Making Fife's Places Supplementary Guidance, but there is little room for improvement given the site constraints.

3.4.7 The Design and Access Statement states that “All units are also within a 250m walkable distance of existing protected space and amenity woodland.” The maximum 250m walk distance relates to Blocks F, G and H. Given that these units back onto the amenity woodland, the provision of a path connection between the eastern boundary of the site and the existing path network would have reduced the maximum 250 metres walk distance considerably. The existing bus stops on Jamphlars Road are within 400 metres walk distance of the farthest point of the site.

3.4.8 Ideally, the development would have upgraded the existing paths to the south of the site. However, the applicant has advised that they could not carry out off-site improvements to sustainable transport infrastructure on the premise that it would be contrary to Secure By Design principles. The lack of the improved links results in longer walking and cycling distances to the primary schools, railway station and town centre, would not be acceptable. Whilst the Service does not agree with the Secured by Design argument – it is considered that the upgrading of existing footpaths would mean that pedestrians were safer, promoting more sustainable modes of transport. However, it is acknowledged that this would come at a cost for the developer and, considering the proposals are for affordable housing, this is accepted. As a compromise position, the applicant has agreed to provide two pedestrian links between the site and existing local paths. The paths would be of a rural type construction, not illuminated and not considered prospectively adoptable. Whilst the proposed footpath links are not ideal, it is accepted that they are the best that can be achieved in the circumstances.

3.4.9 The proposed development is considered to have an acceptable impact on the road network. The site constraints make it difficult in terms of providing a secondary vehicular access and instead it has been agreed that a single point of access is acceptable for this site with the provision of separate pedestrian links. Transportation Development Management has no objections to the proposal subject to conditions. On balance, the development would be considered acceptable, although not strictly in compliance with the relevant Development Plan policies and Making Fife's Places SG.

3.5 Water/ Drainage/ Flood Risk

3.5.1 The SPP (Managing Flood Risk and Drainage) indicates that the planning system should promote a precautionary approach to flood risk taking account of the predicted effects of climate change; flood avoidance by safeguarding flood storage and conveying capacity; locating development away from functional flood plains and medium to high risk areas; flood reduction: assessing flood risk and, where appropriate, undertaking flood management measures. Development should avoid an increase in surface water flooding through requirements for Sustainable Drainage Systems (SuDS) and minimising the area of impermeable surface.

3.5.2 Policy 1 Part B (8) and Part C (5) requires flooding and impacts on the water environment to be avoided and sites to provide sustainable urban drainage systems with relevant drainage strategies. Policy 12 of the Adopted Local Development Plan states that development proposals will only be supported where they can demonstrate that they will not increase flooding or flood risk; will not reduce the water conveyance and storage capacity of a functional flood plain; will not detrimentally impact on ecological quality of the water environment; will not detrimentally impact on future options for flood management; will not require new defences against coastal erosion or coastal flooding; and will not increase coastal erosion on the site or elsewhere.

3.5.3 The SEPA Flood map indicates some minimal localized surface water within the site that

would be addressed by the proposed site levels and drainage design for the site. It is noted that the majority of the sewers were constructed before works ceased on the extant planning permission. SEPA have been consulted and have no comments to make on the proposals in regard to drainage or flood risk.

3.5.4 The proposals represent an uplift in the number of units, although they would be smaller properties than previously approved. It is intended to retain as much of the existing constructed roadways and drainage system as possible and to utilise these to serve the proposed 59 dwellings. Additional Scottish Water drain lines / manholes will be required to serve plots 4-7 and 10-13. A new private parking courtyard has been proposed between plots 27 and 28 and it is proposed that this carpark be constructed using porous pavements with a perforated collector pipe discharging to a silt trap prior to connecting to the main surface water drainage network.

3.5.5 Scottish Water was consulted and noted that there was sufficient capacity at the Glenfarg Water Treatment Works and Levenmouth Waste Water Treatment Works for this development.

3.5.6 Overall, no development is proposed within an area of flood risk on site. The proposed drainage solution is adequate for the site and the consultees are satisfied with the information provided. The development is therefore considered to comply with the Development Plan and SPP in this regard.

3.6 Residential Amenity

3.6.1 Policy 10 of the Adopted FIFE plan states that development will only be supported if it does not have a significant detrimental impact on the amenity of existing or proposed land uses. The policy sets out the considerations in this regard which includes impact from noise, traffic movements, construction impacts and loss of privacy, sunlight and daylight. PAN 1/2011 (Planning and Noise) establishes the best practice and the planning considerations to be taken into account with regard to developments that may generate noise, or developments that may be subject to noise. The PAN promotes the principles of good acoustic design and a sensitive approach to the location of new development. It states that it promotes a pragmatic approach to the location of new development within the vicinity of existing noise generating uses, to ensure that quality of life is not unreasonably affected and that new development continues to support sustainable economic growth. The WHO Guidelines (2015) are referred to as the standards which should be achieved for environmental noise. These include 50dB for external space with 55dB being considered an upper limit, 35dB for internal space through the day and 30dB for internal space through the night.

3.6.2 Fife Council's Planning Customer Guidelines on Daylight and Sunlight complement the aforementioned policies by advocating that the design of residential environments must seek to ensure that adequate levels of natural light can be achieved within new development and unacceptable impacts on light or sunlight to nearby properties are avoided. Fife Council's Planning Customer Guideline on Minimum Distances between Window Openings sets out British Industry Standards on the accepted distance between windows to ensure personal privacy is maintained.

3.6.3 A Briefing note has been created by the Royal Environmental Health Institute for Scotland. This sets out considerations for noise impact in terms of development and the appropriate noise levels which should be achieved and sets out how noise should be assessed. The REHIS guidance states that only in exceptional circumstances should satisfactory internal noise levels only be achievable with windows closed and other means of ventilation provided. The guidance

specifies exceptional circumstances as proposals which aim to promote sustainable development and transport within the local authority area and which would provide benefits such as:

- (a) reducing urban sprawl
- (b) reducing uptake of greenfield sites
- (c) promoting higher levels of density near transport hubs, town and local centres
- (d) meeting specific needs identified in the local development plan

Exceptional circumstances will, therefore, generally apply only to sites, which are small to medium in scale, within urban areas. This may include sites in established residential areas; brownfield sites; town and village centres, and sites near public transport hubs. This guidance is not a statutory document but is considered to have material weight as it sets out criteria for the assessment of noise.

3.6.4 The substation to the north of the site runs 24 hours a day, 7 days a week and is a possible noise source, which the applicants were requested to consider through a noise report. Additionally, road traffic noise from Jamphlars Road, which is approximately 50m to the north of the site, was assessed.

3.6.5 A Noise Impact Assessment (NIA) was submitted, assessing noise from the road and substation. Fife Council Environmental Health (Public Protection) Officers reviewed the NIA and were satisfied that appropriate noise levels will be met within and outwith the dwellings, with windows open, in terms of the road traffic noise. However, they were concerned that the tonal element from the substation may affect amenity in noise sensitive internal rooms. The NIA recommended that internal layouts were amended and also used a closed window scenario, which Environmental Health Officers requested were amended to open window scenario. A further NIA was submitted, and the internal layouts amended. The amended NIA used a windows open scenario to ensure that tonal aspects from the substation were considered. Environmental Health Officers have reviewed the additional information submitted and are of the view that the amended NIA concludes that there would be no impact on amenity as a result of the substation or road traffic noise, with windows open

3.6.6 The nearest existing residential properties would be to the west, at Jamphlars Court and to the north east, at the entrance into the site, at Balgonie Grove. Plots 52 and 53 would have rear gardens facing the rear garden of the existing property to the north, however the garden grounds would be 12m long, with a window-to-window distance of 25m between the existing and proposed properties. There is an upper floor window on the gable of the existing property, and the western gable of Plot 52 is approximately 12m from the existing gable. The windows would be at an angle to one another, and owing to the angle, a 12m distance would be acceptable. The existing property to the west of Plot 59 contains no windows, therefore no privacy issues would occur at that location. No windows are proposed within the western gable of Block A, therefore there would be no privacy concerns between the proposed Block A and the existing property to the west side.

3.6.7 Due to the layout of the development and the position of units relative to one another, there also would be no significant impact on amenity for future residents. The units would all be sufficiently far apart and angled so as to avoid any significant loss of privacy or loss of daylight/sunlight. The properties to the north west of the site would sit closer together than those throughout the rest of the site, however, due to the angles and positioning of the gardens, relative to adjacent gables, it is considered that there would be no significant issues in terms of privacy loss.

3.6.8 The development would not cause any significant impact in terms of loss of sunlight, daylight or privacy and noise. The development is considered to comply with National Guidance and the Development Plan.

3.7 Open Space, Play Provision, Landscaping

3.7.1 The SPP in terms of sustainable development advocates the protection of, enhancement and promotion of access to natural heritage, including green infrastructure, landscape and the wider environment. The part of the policy aimed at maximising the benefits of Green Infrastructure sets out a set of policy principles to help guide the delivery of this. The planning system should ensure this is an integral element of places, facilitate the long-term integrated management of Green Infrastructure and provide for easy and safe access to Green Infrastructure.

3.7.2 Policy 1 Part C (4) of the Adopted FIFEplan (2017) states that a development must provide green infrastructure as required in settlement proposals and identified in the green network map. This is reiterated within Policy 3 of the Adopted Local Development Plan. Fife Council's Making Fife's Places Supplementary Guidance (2018) supplements this by setting an aspiration that all residents within Fife will be within 250m of a 0.2 hectare area of open space. If this is the case, then a development site will not be expected to provide green space on site, but the open space requirement can be met through a contribution per house towards the upgrade of the existing open space. Local equipped play areas must be provided on site for developments which have over 200 houses that are more than 500m from an existing equipped play area. Generally new housing within 500m walking distance of an existing equipped play area will not be required to provide these facilities on site but may be required to make a financial contribution to the upgrade of existing facilities. It also states that new housing developments of over 10 residential units will be expected to provide 60sqm of green space for each new dwelling.

3.7.3 The development site requires 3,540sqm of open space in accordance with Making Fife's Places SG. The submitted Design and Access Statement states that the development provides 2,773sqm of open space. However, some of the space that has been considered as open space by the applicant is not useable or attractive and would be considered as landscaping rather than open space, therefore open space on the site is calculated as approximately 1,063sqm. Although this is below the standard of open space expected within Making Fife's Places, it is considered that, given the constraints of the site (overhead power lines and substation) and the fact that the site has already been partly constructed, with the extant approval having provided less open space than is proposed through this application, plus the fact that the site would be delivering affordable housing within an area of demand, a shortfall is accepted in this instance. Further to this, the applicant is proposing two new footpath connections to the area of woodland to the south of the site, which is protected open space. This will provide residents and the surrounding community with further opportunities to easily and safely access the area of open space immediately south of the site.

3.7.4 Objection comments have expressed concern that the proposals do not include any provision for a new play park within the site. However, in accordance with Making Fife's Places Supplementary Guidance, this development would not require a play area as it is for less than 200 units. Comments have also expressed concern that the site should contribute towards factor fees to the existing play park if there is no intention of providing a new play park within the site. Given this proposal is for 100% affordable housing, a contribution towards open space within the

vicinity of the site would not be requested therefore the applicant is not required to provide a contribution towards the existing play park near the site in this instance.

3.7.5 Overall, it is considered that, on balance, when considering the enhanced links proposed to the existing open space to the south, and the close proximity to that woodland, sufficient open space has been provided for the site and this would meet the terms of Making Fife's Places SG. The location and form of the open space has been accepted on the basis of the site constraints.

3.8 Natural Heritage/ Trees

3.8.1 SPP (Valuing the Natural Environment) states that developers should seek to minimise adverse impacts through careful planning and design, considering the service that the natural environment is providing and maximising the potential for enhancement. Planning permission should be refused where the nature or scale of proposed development would have an unacceptable impact on the natural environment. Direct or indirect effects on statutorily protected sites will be an important consideration.

3.8.2 Policy 1 Part B (9) of the Adopted LDP states that development must safeguard or avoid the loss of natural resources. Policy 13 of the Adopted FIFEplan also outlines that development proposals will only be supported where they protect or enhance natural heritage. Where adverse impacts on existing assets are unavoidable, proposals will only be supported where these impacts will be satisfactorily mitigated. Development proposals must provide an assessment of the potential impact on natural heritage, biodiversity, trees and landscape and include proposals for the enhancement of natural heritage and access assets, as detailed in Making Fife's Places Supplementary Guidance (2018).

3.8.3 Making Fife's Places Supplementary Guidance states that where large semi-mature/mature trees are present on and adjacent to a development site, separation distances between the properties and trees greater than the British Standard will be expected and no new buildings or gardens should be built within the falling distance of the trees at its final canopy height.

3.8.4 Objection comments note concern that the site is currently occupied by wildlife. It is acknowledged that the site will contain some wildlife and, in this regard, a Preliminary Ecological Appraisal report has been submitted with the application. The Preliminary Ecological Appraisal report makes recommendations for further surveys and to protect wildlife during works including enabling works. These would be secured by condition. It is noted that a potential badger burrow was recorded 10m from the southern boundary. Therefore, re-survey for badgers is required no more than one month before works start on the site. The trees present within the site boundary consist of immature and semi-mature specimens only and are considered to provide negligible potential to support roosting bats. In addition, no features with the potential to support roosting bats were observed within the trees within the outer 50m zone of influence to the site. No further bat assessment is currently recommended for the development. It was originally considered that there was insufficient tree planting to compensate for the loss of trees within the site, therefore further trees have been added throughout the site to compensate for this.

3.8.5 It is considered that the north, south and east garden boundaries and around the attenuation basin should be native species-rich hedgerows. Fife Council's Tree Officer has reviewed the proposals and notes that the trees are predominantly outwith the site boundary and at a sufficient distance from the properties themselves. Some of the trees to the west side of the site would be within the falling distance of gardens. However, they are marginally within the garden boundaries and this is not a concern, given they would not be within the falling distance

of the properties themselves and, moving the properties forward would render the majority of this part of the allocated site as un-developable. The applicant has indicated within the Design and Access Statement that they would be providing compensatory tree planting for any trees lost as a result of the development. Further to that, they would be erecting tree protection measures prior to works commencing on site. These matters would be covered through appropriate conditions.

3.8.6 In the overhead powerline exclusion zone the landscaping is mainly amenity grassland. This should be long/wildflower grassland with some shrubs that would benefit pollinators and other wildlife. It is noted there could still be mown paths for access if required. This matter is recommended to be conditioned.

3.8.7 The Preliminary Ecological Appraisal makes recommendations for biodiversity enhancement, however, there is no document describing what is to be delivered. Some elements have been included in the landscaping plan but these are not considered sufficient and further detail on this will be required through an appropriate condition, prior to works commencing.

3.8.8 Subject to the aforementioned conditions, the development would have no significant impact on the natural heritage of the area and is considered to be in compliance with the Development Plan and Making Fife's Places SG.

3.9 Site Conditions, Stability and Minerals

3.9.1 PAN33 advises that suspected and actual contamination and instability should be investigated and, if necessary, remediated to ensure that sites are suitable for their proposed end use. Policy 10 of the Adopted FIFEplan states that development shall not lead to a significant detrimental impact on amenity in terms of contaminated and unstable land.

3.9.2 The application site falls within a Development High Risk Area for coal mining. Coal Authority records indicate that the site is within an area of probable shallow coal mining which could be attributed to the thick coal seam conjectured to outcrop within the south and south-eastern parts of the site. A Coal Mining Risk Assessment was submitted with the application, informed by the results of intrusive ground investigations undertaken within the application site and surrounding area. The report concludes that no evidence of coal workings was encountered at shallow depth and the site is therefore considered to be at a low risk and no further site investigations are considered necessary. The Coal Authority have confirmed that they are satisfied with the findings within the Coal Mining Risk Assessment and have no objection to the proposals and do not require any further information.

3.9.3 A Site Investigation has been submitted with the application, which recommends remedial measures in order to ensure the safe development of the site. Fife Council Land and Air Quality Officers advise that a Remedial Action Statement and Verification should be submitted, detailing the measures that will be used to mitigate against potential risks, and then verify that the works have been carried out. Land and Air Quality Officers recommend a planning condition to secure these details.

3.9.4 Subject to the aforementioned conditions, the development would be in compliance with National Guidance and the Development Plan in this regard.

3.10 Affordable Housing

3.10.1 SPP states that as far as possible tenure should not be discernible from its design, quality and appearance. Policy 2 of the Adopted FIFEplan states that open market housing development must provide affordable housing at the levels shown in Figure 2.2 for each Housing Market Area (HMA), consistent with the Affordable Housing Supplementary Guidance. This should be fully integrated into new development and be indistinguishable from other forms of housing. In order to achieve mixed and balanced communities, mixed tenure developments will be promoted.

3.10.2 This planning application for 59 units is for affordable housing only and therefore meets the requirement of the Affordable Housing Supplementary Planning Guidance. Fife Council's Housing Service have provided information regarding the current housing need in the Cardenden area. This information is not available at a settlement level, but they have provided information on the estimated annual housing need for the Local Housing Strategy area that Cardenden sits within (the Kirkcaldy Local Housing Strategy area). The estimated annual affordable housing need for the Kirkcaldy Local Housing Strategy area is 114 houses. Housing Services also provided information from their affordable housing master programme of sites – they have 531 affordable houses (195 homes complete and 336 homes programmed) to be delivered in the five year period up to 2022 in the Kirkcaldy Local Housing Strategy area. Of these 59 units, 171 are located in Cardenden. This proposal is currently within the Master Programme for a delivery of 59 units, therefore this site is proposed to contribute towards the existing shortfall of affordable housing within the LHSA. Fife Council's Area Housing Teams have confirmed that there is demand for these properties and the Scottish Government have committed grant funding for this site. With this site developed, a shortfall of 39 affordable houses would still remain within the Local Housing Strategy Area – it is therefore considered that there is an unmet affordable housing need in the Kirkcaldy Local Housing Strategy Area, even if this site were to be developed. The housing mix presented in the planning application has been determined by Fife Council's Housing Services and reflects the needs for affordable housing identified at the Kirkcaldy Local Housing Strategy Area (LHSA). The project will be delivered in conjunction with Kingdom HA and the proposals have the support of Housing Services and the Scottish Government. The allocation of Scottish Government funding for this project has still to be agreed.

3.10.3 The development is considered to comply with the Adopted FIFEplan (2018) and Affordable Housing Supplementary Guidance in this regard.

3.11 Education

3.11.1 Policy 4 of the Adopted FIFEplan (2017) states that developer contributions will be sought in relation to development proposals that will have an adverse impact on infrastructure capacity. The kinds of infrastructure to which this policy applies include transport, schools, affordable housing, greenspace, public art and employment land. The contributions will mitigate development impact by making a contribution to existing infrastructure or providing additional capacity or improving existing infrastructure; or providing new infrastructure. This is reinforced in the Planning Obligations Framework Supplementary Guidance (2015). Fife Council's Planning Obligations Framework Draft Supplementary Guidance (2017) re-iterates this advice and contains more recent and up to date calculations and methodologies with regards to existing infrastructure. It is, therefore, considered that the calculations from the Draft Guidance should be used in this instance as this document provides the most recent and accurate calculations with regards to planning obligations.

3.11.2 In accordance with the Fife Council Supplementary Guidance, given the development is 100% affordable housing, only where there is a critical capacity risk at a school within the catchment, would contributions be sought. The application site is within the catchments of Denend Primary School; St Ninian's Roman Catholic Primary School; Lochgelly High School; and St Andrew's Roman Catholic High School.

3.11.3 The Education Service confirm that there is no estimated capacity risk at any of the schools within the catchment of the development site, therefore, no contribution is required from this site.

3.11.4 The Education Service also confirm that this development site has not been factored into the programme to deliver the Scottish Government's expansion of 1140 hours for nursery pupils, and there are limited places available within the nursery. As the pupil numbers from this site are projected to be low, this may be managed by using other available providers, if space within their provision is available.

3.11.5 Overall, the development has no significant impact on local education infrastructure and therefore is in accordance with the Development Plan and Planning Obligations SG in this regard without securing a financial contribution towards that infrastructure

3.12 Public Art

3.12.1 The Planning Obligations draft Supplementary Guidance (2017) and Policy 4 of the Proposed FIFEplan sets out when public art is required and ties to the Making Fifes Places Supplementary Guidance (2018) which provides further details on how public art should be integrated into a site and when and where this should be provided.

3.12.2 As this is a Major application, public art would usually be required. However, given the site is for 100% affordable housing, it would be exempt from the provision of public art.

3.12.3 The development would therefore comply with the relevant policies and planning guidance.

3.13 Air Quality

3.13.1 The Air Quality and Land Use Planning (2004) document and PAN51 (Planning and Environmental Protection) are relevant in considering how air quality matters are considered through the planning system. Land-Use Planning and Development Control: Planning for Air Quality' (2015) requires the consideration of cumulative effects particularly on commuter routes.

3.13.2 Policy 10 of the Adopted FIFEplan states that development will only be supported if it does not have a significant detrimental impact on the amenity of existing or proposed land uses. Development proposals must demonstrate that they will not lead to a significant detrimental impact on amenity in relation to air quality, with particular emphasis on the impact of development on designated Air Quality Management Areas (AQMA) and contaminated and unstable land, with particular emphasis on the need to address potential impacts on the site and surrounding area.

3.13.3 An Air Quality Assessment has not been submitted with the application. However, Land and Air Quality Officers have recommended that this requirement can be conditioned in this instance and have recommended a condition requiring the submission of this information.

3.13.4 The development would cause no significant impact in terms of air quality and therefore is in accordance with National Policy and the Development Plan in this regard.

3.14 Low Carbon Fife

3.14.1 SPP (2014) introduces a presumption in favour of development that contributes to sustainable development. The planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Proposals that accord with up-to-date plans should be considered acceptable in principle and consideration should focus on the detailed matters arising. For proposals that do not accord with up-to-date development plans, the primacy of the plan is maintained and the SPP and the presumption in favour of development that contributes to sustainable development will be material considerations.

3.14.2 SPP states that policies and decisions should be guided by the following principles:

- giving due weight to net economic benefit;
- responding to economic issues, challenges and opportunities, as outlined in local economic strategies;
- supporting good design and the six qualities of successful places;
- making efficient use of existing capacities of land, buildings and infrastructure including supporting town centre and regeneration priorities;
- supporting delivery of accessible housing, business, retailing and leisure development; - supporting delivery of infrastructure, for example transport, education, energy, digital and water; - supporting climate change mitigation and adaptation including taking account of flood risk;
- improving health and well-being by offering opportunities for social interaction and physical activity, including sport and recreation;
- having regard to the principles for sustainable land use set out in the Land Use Strategy;
- protecting, enhancing and promoting access to cultural heritage, including the historic environment;
- protecting, enhancing and promoting access to natural heritage, including green infrastructure, landscape and the wider environment;
- reducing waste, facilitating its management and promoting resource recovery;
- and avoiding over-development, protecting the amenity of new and existing development and considering the implications of development for water, air and soil quality.

3.14.3 Scottish Planning Policy (paragraph 154) notes that the planning system should support the transition to a low carbon economy consistent with national objectives and targets. To achieve this, planning should seek to reduce emissions and energy use in new buildings and from new infrastructure by enabling development at appropriate locations that contributes to:

- Energy efficiency;
- Heat recovery;
- Efficient energy supply and storage;
- Electricity and heat from renewable sources; and
- Electricity and heat from non-renewable sources where greenhouse gas emissions can be significantly reduced.

3.14.4 Policy 11 (Low Carbon) of the Adopted Local Plan states that planning permission will only be granted for new development where it has been demonstrated that:

1. The proposal meets the current carbon dioxide emissions reduction target (as set out by Scottish Building Standards), and that low and zero carbon generating technologies will contribute at least 15% of these savings from 2016 and at least 20% from 2020. Statutory supplementary guidance will provide additional advice on compliance with this requirement;
2. Construction materials come from local or sustainable sources;
3. Water conservation measures are in place;
4. Sustainable urban drainage measures will ensure that there will be no increase in the rate of surface water run-off in peak conditions or detrimental impact on the ecological quality of the water environment; and
5. Facilities are provided for the separate collection of dry recyclable waste and food waste.

All development should encourage and facilitate the use of sustainable transport appropriate to the development, promoting in the following order of priority: walking, cycling, public transport, cars.

3.14.5 Fife Council's Low Carbon Fife Supplementary Guidance (January 2019) notes that small and local applications will be expected to provide information on the energy efficiency measures and energy generating technologies which will be incorporated into their proposal and major developments are required to provide an energy statement of intention which sets out how the proposal will meet the requirements of Policy 11. In addition, planning application applicants are expected to submit a completed sustainability development checklist (Appendix B of the guidance).

3.14.6 The Design and Access Statement states that dwellings are likely to achieve Full Silver Standard as defined in Section 7: Sustainability of the Technical Standards 2017. This would be met through the inclusion of photovoltaic panels to the roof of each property, providing an element of LZCGT (Low and Zero Carbon Generating Technologies) within the development. These are indicated on the elevations as submitted as part of this application. Furthermore, Kingdom Housing Association adopt an enhanced building fabric approach and 'Build Tight, Ventilate Right' methodology to their projects, with more stringent u-values and air tightness requirements than stated within the current Building Regulations. This is coupled with the use of mechanical ventilation systems to ensure internal environments and air quality is to an acceptable standard. Additionally, a minimum SAP rating of 85 B is sought for each property. The Statement sets out that the development is committed to working with local suppliers and the materials would be obtained from sustainable sources, utilising supply companies in Scotland. All timber would be sourced through proven sustainable sources. The site is not considered large enough to accommodate a District Heat Network and is too distant from an existing Network to benefit from it.

3.14.7 The proposed site layout indicates provision has been made within the curtilage of each property for the inclusion of bin storage areas that will allow for three 240 litre recycling bins (plastic, paper & food/garden waste) and one landfill bin as per current Fife Council policy, which aims to increase recycling rates. Water conservation measures would be incorporated internally, including in the toilets, showers and basins. SUDS has been incorporated into the site and the surface water run-off would be at worst equal to the current run-off from the site pre-development.

3.14.8 Overall, it is considered that the development complies with the Local Development Plan in this regard and meets the requirements of the Low Carbon Fife policy and Supplementary Guidance. Through this the development would also meet SPP in this regard.

CONSULTATIONS

Environmental Health (Public Protection) - EPES	No objections.
Transportation	No objections, subject to conditions.
Urban Design - EPES	No objections, subject to conditions.
The Coal Authority	No objections.
Scottish Water	No objections.
Scottish Environment Protection Agency	No objections.
NHS Fife	No response.
Development Plan Team (Central Area)	No objections.
Natural Heritage - EPES	No objections, subject to conditions.
Trees - EPES	No objections, subject to conditions.
Land And Air Quality - EPES	No objections, subject to conditions.
Education (Directorate)	No objections.
Housing And Neighbourhood Services	No objections.
Structural Services - Flooding, Shoreline And Harbours	No objections.
Transportation And Environmental Services - Operations Team	No response.
Parks Development And Countryside	No response.

REPRESENTATIONS

4 objections have been received from members of the public. The comments are outlined below:

- The proposals do not include provision for a play park

Addressed in paragraph 3.7.4 of the main report.

- Will Kingdom Housing Association pay a factor fee for the existing play park at Bowhill View/Jamphlars Road

Addressed in paragraph 3.7.4 of the main report.

- Road safety concerns

Addressed in paragraph 3.4.3 – 3.4.4 of the main report.

- Difficulty getting an appointment at the health centre, which will be exacerbated by more houses.

This is not an issue that can be addressed by the planning system. The NHS operate a list system which allocates a certain number of registered patients per GP. If a GP has too many patients registered, then funding is available for a new GP as part of that practice's business case to expand services where required to meet additional demand. The funding of healthcare is an issue for central government. GP practices are often run as individual businesses and it is for the practice to make a business case to expand or establish a new practice if they seek to do so. This remains a matter that is closely monitored and Council officers periodically liaise with those from NHS Fife during the Local Development Plan implementation or review process and will continue to consult NHS Fife in relation to large-scale or significant development proposals that could potentially impact on healthcare service provision. NHS Fife were consulted as part of a wider discussion with NHS Fife on development within Fife. NHS Fife were consulted specifically on this application and did not respond to a consultation request for their comments.

No planning contributions can be taken without specific mitigation being identified and costed. In line with Circular 3/2012 the developer can only pay what is directly attributed as their impact. This has not been specified for this application. Moving forward, the Planning Authority will be requesting that NHS Fife set out an overall strategy for expanding their estate to deal with any capacity constraints and outline the cost of this and how this should be attributed to developments. This would be positioned within any revision of the Planning Obligations Supplementary Guidance. Without this information and the policy support, no contribution can be taken for this development.

- The proposals will harm existing wildlife, including rabbits, birds and deer.

Addressed in paragraph 3.8.4 – 3.8.7 of the main report.

- The previous planning permission was for far fewer houses.

Addressed in paragraph 3.2.7 of the main report.

CONCLUSIONS

The proposal largely complies with the relevant policies within Scottish Planning Policy (SPP), the Adopted FIFEplan (2017) and Approved SESplan (2013). The proposal would provide affordable housing in an area where there is an established need, on a site allocated for housing development. Whilst the number of units would be higher than that indicated within the allocation, it is considered that, on balance, the proposals would provide an acceptable layout, design with attractive landscaping, sufficient parking with no road safety concerns, no drainage or flooding concerns, no residential amenity issues and improved links through the site to the core path and woodland to the south. There are no aspects of the proposals which would warrant refusal and the proposals would result in the development of a partially completed site.

RECOMMENDATION

It is accordingly recommended that the application be approved subject to the following conditions and reasons:

1. THE UNITS HEREBY APPROVED, shall be affordable housing as defined within Fife Council's Supplementary Planning Guidance on Affordable Housing (2018) and will be held as such in perpetuity.

Reason: In order to define the terms of the consent.

2. All works done on or adjacent to existing public roads shall be constructed in accordance with the current Fife Council Transportation Development Guidelines.

Reason: In the interest of road safety; to ensure the provision of an adequate design layout and construction..

3. All roads and associated works serving the proposed development as shown on drawing 5631(3)SP002 Rev Y shall be constructed in accordance with the current Fife Council Transportation Development Guidelines to a standard suitable for adoption.

Reason: In the interest of road safety; to ensure the provision of an adequate design layout and construction.

4. Prior to occupation of the first house, visibility splays 2.5 metres x 25 metres shall be provided and maintained clear of all obstructions exceeding 600mm in height above the adjoining road channel level, at the internal junction, in accordance with the current Fife Council Transportation Development Guidelines. The visibility splays shall be retained through the lifetime of the development.

Reason: In the interest of road safety; to ensure the provision of adequate visibility at the junctions of the vehicular access with the public road.

5. Prior to the occupation of each house within Blocks A, J, K, R, S, T & W the 2 allocated off-street car parking spaces per plot within the blocks as shown on drawing 5631(3)SP002 Rev Y shall be provided. The parking spaces shall be retained through the lifetime of the development.

Reason: In the interest of road safety; to ensure the provision of adequate off-street parking facilities.

6. Prior to occupation of any house within Blocks M (ground floor plots) & P the 1 allocated off-street car parking space per plot within the blocks as shown on drawing 5631(3)SP002 Rev Y shall be provided. The parking spaces shall be retained through the lifetime of the development.

Reason: In the interest of road safety; to ensure the provision of adequate off-street parking facilities.

7. Prior to the occupation of any house within Blocks B, C, D, E, F, G, H, L, M, N, Q, U, V & X the communal off-street car parking associated with the blocks as shown on drawing 5631(3)SP002 Rev Y shall be provided. The parking spaces shall be retained through the lifetime of the development.

Reason: In the interest of road safety; to ensure the provision of adequate off-street parking facilities.

8. The construction and delineation of the parking, manoeuvring, servicing, turning, private footpath links and access driveway areas shall be constructed in accordance with the current Fife Council Transportation Development Guidelines to the satisfaction of the planning authority. The two rural style footpath links shall be 2 metres wide.

Reason: In the interest of road safety; to ensure the provision of an adequate design layout and construction.

9. BEFORE ANY WORKS START ON SITE, full details of adequate wheel cleaning facilities shall be provided and maintained throughout the construction works so that no mud, debris or other deleterious material is carried by vehicles on to the public roads shall be submitted to and approved in writing by the Planning Authority. The approved facilities shall be provided, retained and maintained for the duration of construction operations on the site.

Reason: In the interest of road safety; to eliminate the deposit of deleterious material on public roads

10. NO DEVELOPMENT SHALL COMMENCE ON SITE until the risk of actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study) has been submitted by the developer to and approved in writing by the local planning authority. Where further investigation is recommended in the Preliminary Risk Assessment, no development shall commence until a suitable Intrusive Investigation (Phase II Investigation Report) has been submitted by the developer to and approved in writing by the local planning authority. Where remedial action is recommended in the Phase II Intrusive Investigation Report, no development shall commence until a suitable Remedial Action Statement has been submitted by the developer to and approved in writing by the local planning authority. The Remedial Action Statement shall include a timetable for the implementation and completion of the approved remedial measures.

All land contamination reports shall be prepared in accordance with CLR11, PAN 33 and the Council's Advice for Developing Brownfield Sites in Fife documents or any subsequent revisions of those documents. Additional information can be found at www.fifedirect.org.uk/contaminatedland.

Reason: To ensure potential risk arising from previous land uses has been investigated and any requirement for remedial actions is suitably addressed.

11. NO BUILDING SHALL BE OCCUPIED UNTIL remedial action at the site has been completed in accordance with the Remedial Action Statement approved pursuant to condition. In the event that remedial action is unable to proceed in accordance with the approved Remedial Action Statement — or contamination not previously considered in either the Preliminary Risk Assessment or the Intrusive Investigation Report is identified or encountered on site — all work on site (save for site investigation work) shall cease immediately and the local planning authority shall be notified in writing within 2 working days. Unless otherwise agreed in writing with the local planning authority, development works shall not recommence until proposed revisions to the Remedial Action Statement have been submitted by the developer to and approved in writing by the local planning authority. Remedial action at the site shall thereafter be completed in accordance with the approved revised Remedial Action Statement. Following completion of any measures identified in the approved Remedial Action Statement — or any approved revised Remedial Action Statement — a Verification Report shall be submitted by the developer to the local planning authority.

Unless otherwise agreed in writing with the local planning authority, no part of the site shall be brought into use until such time as the remedial measures for the whole site have been completed in accordance with the approved Remedial Action Statement — or the approved

revised Remedial Action Statement — and a Verification Report in respect of those remedial measures has been submitted to and approved in writing by the local planning authority.

Reason: To provide satisfactory verification that remedial action has been completed to the planning authority's satisfaction.

12. IN THE EVENT THAT CONTAMINATION NOT IDENTIFIED BY THE DEVELOPER prior to the grant of this planning permission is encountered during the development, all development works on site (save for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 working days.

Unless otherwise agreed in writing with the local planning authority, development work on site shall not recommence until either (a) a Remedial Action Statement has been submitted by the developer to and approved in writing by the local planning authority or (b) the local planning authority has confirmed in writing that remedial measures are not required. The Remedial Action Statement shall include a timetable for the implementation and completion of the approved remedial measures. Thereafter remedial action at the site shall be completed in accordance with the approved Remedial Action Statement. Following completion of any measures identified in the approved Remedial Action Statement, a Verification Report shall be submitted to the local planning authority. Unless otherwise agreed in writing with the local planning authority, no part of the site shall be brought into use until such time as the remedial measures for the whole site have been completed in accordance with the approved Remedial Action Statement and a Verification Report in respect of those remedial measures has been submitted by the developer to and approved in writing by the local planning authority.

Reason: To ensure all contamination within the site is dealt with.

13. BEFORE ANY WORKS START ON SITE, evidence shall be provided to demonstrate that the National Air Quality Strategy objectives would not be exceeded during construction or normal site use following completion. The methodology shall be agreed with the Council as local planning authority and it shall include an appropriate air quality impact assessment for the proposed development. Where the assessment predicts that objectives will be exceeded, the applicant shall provide a scheme for mitigating the impacts for submission to and approval by the Council and thereafter shall implement the scheme in accordance with approved details before any work commences on site. Additional information can be found at www.fife.gov.uk/airquality.

Reason: In the interests of the protection of air quality.

14. BEFORE ANY WORKS START ON SITE, a scheme promoting biodiversity and wildlife habitat shall be submitted for the prior written approved of Fife council as Planning Authority. Thereafter the planting shall be carried out in accordance with the approved scheme.

Reason: In the interests of biodiversity and to ensure a satisfactory standard of local environmental quality.

15. BEFORE ANY WORKS (INCLUDING DEMOLITION) START ON SITE, the developer shall submit details and specifications of the protective measures necessary to safeguard the trees that are to be retained on the site during demolition and development operations. This Planning Authority shall be formally notified in writing of the completion of such measures and no work on site shall commence until the Planning Authority has confirmed in writing that the measures as

implemented are acceptable. The protective measures shall be retained in a sound and upright condition throughout the demolition/development operations and no building materials, soil or machinery shall be stored in or adjacent to the protected area, including the operation of machinery.

Reason: In order to ensure that no damage is caused to the existing trees during demolition and development operations.

16. No building demolition or vegetation clearance shall be carried out during the bird breeding season which is March to August inclusive unless otherwise agreed in writing with Fife Council as Planning Authority.

Reason: In the interests of species protection.

17. BEFORE ANY WORKS (INCLUDING DEMOLITION) START ON SITE, an amended scheme of landscaping indicating the siting, numbers, species and heights (at time of planting) of all trees, shrubs and hedges to be planted, and the extent and profile of any areas of earthmounding, shall be submitted for approval in writing by this Planning Authority. FOR THE AVOIDANCE OF DOUBT the landscaping plan shall include long/wildflower grassland planting with some shrubs that would benefit pollinators and other wildlife, with mowed paths for access if required, to the exclusion area underneath the overhead powerlines and native hedge planting to the boundaries to the south and the north, south and east site/garden boundaries and around the attenuation basin shall be native species-rich hedgerows to provide a natural edge to the woodland. The scheme as approved shall be implemented within the first planting season following the completion or occupation of the development, whichever is the sooner.

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

18. PRIOR TO THE OCCUPATION OF ANY UNIT, details of the future management and aftercare of the proposed landscaping and planting shall be submitted for approval in writing by this Planning Authority. Thereafter the management and aftercare of the landscaping and planting shall be carried out in accordance with these approved details.

Reason: In the interests of visual amenity; to ensure that adequate measures are put in place to protect the landscaping and planting in the long term.

19. All planting carried out on site shall be maintained by the developer in accordance with good horticultural practice for a period of at least 5 years from the date of planting. Within that period any plants which are dead, damaged, missing, diseased or fail to establish shall be replaced annually.

Reason: In the interests of visual amenity; to ensure that adequate measures are put in place to protect the landscaping and planting in the long term.

20. The requirements and recommendations of the Preliminary Ecological Appraisal report dated October 2019 shall be implemented in full and for the lifetime of the development. This includes the requirement for re-survey work, including the requirement to re-survey for badgers no more than one month prior to works commencing on site.

Reason: In the interests of biodiversity and habitat protection; to ensure the development does not have an unacceptable impact on natural heritage assets.

21. The site boundary treatments shall be fully implemented prior to the occupation of the first unit. The development shall be implemented in accordance with the details approved through this condition.

Reason: In the interests of visual amenity and enhancing the streetscape in accordance with Making Fife's Places Supplementary Guidance.

22. BEFORE ANY WORKS START ON SITE, details of the specification and colour of the proposed external finishes shall be submitted for approval in writing by the Planning Authority.

Reason: In the interests of visual amenity; to ensure that the external finishing materials are appropriate to the character of the area.

23. PRIOR TO THE COMMENCEMENT OF WORKS, the applicant shall submit a Scheme of Works designed to mitigate the effects on sensitive premises/areas (i.e. neighbouring properties and road) of dust, noise and vibration from construction of the proposed development. The use of British Standard BS 5228: Part 1: 2009 "Noise and Vibration Control on Construction and Open Sites" and BRE Publication BR456 - February 2003 "Control of Dust from Construction and Demolition Activities" should be consulted. Once approved, the development shall be constructed in accordance with the approved Scheme of Works unless otherwise agreed in writing.

Reason: In the interests of residential amenity.

24. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order, 1992 (or any Order revoking and re-enacting that Order) no development within Class 1A, 1B, 1C and Class 3A and 3B shall be undertaken within the curtilages of the dwellinghouses at Plots 36 – 41, 43 – 45, 56 – 58, 28 – 31, 1 – 3, 8 – 9, 22 – 25 and 14 – 18.

Reason: In the opinion of this Planning Authority the additional degree of planning control is necessary due to the small garden areas associated with some of the dwellinghouses.

25. The SUDs and drainage infrastructure shall be constructed contemporaneously with the construction of the residential units and infrastructure on site and shall be complete and fully operational before the completion of the last unit on site.

Reason: To ensure the site has adequate drainage infrastructure.

26. The footpath access from the parking court within the site, to the east of Plot 28 and west of Plot 27 to the woodland to the south, and the footpath access from the parking court within the site to the west of plot 51, adjacent to the SUDS to the Core Path (449/01), shall be delivered prior to the completion of the last unit on site.

Reason: In the interests of permeability.

27. Unless otherwise agreed in writing with Fife Council as planning authority, access to the Core Path shall be retained during the construction period.

Reason: To ensure the Core Path is free of obstruction.

STATUTORY POLICIES, GUIDANCE & BACKGROUND PAPERS

In addition to the application the following documents, guidance notes and policy documents form the background papers to this report.

National Policy, Regulations and Guidance:

SPP - Scottish Planning Policy (2014)

Designing Streets (2010)

Creating Places (2013)

Circular 3/2012 planning obligations and good neighbour agreements (2012)

PAN 65 Planning and Open Space (2008)

PAN 33 Development of Contaminated Land (2000)

PAN 1/2011 Planning and Noise (2011)

PAN 68 Design Statements

PAN 77 Designing Safer Places

PAN 78 Inclusive Design (2006)

PAN 51 (Planning and Environmental Protection)

Development Plan, Supplementary Guidance and other local material considerations:

SESplan Strategic Development Plan (2013)

Proposed SESplan Strategic Development Plan (2017)

Adopted FIFEplan (Fife Local Development Plan) (2017)

Fife Councils Transportation Development Guidelines as an appendix to Making Fife's Places Supplementary Guidance (2018)

Fife Council's Planning Obligations Framework Guidance (2015)

Fife Council's Draft Planning Obligations Framework Supplementary Guidance (2017)

Making Fife's Places Supplementary Guidance (2018)

Fife Council's Supplementary Guidance on Affordable Housing (2018)

Fife Council's Planning Customer Guidelines on Daylight and Sunlight (2009)

Fife Council's Low Carbon Fife Supplementary Guidance (January 2019)

Plan for Fife 2017-2027 - Local Outcome Improvement Plan

Non Statutory National Guidance:

The Royal Environmental Health Institute of Scotland (REIS) Briefing 17 - Noise Guidance for New Developments

Land-Use Planning and Development Control: Planning for Air Quality (2015)

Landscape Institute and Institute for Environmental Management and Assessment document Guidelines for Landscape and Visual Impact Assessment (2nd Edition, 2009)

Air Quality and Land Use Planning (2004)

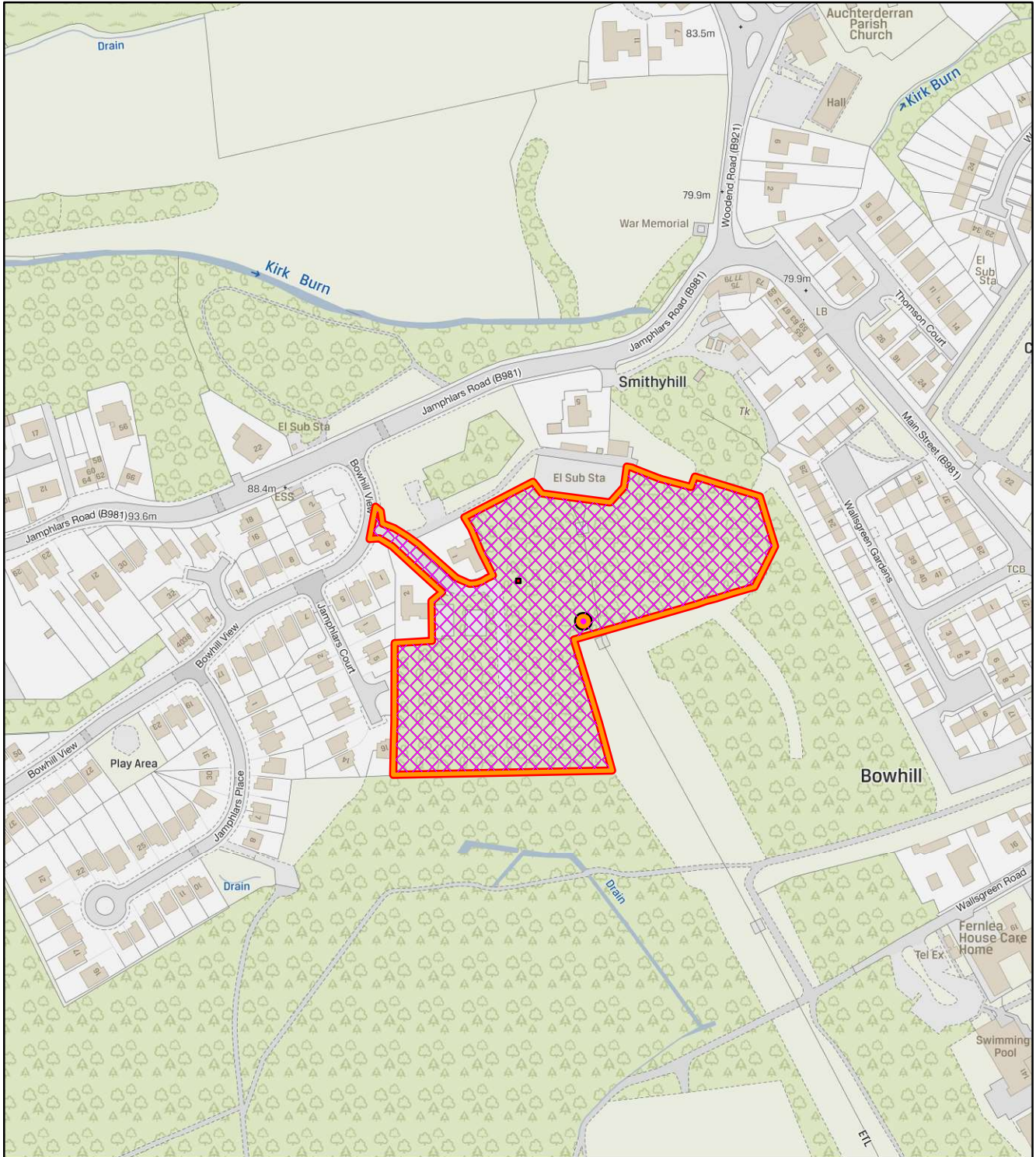
World Health Organisation (WHO) Guidelines for Community Noise (2015)

Report prepared by Natasha Cockburn, Case Officer and Chartered Planner

Report reviewed and agreed by Mary Stewart, Service Manager & Committee Lead

Date Printed 29/10/2020

Land To The East Of Jamphlars Court Bowhill Cardenden



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Legend

 Application Boundary

0 15 30 60 90
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Fife
COUNCIL
Economy, Planning & Employability Services

ITEM NO: 7

APPLICATION FOR FULL PLANNING PERMISSION REF: 20/00373/FULL

SITE ADDRESS: THE YARD PUBLIC HOUSE ADMIRALTY ROAD ROSYTH

PROPOSAL : DEMOLITION OF EXISTING BUILDINGS, ERECTION OF A RETAIL UNIT (CLASS 1) WITH ASSOCIATED ACCESS IMPROVEMENTS, SERVICE AREA, PARKING, TAXI PARKING AND ASSOCIATED WORKS (SECTION 42 TO REMOVE CONDITION 3 OF 17/01554/FULL TO PROVIDE A REPLACEMENT FOOTBALL PITCH)

**APPLICANT: MACTAGGART AND MICKEL LTD
1 ATLANTIC QUAY 1 ROBERTSON STREET GLASGOW**

**WARD NO: W5R05
Rosyth**

CASE OFFICER: Katherine Pollock

DATE REGISTERED: 17/02/2020

REASONS FOR REFERRAL TO COMMITTEE

This application requires to be considered by the Committee because:

The proposal involves deletion of a planning condition which was required in order to ensure that the principle of an associated development was acceptable. The application for the associated development was previously considered and accepted by committee.

SUMMARY RECOMMENDATION

The application is recommended for:

Refusal

ASSESSMENT AGAINST THE DEVELOPMENT PLAN AND OTHER MATERIAL CONSIDERATIONS

Under Section 25 of the Town and Country Planning (Scotland) Act 1997, the determination of the application is to be made in accordance with the Development Plan unless material considerations indicate otherwise.

1.1 Site Description

1.1.1 The application site extends to 1.07 hectares, located on Admiralty Road (A985), Rosyth, approximately 20 metres east of the Castle Road roundabout. The site comprises the land on which the former 'The Yard' pub building was situated, an informal parking area to the rear plus part of the former Rosyth Football Club grounds and football pitch. It also extends to the north to include a section of Admiralty Road and the junction with Backmarch Road. The application site is bound to the north by a parade of retail units and associated car park; by a house which is currently used as a taxi office, a residential area and a petrol filling station to the east; an area of car parking, residential properties and a footpath to the west; and the remainder of the existing football pitch to the south. Existing boundary treatments include timber and Heras fencing on the west and east boundaries and a low lying brick wall along the front of the former pub site.

1.1.2 Vehicular access is currently taken direct from Admiralty Road on the north side of the site with a footpath running along the site frontage. There is a pedestrian crossing to the west of the site on Admiralty Road.

1.2 Planning History

1.2.1 On 16th April 2018 (following a minded to grant decision by the West Planning Committee on 11th April 2018) planning permission was granted for the demolition of existing buildings, erection of a retail unit (Class 1) with associated access improvements, service area, parking, taxi parking and associated works (ref: 17/01554/FULL) on land at the former Yard Public House site, Admiralty Road, Rosyth. Planning permission was granted subject to 22 conditions. Condition 3 attached to the consent requires the applicant to demonstrate that a replacement football pitch will be delivered before work can commence on the retail store. A replacement football pitch was proposed by the applicant in order to compensate for the loss of the existing football pitch as a result of the retail development. The applicant submitted a planning application for erection of a new football pitch with changing rooms, fencing, parking and associated works (ref: 17/01553/FULL) on land at Fleet Grounds, adjacent to Peasehill Gait, Rosyth. This application was approved by the West Planning Committee on 11th April 2018 at the same meeting as application 17/01554/FULL.

1.3 Proposal

1.3.1 Under this application the applicant is seeking to delete Condition 3 attached to the planning permission for the retail store (ref: 17/01554/FULL). Condition 3 reads as follows:

“3. No work shall commence on the development of the retail store which will preclude, prevent or limit the use of the existing football pitch until a signed, binding contract has been submitted to the Council that demonstrates the replacement pitch will be constructed. The contract shall clearly set out the expected timescales for the new pitch to be completed. A phasing plan shall also be submitted that sets out the timing of the construction of the hereby approved retail store and delivery of the replacement football pitch (17/01553/FULL). For the avoidance of doubt, the phasing plan shall include, but not limited to, when the existing pitch will cease to be available for football matches, the anticipated opening date for the store and the anticipated date the

replacement pitch will be available for football matches. Works shall only commence on the erection of the retail store (for the avoidance of doubt, this excludes works which do not inhibit the use of the existing football pitch) once the Council have confirmed in writing that the phasing plan and evidence that the replacement football pitch will be delivered are acceptable.

Reason: To ensure that the alternative outdoor sports facility is provided.”

1.3.2 Instead of providing a replacement football pitch as alternative provision to that lost as a result of the approved retail store, the applicant is proposing to provide a monetary contribution to Fife Council which could be utilised to provide a replacement football pitch on the Fleet Grounds or another suitable location. Alternatively, the contribution could be put towards the upgrading of existing football pitch facilities elsewhere. The applicant contends that due to the uncertainty over the future of the land at Fleet Grounds, which was one of two preferred sites for the relocation of Inverkeithing High School, that it is not possible for them to deliver the replacement football pitch as approved under planning permission 17/01553/FULL.

2.0 ASSESSMENT

2.1 This application is made under Section 42 of the Town and Country Planning (Scotland) Act 1997. As such, only the impacts of changing or removing the condition specified in the application can be assessed. Therefore, the key issues relevant to the assessment of this application are as follows:

- Section 42 of the Town and Country Planning Act (Scotland) 1997 as amended
- Replacement Football Pitch Provision
- Implementation

2.2 Section 42 of the Town and Country Planning Act (Scotland) 1997 as amended

2.2.1 This application has been submitted under Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended). Section 42 of this Act states that: 'On such an application, the Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted, and: 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 however if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous planning permission was granted, they shall refuse the application.'

2.2.2 These types of applications therefore do not revisit the principle of development on the site but only consider the appropriateness of the conditions attached to the previous consent. In assessing whether any condition is still relevant there would be the requirement to consider certain aspects of the development. In this instance the applicant has applied to delete Condition 3 however, should the application be approved the nature of the legislation would require all conditions to be revisited as they may be linked or connected to this specific condition or may no longer be necessary.

2.2.3 The main matters for consideration are whether the proposed deletion of Condition 3 and payment of a monetary contribution to Fife Council would undermine the reason for the condition or the Development Plan position and if the application does undermine either, whether there are material considerations which would outweigh these considerations.

2.3 Replacement Football Pitch Provision

2.3.1 Paragraph 226 of Scottish Planning Policy (SPP) states that outdoor sports facilities should be safeguarded from development except in certain circumstances. These circumstances are reflected in FIFEplan Policy 3: Infrastructure and Services. FIFEplan Policy 3 protects against the loss of valuable infrastructure including the loss of open space. In this case, the open space is an outdoor sports facility in the form of a grass football pitch. Policy 3 states that the loss of existing outdoor sports facilities will not be supported unless:

- *the proposed development is ancillary to the principal use of the site as an outdoor sports facility; or*
- *the proposed development involves only a minor part of the outdoor sports facility and would not affect its use and potential for sport and training; or*
- *equivalent or better alternative provision will be provided in a location that is convenient for users, or by the upgrading of an existing outdoor sports facility to provide a facility of better quality on the same site or at another location that is convenient for users and maintains or improves the overall playing capacity in the area; or*
- *it has been demonstrated that there is clear excess of provision to meet current and anticipated demand in the area and that the site would be developed without detriment to the overall quality of provision.*

2.3.2 The Policy 3 criterion which is relevant to the determination of this application is set out in the third bullet point. Deletion of Condition 3 alone would not be acceptable as it would mean that there would no longer be any enforceable mechanism in place to ensure that the required replacement football pitch would be delivered in advance of works commencing on the retail store. The principle of the retail store was accepted by committee on the basis that a replacement football pitch was to be delivered by the applicant. Should no replacement facility be provided, then the principle of the retail development on the land at Admiralty Road would not be acceptable in that the development as a whole would be contrary to the provisions of Policy 3 of the development plan.

2.3.3 The wording of bullet point 3 does allow for a financial contribution to be taken and utilised for equivalent or better football pitch provision to be delivered at another location within Rosyth or for the upgrading of an existing football pitch facility and this has been offered by the applicant. The principle of a contribution in order to satisfy the requirements of Policy 3 is considered acceptable. This view is shared by SportScotland who confirmed that in principle they consider a developer contribution to be acceptable in this instance however, this is subject to confirmation of and justification for the amount, a suggested outline of what that could cover, and confirmation of proposed new management structure for the facility. They advised that the amount should be commensurate with what would have been delivered as part of the replacement pitch and associated facilities as approved under application 17/01553/FULL.

2.3.4 The issue which must be considered here is whether the contribution being proposed by the applicant is sufficient to deliver the replacement football pitch and associated facilities as approved under application 17/01553/FULL. The proposal as approved under application 17/01553/FULL included a grass football pitch (extending to 100 metres by 60 metres); drainage; two metre high boundary fence with gates; changing facilities (in the form of second hand portacabins which the applicant intended to supply); 1.2 metre high pitch rail; a car park comprising 32 spaces; and two paved areas measuring 20 metres by 1 metre. The applicant submitted a full breakdown of the costs they considered would be incurred in order to deliver the

replacement football pitch from a specialist pitch contractor plus an amount they considered to be appropriate in order to provide the associated facilities which were specified under 17/01553/FULL.

2.3.5 Fife Council Communities Team were consulted on the application and in conjunction with Fife Council Property Services prepared a feasibility study to understand the costs of delivering a replacement football pitch on the Fleet Grounds site. The difference in the costs put forward by the applicant and Fife Council Communities and Property Services is substantial, the resulting cost put forward by Fife Council Communities and Property Services is the region of £350,000 greater than the sum put forward by the applicant. The applicant reviewed the costings put forward by Fife Council Communities and Property Services and confirmed that they considered these to be in excess of what is required in order to deliver the replacement football pitch and associated facilities. On the basis of the significant difference in the costings the proposed deletion of Condition 3 and payment of a contribution to the amount proposed by the applicant would result in a situation whereby, there is insufficient funds available for the required replacement facility to be delivered by Fife Council. If a replacement facility cannot be delivered then the principle of the retail development is not acceptable and therefore, it is recommended that committee refuse this application. SportsScotland confirmed in their final consultation response dated 12th November 2020 that in their opinion, the figure put forward by the applicant may need to be revised upwards subject to a detailed specification. On the basis of the information submitted to date, this does not fully address SportsScotland's concerns regarding suitable delivery of a replacement or upgraded facility in accordance with SPP and therefore, they object to the proposal.

2.3.6 With regard to the change in circumstances at the Fleet Grounds since the granting of planning permission for the retail store and the replacement football pitch, in that the availability of land at the Fleet Grounds is currently in question due to this now being confirmed as the preferred site for relocation of Inverkeithing High School, this is a material consideration which could impact on the deliverability of the replacement pitch. While Education Services have committed to working with all stakeholders at Fleet Grounds there does remain an element of uncertainty over the future of the land at Fleet Grounds until plans for the new high school are developed further. However, this uncertainty would be the same regardless of whether Fife Council Communities or the applicant were to deliver the replacement pitch. While this is a relevant consideration at this moment in time, it is not considered to be of sufficient weight in order to outweigh the fact that the contribution proposed by applicant would not be sufficient for Fife Council to deliver the replacement football pitch.

2.4 Implementation

2.4.1 It is important to consider whether the six tests of a planning condition can still be met as set out within planning Circular 4/2008: The Use of Conditions in Planning Permission. The six tests are need, relevance to planning, relevance to the development, enforceability, precision and reasonableness in all other regards.

2.4.2 As mentioned in Section 2.3, the deletion of Condition 3 alone would not be acceptable as it would mean that there would no longer be any enforceable mechanism in place to ensure that the required replacement football pitch would be delivered in advance of works commencing on the retail store. This would not be reasonable.

2.4.3 Circular 3/2012: Planning Obligations and Good Neighbour Agreements sets out the policy tests which should be applied in considering whether a planning obligation should be sought.

These include necessity; serve a planning purpose; relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area; fairly and reasonably relate in scale and kind to the proposed development; and be reasonable in all other respects.

2.4.4 The proposed contribution towards delivery of a replacement football pitch or upgrading of an existing facility is necessary in order to demonstrate compliance with SPP and FIFEplan Policy 3 on the loss of outdoor sports facilities and therefore, to ensure that the principle of the approved retail development is acceptable. The contribution would serve a planning purpose as it would in effect, provide mitigation against the loss of an existing outdoor sports facility as required by SPP and FIFEplan Policy 3. The contribution would be required due to the loss the football pitch and associated facilities as a direct consequence of the approved retail development and therefore, it would clearly relate to the retail development. The contribution amount put forward by the applicant would not fairly and reasonably relate in scale and kind. The amount proposed by the applicant is below that required in order to deliver the replacement facilities. It would be unreasonable to expect a Council to accept a sum which would not be sufficient in order to deliver the replacement football pitch and associated facilities. The amount put forward by the applicant would therefore, not be sufficient to mitigate against the loss in this instance. It is therefore, not reasonable.

CONSULTATIONS

Sportscotland

Initially indicated that they have no objection in principle to a contribution being paid subject to confirmation of, and justification for the amount, a suggested outline of what that could cover, and confirmation of proposed new management structure for the facility. In their final consultation response they confirmed that the submitted information does not fully meet their concerns regarding suitable delivery of a replacement or upgraded facility in accordance with SPP and therefore, Sportscotland objects to the proposal.

Parks Development And Countryside
Communities Team

No response.

Advised that the contribution proposed by the applicant would not be sufficient for Fife Council to deliver the replacement football pitch to the same specification as the replacement provision as approved under application 17/01553/FULL.

REPRESENTATIONS

No representations were received to this application prior to the deadline for public comment. Three representations objecting to the proposed development were received from representatives of the Rosyth Football Club some seven months beyond the deadline. These objections raised concerns in relation to the perception that there no longer a need for the applicant to build a replacement football pitch and raised matters in relation to the football club being excluded from negotiations and receiving no support in relation to the fees they have to pay for their temporary home at the existing football pitch at Fleet Grounds.

Response: The requirement for a replacement football pitch is still a policy requirement as set out within this report. The other matters raised within the representations relate to estates matters and negotiations with third parties. They are not material planning considerations and therefore, cannot be taken into account in the assessment of this application.

CONCLUSIONS

Deletion of Condition 3 alone would not be acceptable as it would mean that there would no longer be any enforceable mechanism in place to ensure that the required replacement football pitch and associated facilities would be delivered in advance of works commencing on the retail store and therefore, the principle of the retail development on the Admiralty Road site would not be acceptable. The proposed contribution amount put forward by the applicant would be insufficient in order to mitigate against the loss of the outdoor sports facility. The proposal is not in compliance with Scottish Planning Policy and the Development Plan. It does not meet the relevant tests as set out in Circular 4/2008: The Use of Conditions in Planning Permission and Circular 3/2012: Planning Obligations and Good Neighbour Agreements.

RECOMMENDATION

The application should be refused for the following reason(s)

1. In the interests of protecting outdoor sport facilities; the proposal would not provide an equivalent or better alternative provision or allow for the upgrading of an existing outdoor sports facility to provide a facility of better quality and would not maintain or improve the overall playing capacity in the area. The proposal is therefore contrary to Scottish Planning Policy and Policies 1 and 3 of the Adopted FIFEplan 2017.

STATUTORY POLICIES, GUIDANCE & BACKGROUND PAPERS

In addition to the application the following documents, guidance notes and policy documents form the background papers to this report.

Scottish Planning Policy (June, 2014)

Adopted FIFEplan Local Development Plan (September, 2017)

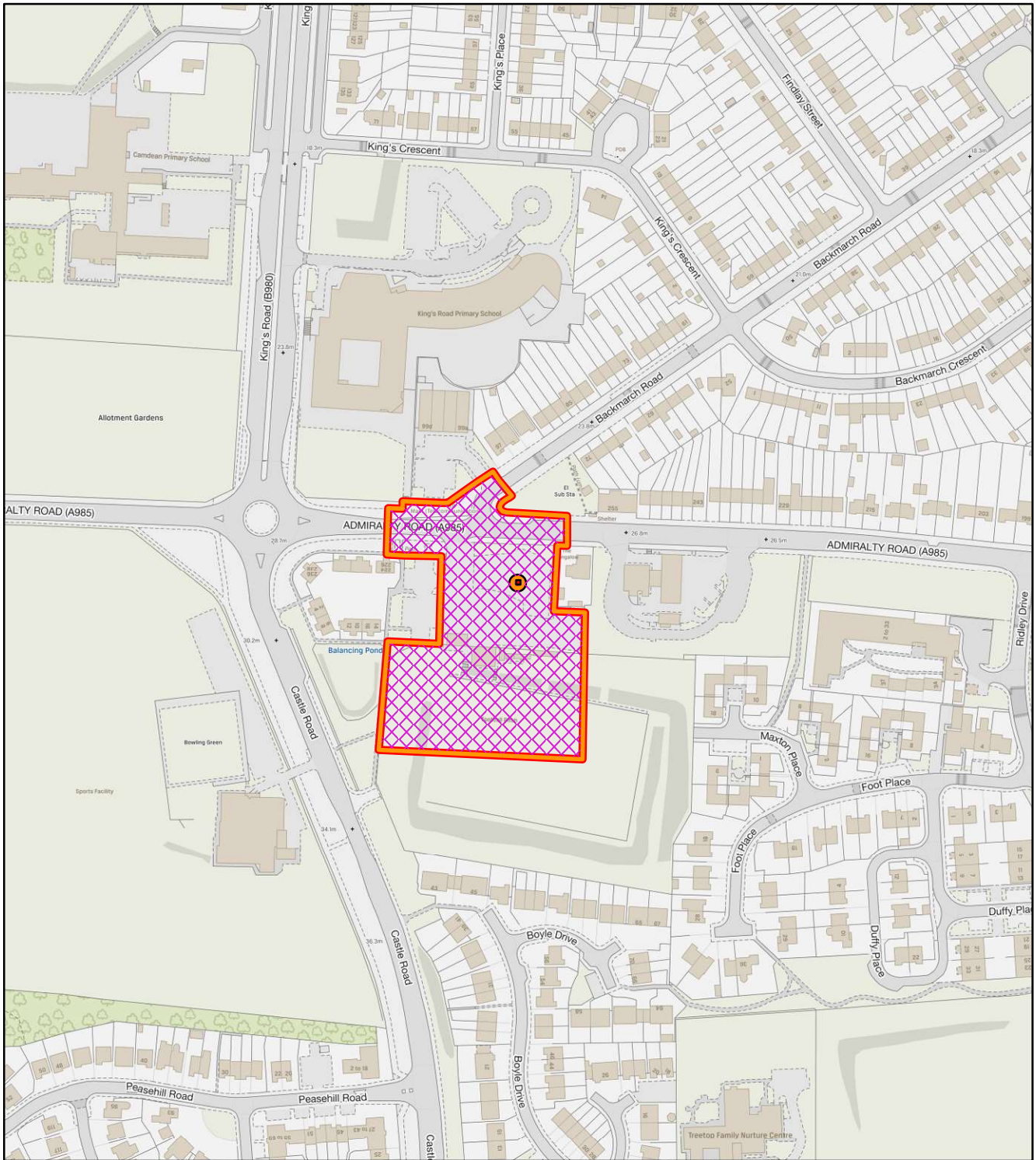
Circular 4/1998: The Use of Conditions in Planning Permissions

Circular 3/2012: Planning Obligations and Good Neighbour Agreements

Report prepared by Katherine Pollock, Chartered Planner and Case Officer

Report reviewed and agreed by Mary Stewart, Service Manager & Committee Lead

The Yard Public House Admiralty Road Rosyth Dunfermline



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Legend	
 Application Boundary	
	
 Economy, Planning & Employability Services	

ITEM NO: 8

APPLICATION FOR FULL PLANNING PERMISSION REF: 20/02292/FULL

**SITE ADDRESS: LAND TO WEST OF MACDONALD SQUARE MAIN STREET
HALBEATH**

**PROPOSAL : ERECTION OF THREE RETAIL UNITS (CLASS 1), TWO
CAFÉ/RESTAURANT UNITS (CLASS 3) WITH ASSOCIATED
DRIVE THRU ELEMENT (SUI GENERIS) AND ONE
CAFE/RESTAURANT UNIT (CLASS 3) WITH ASSOCIATED
PARKING AND EXTERNAL WORKS (SECTION 42
APPLICATION TO VARY CONDITION 3 OF 20/00545/FULL TO
ALLOW OPENING FROM 5AM FOR CLASS 3 UNIT SHOWN AS
COSTA ON APPROVED DRAWINGS)**

**APPLICANT: MR GARY STENHOUSE
5 GARVOCK HILL DUNFERMLINE UK**

**WARD NO: W5R03
Dunfermline Central**

CASE OFFICER: Scott Simpson

**DATE 09/10/2020
REGISTERED:**

REASONS FOR REFERRAL TO COMMITTEE

This application requires to be considered by the Committee because:

Seven objections have been received and the officer's recommendation is contrary to these. It is also considered expedient for Committee to determine this application as it relates to a condition which was varied at the Central and West Planning Committee Meeting on 29th September.

SUMMARY RECOMMENDATION

The application is recommended for:

ASSESSMENT AGAINST THE DEVELOPMENT PLAN AND OTHER MATERIAL CONSIDERATIONS
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Under Section 25 of the Town and Country Planning (Scotland) Act 1997, the determination of the application is to be made in accordance with the Development Plan unless material considerations indicate otherwise.

1.1 The application relates to an area of land measuring approximately 6461.5 square metres which is located on Main Street and within the Dunfermline Settlement Boundary as designated within the Adopted FIFEplan (2017). A car paint spraying centre and car wash presently occupy the south side of the site, with storage containers to the north of the site and a number of mature trees being located along the western boundary with the rest of the site being mostly hardstanding. The site is surrounded by residential properties to the south and east, the A907 distributor road to the north and west and a dilapidated two-storey hotel to the east. The nearest residential property (9 MacDonald Square) is located directly to the east of the application site with other residential properties (9 to 57 Main Street) located between approximately 23 and 33 metres to the south of the application site. Access into the application site is taken from Main Street to the south. The site does not have any designated land use and is located approximately 100 metres to the east of the Halbeath Retail Park Commercial Centre as designated within the Adopted FIFEplan (2017).

1.2 The relevant recent planning history for the site is as follows:

- Full planning permission (08/03343/WFULL) for change of use from service station to car wash facility was approved with conditions on 3rd March 2009.
- Full planning permission (12/00851/FULL) for erection of 5 retail units (Class 1) and parking area (demolition of former hotel) was approved to the south-east of the application site on 11th May 2012 under delegated powers. Condition 9 of this consent required that an acoustic report be submitted for approval in writing by Fife Council as Planning Authority.
- Full planning permission (15/01551/FULL) for erection of 5 retail units (Class 1) and parking area (demolition of former hotel) (renewal of application reference 12/00851/FULL) was approved on 24th September 2015 by the West Planning Committee. No condition relating to operating hours was attached to this consent, however, condition 8 required that an acoustic report specifying the measures to be taken to protect the occupants of nearby noise sensitive premises from noise from the proposed development be submitted for approval in writing by Fife Council as Planning Authority.
- Full planning permission (20/00545/FULL) for erection of three retail units (Class 1), two café/restaurant units (Class 3) with associated drive-thru element (Sui Generis) and one cafe/restaurant unit (Class 3) with associated parking and external works was approved with conditions at the Central and West Planning Committee on 29th September 2020. The Committee decided to vary condition 3 to restrict the operating hours of all the units on site to daytime operating hours only.

1.3 The proposal seeks to vary condition 3 of planning permission reference 20/00545/FULL (see section 1.2 above) to allow opening, including deliveries, from 5am for the Class 3 unit shown as Costa on the approved drawings.

Condition 3 required that:

“The hours of operation of all units, including deliveries to these units, hereby approved, shall be restricted to between 7 am and 11 pm Monday to Sunday unless otherwise agreed in writing with Fife Council as Planning Authority”.

The reason for the condition was:

“In order to retain proper control over the use of the development and to safeguard the residential amenity of the surrounding area”.

The agent proposes that the wording of condition 3 should be as follows:

“The hours of operation of Units 1 to 4 and the adjacent Class 3 unit (2746 sqft) as shown on the approved site plan, including deliveries to these units, hereby approved, shall be restricted to between 7 am and 11 pm Monday to Sunday unless otherwise agreed in writing with Fife Council as Planning Authority. The hours of operation of the unit shown as Costa on the approved site plan, including deliveries to this unit, shall be restricted to between 5 am and 11 pm Monday to Sunday unless otherwise agreed in writing with Fife Council as Planning Authority”.

2.0 Planning Assessment

2.1 The key issues relevant to an assessment of this application are the following:

- Section 42 of the Town and Country Planning Act (Scotland) 1997 as amended
- Residential amenity
- Tests of a Condition

2.2 Section 42 of the Town and Country Planning Act (Scotland) 1997 as amended

2.2.1 This application has been submitted under Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended). Section 42 of the Act provides for applications for planning permission to develop land without complying with conditions previously imposed on a planning permission. Whilst the effect of a grant of permission under S42 is to create a new planning permission, the original planning permission will continue to subsist whatever the outcome of an application under Section 42 of the Act. Section 42 states that:

'On such an application, the Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted, and: 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. However, if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous planning permission was granted, they shall refuse the application.'

2.2.2 A S42 application therefore does not revisit the principle of development on the site but only considers the appropriateness of the conditions attached to the previous consent. In assessing whether any condition is still relevant there will be the requirement to consider certain aspects of the development. Although S42 does not require the developer to specify which condition(s) they are looking to change or remove, the developer must support the application with sufficient information to identify and justify conditions for amendment or removal. In this

instance the agent has indicated that condition 3 should be varied to allow the Costa unit to open at 5 am.

2.2.3 The agent has submitted a supporting letter which advises that the noise report submitted with planning permission reference 20/00545/FULL indicates that there would be no residential amenity impact issues on neighbouring noise sensitive premises as a result of the operation of the Class 3 units at any time, therefore, the restriction on the hours of operation is not justified and would be unreasonable. The agent has also submitted an addendum to the original noise report which has been carried out by the same professional acoustic consultant which further advises that there would be no significant detrimental impact on any neighbouring noise sensitive property due to the proposed Costa drive-thru opening from 5 am. The agent further advises that consideration was given to submitting an appeal to the Scottish Government regarding condition 3 to allow unrestricted operating hours for both drive-thrus, however, they have decided to try and respond positively to Committee's concerns and to seek a compromise by only requesting that condition 3 be varied to allow the Costa drive-thru to open from 5 am.

2.2.4 The main matters for consideration are whether the proposed variation of condition 3 would undermine the reason for the condition or the Development Plan position. If the application does undermine either, it needs to be established whether there are material considerations which would outweigh these considerations. The condition relates primarily to the operating hours of the units approved on the site and the relevant material planning considerations are assessed below.

2.3 Residential Amenity

2.3.1 PAN 1/2011 provides advice on the role of the planning system in helping to prevent and limit the adverse effects of noise. It also advises that Environmental Health Officers should be involved at an early stage in development proposals which are likely to have significant adverse noise impacts or be affected by existing noisy developments. Policies 1, 6 and 10 of the Adopted FIFEplan state that new development is required to be implemented in a manner that ensures that existing uses and the quality of life of those in the local area are not adversely affected and that development will only be supported where it will have no significant detrimental impact on the operation of existing or proposed businesses and commercial operations or on the amenity of surrounding existing land uses.

2.3.2 Fife Council's Planning Customer Guidelines on Businesses Selling Food and Drink (2016) advises that proposals for business within settlement boundaries will be supported where they do not cause any additional nuisance to local residents.

2.3.3 The nearest residential property (9 MacDonald Square) is located approximately 5 metres to the east of the proposed retail unit and this property is situated at a slightly higher level than the application site. The next closest residential properties on Main Street would be located between approximately 23 and 33 metres to the south of the application site. The Costa drive-thru unit would be, more specifically, located approximately 41 metres to the north of 51 Main Street and approximately 110 metres to the south-west of 9 MacDonald Square. The other Class 3 unit which would be located on the western side of the approved retail units would be located approximately 69 metres to the north of 36 Main Street and approximately 76 metres to the north of 51 Main Street. Seven letters of objection have been received which advise that the operating hours are restricted for a purpose and to protect and retain some peace and serenity in what has been a quiet place to stay. The objectors consider that the project will have a severe impact on the village and a serious bearing on the lives of nearby houses, therefore, it is

the Planning Committee's duty to ensure that the public is protected from this. The objectors also consider that the applicant has failed to demonstrate the overall impact of the development as the night time assessment is based on minimal and derived data, the noise report assumes no night time operations which the data and analysis reflects, and that the noise report is not competent. They advise that the applicant is incorrect in stating that there will be no amenity impacts and the assessment is inadequate as it uses the term 'most' in relation to potential noise sources. They also consider that no control over where customers will park has been demonstrated so the assumptions regarding parking are flawed and noise impacts have been understated, whilst no data has been gathered from similar sites to assess customer's behaviour and noise and the report, under section 4.5.1, also states it is difficult to estimate the contribution of noise from the development without knowledge of expected vehicle types, therefore, the addendum ignores the report's conclusion.

2.3.4 The concerns relating to noise are noted, however, a noise report was submitted by a suitably qualified professional to assess potential noise impacts on these residential properties from the development approved under planning permission reference 20/00545/FULL. Fife Council's Environmental Health Public Protection team were consulted and advised that they had no objections to the findings of the noise report and they, therefore, agreed with the methodology used. The noise report is, therefore, considered to be competent and to adequately assess noise from the approved development. The matter relating to estimated night time noise was also assessed under Section 5 (Combined Noise Levels from all Sources) and Table 13 (Contribution of all Sources against Existing Background – Night-Time) of the noise report. The report further states under section 4.5.2 that an estimate of noise from movement in the car park was derived based on SEL of a car (85 dBA at 1m), the number of available car spaces (81) and the average turnover of cars per space per hour, therefore, car movement has also been assessed.

2.3.5 An onsite survey was carried out and the noise report predicts potential noise from fixed plant, deliveries, movements within the car park and activity around the drive-thru restaurants and compares them to existing background noise levels during the daytime and night-time periods. The report advises that the existing noise climate in the area is relatively high for a residential area and that the predicted daytime noise levels from the proposal would not exceed the current background noise levels. The proposal would, therefore, have no significant detrimental impact on the area during the daytime and it also advises that the removal of the existing car wash would improve the daytime noise climate on Main Street. The report further advises that most night-time noise sources from the site would be of negligible significance, however, the proposed development, specifically noise associated with units 1 to 4, would raise night-time background noise levels by 1 dB at the closest property to the east of the site. The report advises, however, that as the existing background night-time noise levels within the area are already high, that any increase in night-time noise levels would not be desirable and the report recommends that units 1 to 4 do not operate during extended night-time hours. The report further advises that the proposed drive-thru units are located at enough distance from neighbouring properties to create no noise issue at any neighbouring properties. The noise report also considers that any proposed plant associated with the development would meet the required NR25 and NR35 noise criteria. It was not considered necessary to request an updated noise report as there has been no material change in circumstance since the previous application was approved in September. However, the agent has submitted an addendum to this report which further advises that the early morning operation of the Costa unit would be of less than marginal significance and would not lead to any significant increase in noise levels at the nearest noise sensitive property on Main Street.

2.3.6 The case officer's report of handling in relation to application 20/00545/FULL, which was considered by Committee on 29th September 2020, recommended draft conditions restricting the operating and delivery hours of units 1 to 4 to day-time operating hours only. The Public Protection Team had advised that they agreed with the findings of the noise report and had no objections to the proposal with regards to noise. It was considered appropriate and reasonable to only restrict the operating hours of units 1 to 4 based on the evidence submitted which demonstrated that the drive-thru units would create no noise issue at any neighbouring properties and that it would only be units 1 to 4 which would raise night time noise levels by 1 dB. The Committee were nonetheless concerned that the development would impact on nearby residential properties and varied this recommended condition to restrict the operational hours of all of the units on the site, including the two drive-thru units.

2.4 Tests of a Condition

2.4.1 It is important to consider whether the six tests of a planning condition can still be met as set out within planning Circular 4/1998 "The Use of Conditions in Planning Permission". The six tests are necessity, relevant to planning, relevant to the development, enforceable, precise and reasonable in all other regards.

2.4.2 The proposed varied wording of condition 3 would still meet both tests of relevance, as well as tests of enforceability and precision. However, there is no clear evidence to support the restriction of operating hours of the drive-thru units given the findings of the acoustic report, which were supported by Fife Council's Public Protection Team. As such, it is contended that the proposed variation to the wording of condition 3 would fail to meet the tests of necessity or reasonableness as there is no evidence that the operation of the units would be likely to create detrimental noise impacts on adjacent residential properties as set out in section 2.4 of this report of handling. The proposed variation to condition 3 would, therefore not meet all of the six tests of a condition and is not considered to be reasonable or necessary.

2.4.3 As the proposed variation of condition 3 does not meet all of the six tests of a condition it is also considered necessary to re-visit the relevant conditions previously attached to planning permission reference 20/00545/FULL. The approved condition 3 would partially meet the necessity and relevance tests, in so far as it is required to restrict the operating hours of some of the units on the site and is relevant to the development, however, based on the evidence submitted and as per the findings of the acoustic report it would not be considered necessary or reasonable to restrict the operating hours of the drive-thrus. The approved condition is relevant to planning and the development specifically as it is required to control the impact of the proposed development on the surrounding area in terms of noise. The approved condition would be enforceable as the terms of the condition could be enforced if it transpires that the proposed development is operating outwith the specified hours. This could be monitored through the receipt of any complaints and by site visits to investigate. The condition is also precise as it clearly sets out the operating hours of the units. The approved condition 3 would, however, not meet all of the six tests of a condition as it is not considered reasonable or necessary to restrict the operating hours of the approved drive-thrus.

2.4.4 Consequently, the wording of condition 3 should be varied to only restrict the operating hours of units 1 to 4. A draft condition regarding this matter is, therefore, recommended. The proposal, would, therefore, be acceptable subject to the aforementioned variation to condition 3 and subject to all of the other conditions which were attached to planning permission reference 20/00545/FULL.

CONSULTATIONS

Transportation	No objections
Environmental Health (Public Protection) - EPES	No objections to noise report submitted under application reference 20/00545/FULL.
Scottish Water	No objections

REPRESENTATIONS

Seven letters of objection have been received in relation to this application. The concerns raised include:

- Noise impact associated with units
- Inconsistency of application description which differs from application form which seeks removal of all opening times, whereas, description seeks for Costa to open from 5 am.
- Noise report doesn't take into account customers leaving and parking in local streets to consume purchase.
- Environmental Health Officers should have been consulted as per relevant noise guidance and it doesn't appear as if they were.
- Noise report is not competent.
- Application form advises no works have commenced, however, works have begun on site.

The concerns raised above are addressed in section 2.4 of this report of handling. The description of the proposal was amended before the application was validated as the agent sent an email on 1st October 2020 requesting that the description and proposal be changed to only relate to the approved Costa unit. A commencement notice dated 12th November 2020 has also been received for application reference 20/00545/FULL advising that works have commenced on site on 10th November 2020 along with other information relating to suspensive conditions. The agent has been advised, however, that they cannot commence works on site until all suspensive conditions have been discharged and that they should cease all works until this time.

CONCLUSIONS

The proposed variation of condition 3 of planning permission reference 20/00545/FULL would not meet all of the six tests of a condition as it is not considered reasonable to restrict the operating hours of the drive-thru units. It is also considered that the wording of condition 3 should be varied to only restrict the operating hours of units 1 to 4 and as previously recommended to Committee on 29th September 2020. The proposal, would therefore, comply with the Development Plan in this respect and is considered acceptable subject to the recommended variation of condition 3 and the inclusion of the same other conditions attached to planning permission reference 20/00545/FULL.

RECOMMENDATION

It is accordingly recommended that the application be approved subject to the following conditions and reasons:

1. Units 1 to 4, hereby approved, shall have no more than 30% of the net retail sales area of each of these units being used for comparison retail. Any increase in the floor space for convenience or food retailing shall only be made with the written approval of Fife Council as planning authority.

For avoidance of doubt the net sales area for any use shall be calculated on the basis of any area within the shop or store which is visible to the public and to which it has access, including fitting rooms, checkouts, the area in front of checkouts, serving counters and the area behind used by serving staff, areas occupied by retail concessionaires, customer services areas, and internal lobbies in which goods are displayed; but not including customer toilets.

Reason: In order to retain proper control over the use of the development] in the interests of protecting the vitality and viability of the town centre.

2. The total noise from the approved plant and machinery, shall be such that any associated noise does not exceed NR 25 in bedrooms, during the night; and NR 30 during the day in all habitable rooms, when measured within any noise sensitive property, with windows open for ventilation. For the avoidance of doubt, daytime shall be 0700-2300hrs and night time shall be 2300-0700hrs. **WITHIN THREE MONTHS OF THE DEVELOPMENT BEING BROUGHT INTO USE**; written evidence demonstrating that the aforementioned noise rating levels have been achieved shall be submitted to and approved in writing by Fife Council as Planning Authority.

Reason: In the interests of safeguarding residential amenity.

3. The hours of operation of Units 1 to 4 including deliveries to these units, hereby approved, shall be restricted to between 7 am and 11 pm Monday to Sunday unless otherwise agreed in writing with Fife Council as Planning Authority.

Reason: In order to retain proper control over the use of the development and to safeguard the residential amenity of the surrounding area.

4. **BEFORE THE DEVELOPMENT IS BROUGHT INTO USE**; full details of any proposed lighting scheme shall be submitted for approval in writing by Fife Council as Planning Authority. The submitted scheme shall indicate the measures to be taken for the control of any glare or stray light arising from the operation of the artificial lighting and shall demonstrate that this will have no detrimental impact on any neighbouring public roads or sensitive properties with regards to light spillage and glare. Thereafter, the lighting shall be installed and maintained in a manner which prevents spillage of light or glare into any neighbouring public roads or sensitive properties in accordance with the manufacturer's specification and approved details.

Reason: In the interests of safeguarding the amenity of the surrounding area.

5. The noise mitigation measures as specified within the submitted noise impact assessment report (Plan Reference 22) shall be carried out in full **BEFORE THE DEVELOPMENT IS BROUGHT INTO USE** and this shall include a defined parking area for delivery vehicles which shall be closer to the centre of the block containing units 1 to 4. A site plan at a scale of no more than 1:500 which shows this delivery vehicle parking area shall be submitted to and approved in writing by Fife Council as Planning Authority. The development shall, thereafter, be carried out

in accordance with these approved details unless otherwise agreed in writing with Fife Council as Planning Authority.

Reason: In the interests of safeguarding residential amenity.

6. All works done on or adjacent to existing public roads shall be constructed in accordance with the current Fife Council Transportation Development Guidelines. Works shall include the following and shall be carried out BEFORE THE DEVELOPMENT IS BROUGHT INTO USE:

- The provision of a new 2 metres wide footway behind a 2.5 metres wide grass verge including a 2/3 car space layby on the Main Street frontage of the site to the west of the proposed vehicular access and as shown on the proposed site plan (Plan Reference 03C);
- The provision of a replacement bus boarder and bus stop markings to the east of the new vehicular access.

Reason: In the interest of road safety; to ensure the provision of an adequate design layout and construction.

7. BEFORE THE DEVELOPMENT IS BROUGHT INTO USE; the access bellmouth from the public road shall be constructed in accordance with the current Fife Council Transportation Development Guidelines. A minimum throat width of 6 metres with a 6 metre radius kerb shall be provided and constructed in accordance with the current Fife Council Transportation Development Guidelines for a length of 4.5 metres from the adjoining road channel line.

Reason: In the interest of road safety; to ensure the provision of an adequate design layout and construction.

8. BEFORE THE DEVELOPMENT IS BROUGHT INTO USE; visibility splays of 2.5 metres x 40 metres shall be provided and maintained clear of all obstructions exceeding 600mm in height above the adjoining road channel level, at the junction of the vehicular access and Main Street, in accordance with the current Fife Council Transportation Development Guidelines. The visibility splays shall be retained throughout the lifetime of the development.

Reason: In the interest of road safety; to ensure the provision of adequate visibility at the junctions of the vehicular access with the public road.

9. BEFORE THE DEVELOPMENT IS BROUGHT INTO USE; the off-street car and cycle parking as shown on the proposed site plan (Plan Reference 03C) shall be provided in accordance with the current Fife Council Parking Standards contained within the Transportation Development Guidelines. The parking spaces shall be retained throughout the lifetime of the development.

Reason: In the interest of road safety; to ensure the provision of adequate off-street parking facilities.

10. BEFORE ANY CONSTRUCTION WORKS COMMENCE; adequate wheel cleaning facilities shall be submitted to and approved by Fife Council as Planning Authority. The wheel cleaning facilities shall, thereafter, be provided and maintained throughout the construction works and in accordance with these approved details unless otherwise agreed in writing with Fife Council as Planning Authority.

Reason: In the interest of road safety; to eliminate the deposit of deleterious material including mud, debris or other deleterious materials onto public roads.

11. BEFORE THE DEVELOPMENT IS BROUGHT INTO USE; the SUDs details, hereby approved and the recommendations contained within the Flood Risk Assessment (Plan Reference 15C), shall be carried out in full.

Reason: In the interests of ensuring the provision of adequate SUDS measures.

12. BEFORE ANY WORKS START ON SITE; a scheme of landscaping including a landscaping plan indicating the siting, numbers, species and heights (at time of planting) of all trees, shrubs and hedges to be planted, and the extent and profile of any areas of earthmounding, shall be submitted to and approved in writing by this Planning Authority. These submitted details should also include details of all proposed boundary treatments. The scheme as approved shall be implemented within the first planting season following the completion or occupation of the development, whichever is sooner. These details shall include a dense 1.5 metre high hedge on the Halbeath Bypass frontage of the site and along the southern boundary of the site and this shall be provided on site BEFORE THE DEVELOPMENT IS BROUGHT INTO USE. For the avoidance of doubt the proposed hedge shall be continuous without any gaps.

Reason: In the interests of visual amenity, road safety and to ensure a satisfactory standard of local environmental quality.

13. BEFORE ANY WORKS COMMENCE ON SITE, details of the future management and aftercare of the proposed landscaping and planting shall be submitted to and approved in writing by this Planning Authority. Thereafter the management and aftercare of the landscaping and planting shall be carried out in accordance with these approved details.

Reason: In the interests of visual amenity, road safety and to ensure a satisfactory standard of local environmental quality.

14. BEFORE ANY CONSTRUCTION WORKS COMMENCE ONSITE ; full details of tree protection measures which require to be implemented during the construction phase of the development shall be submitted to and approved in writing by Fife Council as Planning Authority. No trees shall be felled, topped, lopped or have roots cut or damaged without the prior written approval of this Planning Authority.

Reason: In the interests of safeguarding the adjacent trees to the north.

15. NO DEVELOPMENT SHALL COMMENCE ON SITE until the risk of actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study) has been submitted by the developer to and approved in writing by the planning authority. Where further investigation is recommended in the Preliminary Risk Assessment, no development shall commence until a suitable Intrusive Investigation (Phase II Investigation Report) has been submitted by the developer to and approved in writing by the planning authority. Where remedial action is recommended in the Phase II Intrusive Investigation Report, no development shall commence until a suitable Remedial Action Statement has been submitted by the developer to and approved in writing by the planning authority. The Remedial Action Statement shall include a timetable for the implementation and completion of the approved remedial measures.

All land contamination reports shall be prepared in accordance with CLR11, PAN 33 and the Council's Advice for Developing Brownfield Sites in Fife documents or any subsequent revisions of those documents. Additional information can be found at www.fifedirect.org.uk/contaminatedland.

Reason: To ensure potential risk arising from previous land uses has been investigated and any requirement for remedial actions is suitably addressed.

16. NO BUILDING SHALL BE OCCUPIED UNTIL remedial action at the site has been completed in accordance with the Remedial Action Statement approved pursuant to condition 15. In the event that remedial action is unable to proceed in accordance with the approved Remedial Action Statement - or contamination not previously considered in either the Preliminary Risk Assessment or the Intrusive Investigation Report is identified or encountered on site - all development work on site (save for site investigation work) shall cease immediately and the planning authority shall be notified in writing within 2 working days. Unless otherwise agreed in writing with the local planning authority, development works shall not recommence until proposed revisions to the Remedial Action Statement have been submitted by the developer to and approved in writing by the planning authority. Remedial action at the site shall thereafter be completed in accordance with the approved revised Remedial Action Statement. Following completion of any measures identified in the approved Remedial Action Statement - or any approved revised Remedial Action Statement - a Verification Report shall be submitted by the developer to the local planning authority.

Unless otherwise agreed in writing with the planning authority, no part of the site shall be brought into use until such time as the remedial measures for the whole site have been completed in accordance with the approved Remedial Action Statement - or the approved revised Remedial Action Statement - and a Verification Report in respect of those remedial measures has been submitted to and approved in writing by the local planning authority.

Reason: To provide satisfactory verification that remedial action has been completed to the planning authority's satisfaction.

17. IN THE EVENT THAT CONTAMINATION NOT PREVIOUSLY IDENTIFIED by the developer prior to the grant of this planning permission is encountered during the development, all development works on site (save for site investigation works) shall cease immediately and the planning authority shall be notified in writing within 2 working days.

Unless otherwise agreed in writing with the local planning authority, development work on site shall not recommence until either (a) a Remedial Action Statement has been submitted by the developer to and approved in writing by the planning authority or (b) the planning authority has confirmed in writing that remedial measures are not required. The Remedial Action Statement shall include a timetable for the implementation and completion of the approved remedial measures. Thereafter remedial action at the site shall be completed in accordance with the approved Remedial Action Statement. Following completion of any measures identified in the approved Remedial Action Statement, a Verification Report shall be submitted to the local planning authority. Unless otherwise agreed in writing with the planning authority, no part of the site shall be brought into use until such time as the remedial measures for the whole site have been completed in accordance with the approved Remedial Action Statement and a Verification Report in respect of those remedial measures has been submitted by the developer to and approved in writing by the local planning authority.

Reason: To ensure all contamination within the site is dealt with.

18. BEFORE ANY WORKS COMMENCE ON SITE; full details of the proposed energy efficiency measures along with manufacturer's details shall be submitted to and approved in writing by Fife Council as Planning Authority. Thereafter, the development shall be carried out in the accordance with the approved plans.

Reason: In the interests of sustainability; to ensure the development meets the current CO2 emissions reduction targets.

19. BEFORE THE DEVELOPMENT IS BROUGHT INTO USE; full, details of the proposed bin/refuse collection methods for customer use within the application site including details of the location of any bins shall be submitted to and approved in writing by Fife Council as Planning Authority. Thereafter and unless otherwise agreed in writing with Fife Council as Planning Authority, the agreed refuse collection details shall be implemented in full on site and shall remain in situ for customer use for the lifetime of the development and be regularly maintained/emptied.

Reason: In the interests of protecting the local character and amenity of the area and reducing waste.

STATUTORY POLICIES, GUIDANCE & BACKGROUND PAPERS

In addition to the application the following documents, guidance notes and policy documents form the background papers to this report.

National Policy and Guidance
Scottish Planning Policy (SPP) (2014)
PAN 1/2011 Planning and Noise
Circular 4/1998: the use of conditions in planning permissions

Development Plan
Adopted FIFEplan (2017)

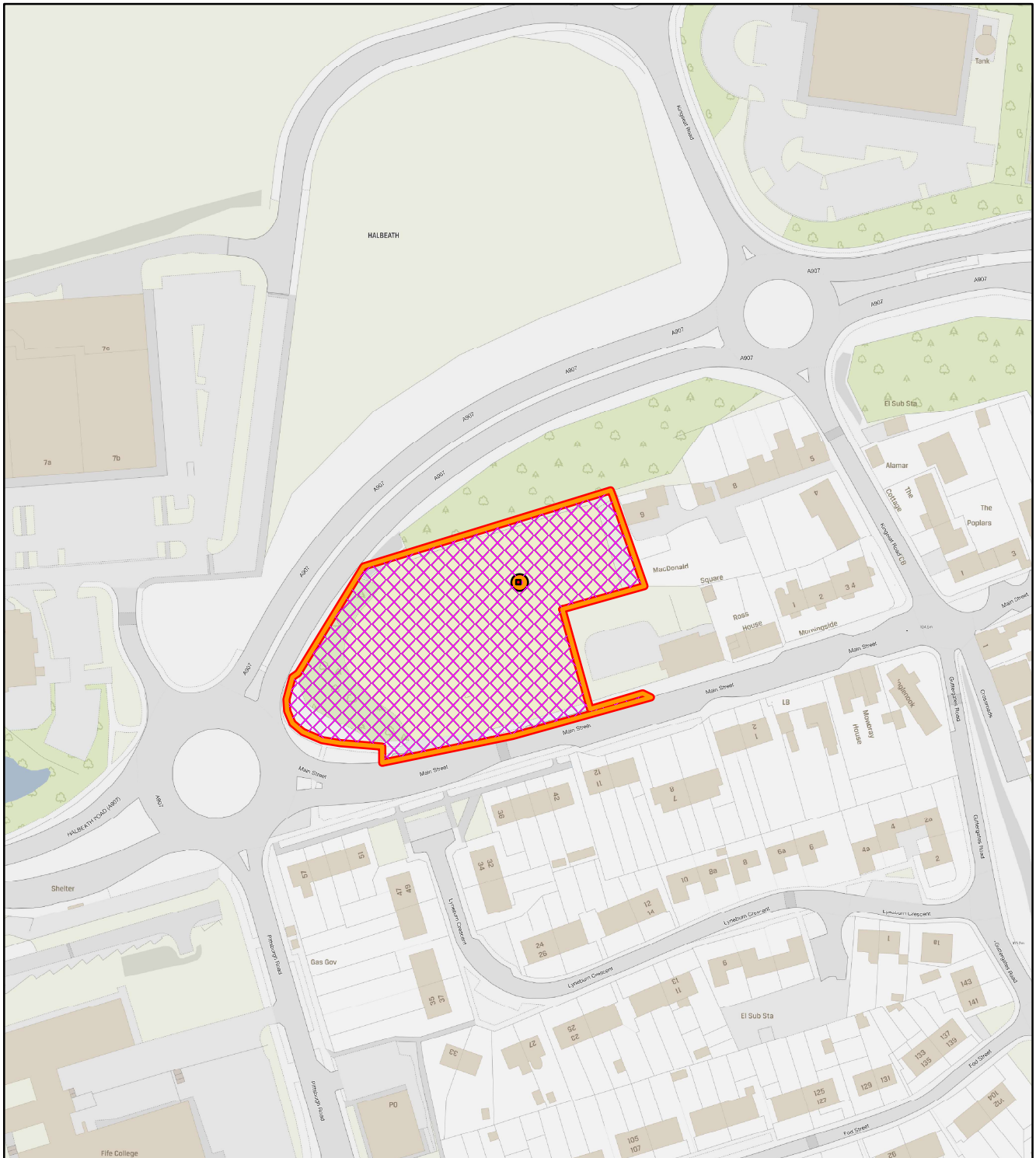
Other Guidance
Fife Council's Planning Customer Guidelines on Businesses Selling Food and Drink (2016)

Report prepared by Scott Simpson, Chartered Planner
Report reviewed and agreed by Mary Stewart, Service Manager & Committee Lead

Date Printed 30/10/2020

20/02292/FULL

Land To West Of Macdonald Square Main Street Halbeath Dunfermline



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Legend	
 Application Boundary	
	
 Economy, Planning & Employability Services	

ITEM NO: 9

APPLICATION FOR FULL PLANNING PERMISSION REF: 20/00955/FULL

SITE ADDRESS: 1 BURNBANK STABLES EAST END MAIN STREET

PROPOSAL : ERECTION OF DWELLINGHOUSE AND WORKSHOP WITH ASSOCIATED WORKS

**APPLICANT: MRS LISA KERR
1 EAST END STAR OF MARKINCH UK**

**WARD NO: W5R14
Glenrothes North, Leslie And Markinch**

CASE OFFICER: Jamie Penman

DATE 26/05/2020

REGISTERED:

REASONS FOR REFERRAL TO COMMITTEE

This application requires to be considered by the Committee because:

This application has attracted more than 5 letters of both support and objection.

SUMMARY RECOMMENDATION

That DPEA is advised that it is the view of the Central and West Planning Committee that the proposed development should be refused.

ASSESSMENT AGAINST THE DEVELOPMENT PLAN AND OTHER MATERIAL CONSIDERATIONS

Under Section 25 of the Town and Country Planning (Scotland) Act 1997, the determination of the application is to be made in accordance with the Development Plan unless material considerations indicate otherwise.

1.1 Background

1.1.1 This full planning application relates to an area of land which is located within the countryside, as defined by FIFEplan (2017). The area of land is associated with an existing rural business (horse livery) and is located adjacent to the defined settlement boundary of Star of Markinch. The application site measures approximately 1,800sqm however the applicant's land ownership extends to approximately 15,600sqm in total. The application site is generally flat and surrounded by grazing land for horses, to the north, east and west which is all within the applicant's ownership. Main Street, the main transport route through Star of Markinch, passes the site to the south. Residential properties line the southern side of Main Street and are generally modest in nature, comprising of various styles ranging from single storey to 1.5 storey in height. There is limited existing built development to the north of Main Street, consisting of a small stable block, larger stable block, riding arena, car park and a temporary static caravan. There is also an existing dwellinghouse located to the north of Main Street, located approximately 125m to the west of the application site, however it should be noted that this is located within the defined settlement boundary of Star of Markinch.

1.1.2 This application has been submitted for full planning permission for a dwellinghouse and a separate detached building which would include a domestic garage/workshop at ground floor level and facilities associated with the existing horse livery business at first floor level. Associated infrastructure works are also proposed. The proposed dwellinghouse would be located towards the north of the application site and have a footprint of approximately 120sqm, length of 15.5m, depth of 8m and it would have a pitched roof with a maximum finishing height of 7.1m. Finishing materials would consist of concrete roof tiles, off-white dry dash render and reconstituted stone walls and UPVC windows and doors. The proposed detached garage/workshop would be located towards the eastern side of the application site and would have a footprint of 100sqm, length of 13m, depth of 7.75m and it would have a pitched roof with a finishing height of 7.1m. Finishing materials would match those of the proposed dwellinghouse.

1.1.3 Planning history associated with this site includes:

13/01000/FULL Extension to existing stables to form additional stables and ancillary storage - Approved 06/09/2013

16/03024/FULL Change of Use to Commercial Livery Stables, Temporary Residential Use of Existing Caravan and Formation of Car Park - Approved 21/03/2017

19/01564/FULL (Section 42 to vary condition 6 of planning permission 16/03024/FULL to extend the residential use of the caravan for 1 year) - Approved 28/10/2019

1.1.4 A supporting statement has been submitted by the applicant which notes that a permanent residential presence is required on site to address essential security and animal welfare needs as well as day to day requirements of the business operation. It notes that the principle of development in the countryside has already been established in this instance through the approval of a previous application (16/03024/FULL subsequently extended by 19/01564/FULL).

1.2 Procedural issues

1.2.1 Due to the ongoing COVID-19 Pandemic, the assessment of this application was delayed as the Case Officer was unable to safely undertake a site visit. This was deemed necessary in order to fully assess the proposal. A site visit was subsequently undertaken, albeit after the target determination date, however, the applicant has lodged a non-determination appeal to the Department of Planning and Environmental Appeals (DPEA).

1.2.2 The DPEA are now seeking the views of Fife Council as Planning Authority as to what the final decision would likely have been for this proposal. As the application has received more than both 5 letters of objection and support, in line with Fife Council's Scheme of delegation, the application must be presented before the Central & West Fife Planning Committee. As an appeal has been submitted the Council are prohibited from determining the application, however, the Committee's recommendation will be relayed to the DPEA to assist in their determination of the appeal.

2.1 Assessment

2.1.1 The issues to be assessed against the Development Plan and other associated guidance are as follows:

- Principle of Development
- Design/Visual Impact on Countryside and Surrounding Area
- Residential Amenity Impact
- Road Safety Impact
- Flooding Impact
- Land Contamination/Stability
- Low Carbon Fife
- Tree Impact
- Right of Access

2.1 Principle of Development

2.1.1 Scottish Planning Policy (SPP) promotes the use of the plan-led system to provide a practical framework for decision making on planning applications, thus reinforcing the provisions of Section 25 of the Act.

2.1.2 Policy 1, Part A, Policy 7 and Policy 8 of the Adopted FIFEplan (2017) apply. Policy 1, Part A, of the Adopted FIFEplan (2017) stipulates that the principle of development will be supported if it is either (a) within a defined settlement boundary and compliant with the policies for this location; or (b) is in a location where the proposed use is supported by the Local Development Plan. Policy 7 of FIFEplan advises that development in the countryside will only be supported in certain instances. One such circumstance is that the proposal is line with Policy 8 (Houses in the Countryside). Policy 8 of FIFEplan sets out specific requirements for the siting of new housing in the countryside. In line with Policy 7, all development must be of a scale and nature that is compatible with surrounding uses; be well-located in respect of available infrastructure; and be located and designed to protect the overall landscape and environmental quality of the area. Under Policy 8, development of houses in the countryside will only be supported where at least one of the specific criteria are met. Criterion 1. of Policy 8 states that a proposal for housing in the countryside would be acceptable if it is essential to support an existing rural business.

2.1.3 Guidance notes relating to criterion 1 of Policy 8 state that the fact that a business is established in a rural area is not enough to justify building a house in the countryside or Green Belt. Proposals for housing must justify the need to have residential accommodation and a continuous presence at the site. There should also be no evidence of houses or plots having previously been sold from the business holding to private buyers. For housing associated with an existing business the house should be sited so that it fulfils the purpose it is intended for and be located close to existing buildings. Planning permission will not be granted if the house is: in an isolated position; on a prominent site; or sited at a distance from existing building groups.

2.1.4 This proposal has attracted both support and objection comments with regard to the principle of development. Support comments contend that the applicant has resided in a temporary caravan for over two years in order to build a business case, that the viability of the business has already been previously accepted by Fife Council and that a permanent onsite presence is essential for supervision of animals and the operation of the business. Conversely, objection comments raise concerns that information has not been submitted which proves that the existing rural business requires/can support a permanent dwellinghouse on site. Furthermore, concerns have been raised that the caravan has not been occupied on a permanent basis. These issues will be considered in the following sections.

2.1.5 It is considered that the principle of the need for a continuous onsite presence in order to support an existing rural business has already been established through the approval of planning permission 16/03024/FULL. Application 16/03024/FULL was originally refused by the Central Planning Committee however this decision was overturned by the DPEA at appeal. The Reporter in his decision noted that the approval of the temporary caravan would allow the applicant to develop a business case and would allow for Fife Council as Planning Authority to carry out an informed appraisal if an application for a permanent house was to come forward.

2.1.6 With regard to the viability of the business, the applicant has submitted business accounts and an accompanying letter which have not been published on the digital application file as they are deemed commercially sensitive. These were compiled by an accountant and note that the business started trading on 8 January 2018 and that the accounts relate to the second full year of trading and cover a period of 12 months. The letter continues by stating that the business has made a taxable profit in its second full year, up 4% on the previous year and represents a profit margin of 50%. The letter explains that turnover was forecasted to increase by 19% during the 2019/20 financial year, however this has seen a significant increase with an actual 30% increase recorded in comparison to the previous year and this was primarily due to the stables operating close to capacity for the entire period. The letter concludes by explaining that by seeing a profit being maintained and increased within a relatively short period of trading, makes it is clear that the company remains viable and in a good place going forward. The letter continues by noting that if advantage is taken of other revenue stream opportunities, in particular the arena hire, revenue is forecast to continue to grow and the business will remain profitable in future financial years. The supporting letter concludes by stating that in the course of examining the accounting records, there is nothing that has come to our attention that questions the solvency or viability of the business.

2.1.7 The submitted block plan shows that whilst the proposed dwellinghouse does advance approximately 60m into the site, it would be located within an acceptable distance from the existing stable block and surrounding fields, in order for it to fulfil its intended purpose of providing for essential security and animal welfare requirements.

2.1.8 No information has been received which would cast doubt on the applicant's occupation of the temporary caravan. Whilst it is not the role of planning to determine whether the amount of land available to the applicant is sufficient to cater for the number of horses they have, it is considered that there would be a considerable amount of land left available to the applicant to run their business, if the proposal was built.

2.1.9 Although little information has been submitted with regard to this element of the proposal, an assessment of the equestrian facilities on the first floor of the proposed garage building must also be undertaken. The submitted plans indicate that this area would include a customer

lounge, training room and a toilet/shower. As this development would be considered as an extension to the established rural business, the principal of development can be accepted in this instance in line with FIFEplan (2017) Policy 7.

2.1.10 In light of the above, it is considered that principle of housing and the associated equestrian facility on this site can be accepted in accordance with FIFEplan (2017) Policies 1, 7 and 8, given the continuous need for a permanent on-site presence has been established and it would be an extension to an established rural business. Furthermore, based on the submitted supporting information, no significant concerns would be raised with regard to the viability of the business and it is also considered that the proposed dwellinghouse would be in a position which fulfils its intended purpose.

2.2 Visual Impact on Surrounding Area and Countryside

2.2.1 Policies 1, 7, 8, 10 and 13 of FIFEplan (2017) apply in this instance. Policy 1 advises that development proposals will be supported if they conform to relevant Development Plan policies and proposals and address their individual and cumulative impacts. Policies 7 and 8 specifically refer to development in the countryside and state that development must be of a scale and nature compatible with surrounding uses and that it should be located and designed to protect the overall landscape and environmental quality of the area. Additionally, Policy 10 advises that development will only be supported if it does not have a significant detrimental impact with respect to visual amenity and Policy 13 advises that development proposals will only be supported where they protect or enhance natural heritage and access assets including, but not limited to, landscape character and views.

2.2.2 Making Fife's Places Supplementary Guidance (2018) also applies and sets out the expectation for developments with regard to design. This document encourages a design-led approach to development proposals through focussing on achieving high quality design

2.2.3 This proposal has attracted both support and objection comments with regard to the visual impact of the proposed development. Support comments contend that the design would be in keeping and enhance the surrounding area. Conversely, objection comments contend that the proposal would have an adverse impact on the rural nature of the surrounding area and adjacent settlement. Objection comments also note that the property approved under 16/04042/FULL should not be used as a comparison as this is located within the settlement boundary. These issues will be considered below.

2.2.4 This proposed dwellinghouse would be located towards the north of the application site, approximately 50m to the north of Main Street and would be fully visible from public viewpoints surrounding the site; namely from within the adjacent settlement boundary of Star of Markinch to the south. The proposed dwellinghouse would have a footprint of approximately 120sqm, length of 15.5m, depth of 8m and it would be two storeys with a pitched roof with a maximum finishing height of 7.1m. Finishing materials would consist of concrete roof tiles, off-white dry dash rendered and reconstituted stone walls and UPVC windows and doors.

2.2.5 This proposed detached garage/workshop/equestrian facility building would be located towards the east side of the application site, approximately 25m to the north of Main Street and would be fully visible from public elevations surrounding the site; namely from within the adjacent settlement boundary of Star of Markinch to the south. It would be two storeys with a pitched roof with a maximum finishing height of 7.1m. Finishing materials would match those of the proposed dwellinghouse.

2.2.6 A supporting statement has been submitted by the applicant which contends that that location of the proposal is acceptable and that on such a flat, open and limited site area it is impossible to rely on topographical undulations and natural screening in order to minimise the prominence of development. The statement acknowledges the FIFEplan Policy 7 and 8 requirement of new development being closely located to existing structures however contends that the only building that will remain on the site is the single storey stables block and as such, there is very little to work with in terms of achieving visual absorption within an existing building group. The supporting statement concedes that the proposed development cannot be hidden and neither can it be visually absorbed within an existing building group, regardless of where it is located within the site. The supporting statement claims that despite the site limitations, the proposal complies with the site selection criteria as outlined in Policy 8; the site should not be in an isolated position, should avoid a prominent location and should not be at a distance from existing building groups. It continues by arguing that Policy 8 requires that the location of the proposal fulfils its intended purpose and as such achieving such it may not necessarily mean that the optimum location is immediately next to an existing building group. The supporting statement considers that a major issue for the proposal is the need to balance the competing interests of selecting a site which is close to the stable block whilst also allowing surveillance of the wider holding. It continues to acknowledge that operation objectives of maximising surveillance whilst also trying to minimise the landscape impact tend to work against each other and therefore considers that the proposed location of the dwellinghouse has been selected on the basis that it is considered to be the optimum location within the site in terms of trying to achieve a balance between maximising surveillance whilst minimising the distance from the existing stable block. The supporting statement advises that an alternative site was considered on the site of the existing temporary caravan, adjacent to Main Street, however this option was not selected as it was considered that the close proximity to the public road frontage would increase the visual impact of the development as is it the primary visual receptor. The supporting statement continues by setting out that, if located in this position, the proposal would lead to a significant scale and massing on the immediate public road frontage and it was therefore considered that such a location would be unacceptable in the interest of safeguarding the openness of the site. The supporting statement further considers that such a scale and massing of development on the immediate road frontage would represent an isolated and incongruous feature within an otherwise undeveloped frontage and that a location on the road frontage would also fail to minimise amenity impacts on the residential properties on the opposite side of Main Street and the occupants of the proposed dwellinghouse. This section of the supporting statement which considers the proposed location of the dwellinghouse concludes by stating that by setting the development back from the road frontage, whilst at the same time seeking to minimise visual impact by grouping the proposed buildings as close as possible to the existing stables, the proposed location is considered to be the optimum design solution for the site as it minimises the visual impact of the development whilst safeguarding neighbouring residential amenity.

2.2.7 The supporting statement also considers the scale of the development and advises that a key design parameter was the need to deliver the required floor space for both the dwellinghouse and garage/workshop. The supporting statement continues by noting that in order to minimise the visual impact of the development, a single storey design was discounted to avoid a significant degree of visual massing, across what is a fairly limited site. The supporting statement advises that the proposed design is consistent in height with other development which already exists within the area and that newer development consists of 1.5 storey properties and that a significant proportion of older properties incorporate high ridge lines. Albeit within the settlement boundary, the supporting statement contends that the most recent dwellinghouse

constructed under planning permission 16/04042/FULL is considered to be of particular relevance in that it indicates the most recent assessment by Fife Council in relation to the height of development considered acceptable within the area generally. This section of the supporting statement concludes by arguing that when assessed against the above development context, the one and three quarter storey design of the proposed dwellinghouse and garage results in a building height which is consistent with that in the area and as such, the proposal delivers a visually pleasant and welcoming design outcome which also ensures adaptability to future needs without the requirement to extend further.

2.2.8 The supporting statement considers the proposed orientation of the development and argues that it has largely been driven by the nature of the use of each unit as well achieving the Policy 8 requirement that buildings be grouped together in order to minimise any visual impact and that these two design considerations dictated that a linear relationship be achieved between the two proposed structures. It continues to note that the proposed west facing orientation also serves to maximize solar gain.

2.2.9 The supporting statement also evaluates the architectural form and external finishing of the proposal and advises that an important consideration within the design solution has been to avoid simple replication of a safe and unimaginative architectural form. It continues by advising that in trying to balance a more innovative architectural form with the interests of achieving a degree of visual continuity with the local design context, the proposals also involve the use of external finishing materials which are characteristic of the local area i.e. reconstituted stone and interlocking roof tiles.

2.2.10 The supporting statement also considers the landscape impact of the development and references two documents; Fife Landscape Character Assessment and the Fife Local Landscape Designation Review 2009. Whilst the supporting statement acknowledges that objective of the assessment process set out within these documents was intended to assist in defining larger geographical areas for designation of the current Local Landscape Areas (LLAs), they also seek to establish a methodology for the assessment of individual sites set within the wider landscape context. The supporting statement contends that in line with the aforementioned documents, the application site is defined as a lowland river basin and is located within the Mid Leven Valley. The supporting statement advises that the guidance suggests that within such locations, villages generally could be extended without significant effects on landscape character, subject to good siting and design and that building materials should avoid conspicuous colours and reflective cladding. It also notes that the wider landscape in which the application site is located is of relatively low scenic quality and has few distinctive features and that this landscape is of low merit when compared with other areas within Fife. The supporting statement concludes this section with the view that in line with the above guidance, there exists significant scope to accommodate development such as that proposed without detriment to the overall landscape quality of the area.

2.2.11 Whilst the supporting information submitted by the applicant has been reviewed and considered in full, it is considered that whilst the application site is located within the countryside, consideration must be given to its location adjacent to an existing settlement boundary. This proximity generates a need to also consider the relationship of the proposal to the adjacent settlement. In order to limit the proposal's impact on the character and appearance of the countryside, it should be located as close to the settlement boundary as possible. In this instance, it should be noted that the applicant has a considerable amount of land available and that a design could have been put forward, which has an active frontage on to Main Street which would not only relate better to its surrounding environment but also minimise the sprawl of the

development into the countryside. It is also considered that given the relatively flat nature of the application site and wider area which is under the applicant's ownership, it would not be unreasonable to suggest that a location adjacent to Main Street could have been selected which would still fulfil the dwelling's intended purpose of providing on site security and for animal welfare needs.

2.2.12 As proposed, the furthest point of the proposed development would be located approximately 60m to the north of Main Street. The proposed positioning of the development would be deemed to unnecessarily advance into the countryside, which would erode the rural character of the area. It is further considered that this may lead to an unreasonable precedent being set, for any possible future development to the north of Main Street.

2.2.13 Both the proposed dwellinghouse and garage building are considered to be of an excessive scale and massing for their location and which is not commonly observed in the immediate surrounding area, particularly to the south of Main Street which is characterised by smaller single storey/1.5 storey dwellings. Furthermore, there is no built development out with the adjacent settlement boundary surrounding the site of which a comparison can be made. Whilst the approval of 16/04042/FULL is acknowledged, it must be noted that this development is located within the development boundary of Star of Markinch, approximately 125m to the west of the application site; significantly detached from the application site. Given that the proposed development would be located within the countryside and would not be located close to other building groups of a similar nature, the development would be viewed as two large buildings which would appear out of place in the context of the site.

2.2.14 Taking all of the above into account, the design of proposal would be deemed an incongruous addition within its rural environment, and this combined with its unacceptable location, in that it unnecessarily advances further away from the settlement boundary, would be deemed to erode the rural character of the area. As such the proposal is not considered to be of a scale and nature compatible with its countryside location and it would therefore be deemed to have a significant visual impact which would damage the landscape and environmental quality of the countryside and surrounding area which would be contrary to FIFEplan (2017) Policies 1, 7, 8, 10, 13 and Making Fife's Places Supplementary Guidance (2018).

2.3 Residential Amenity Impact

2.3.1 Policies 1 and 10 of FIFEplan (2017), Planning Advice Note (PAN) 1/2011: Planning and Noise, Fife Council Customer Guidelines on Daylight and Sunlight (2018), Minimum Distances between Window Openings (2011) and Garden Ground (2016) apply in terms of residential amenity.

2.3.2 The above FIFEplan policies and guidance set out the importance of encouraging appropriate forms of development in the interests of residential amenity. They generally advise that development proposals should be compatible with their surroundings in terms of their relationship to existing properties, and that they should not adversely affect the privacy and amenity of neighbours with regard to the loss of privacy; sunlight and daylight; and noise, light and odour pollution.

2.3.3 This application has attracted support comments which contend that the proposal would have no residential amenity impacts. Objection comments have also been received with regard to noise impacts from the site, namely a statutory noise nuisance which has been established by Fife Council. These issues will be considered below.

2.3.4 Given the distances that exist between the application site and the closest neighbouring residential properties, no significant concerns would be raised in terms of privacy or daylight/sunlight impacts. Furthermore, the proposal would provide in excess of 100sqm of private garden ground, which is in line with relevant Fife Council Customer Planning Guidance.

2.3.5 The proposal would be located to the north of the existing stable block. As such, noise generated from the livery business may impact levels of residential amenity generally expected. Given that the livery business would be owned and operated by the occupants of the proposed dwellinghouse however, it is considered that it would be within the occupants control to mitigate any noise issues that may arise. As such, no significant noise concerns would be raised in this instance.

2.3.6 Fife Council's Environmental Health (Public Protection) Team were consulted on this application and advised that the team have established a noise nuisance from a cockerel(s) on land owned by the applicant and have commenced formal action. They have requested that if the application was to be successful, a condition be applied ensuring that the dwellinghouse cannot be occupied other than by the owner, member of staff or dependents thereof of the commercial livery business. Whilst the comments received from the Public Protection Team are noted, they cannot be considered as a material consideration in the assessment of this planning application given that the issue is governed by separate legislation which is not within the remit of planning.

2.3.7 In light of the above, the proposal would be deemed to comply with FIFEplan (2017) Policies 1 and 10 and other relevant guidance in this instance.

2.4 Road Safety Impact

2.4.1 Policies 1, 3 and 10 of the Adopted FIFEplan Local Development Plan (2017) and Fife Council Transportation Development Guidelines (contained within Making Fife's Places Supplementary Guidance) apply with regard to this proposal.

2.4.2 Policy 1 of FIFEplan states that development proposals must provide the required on-site infrastructure or facilities, including transport measures to minimise and manage future levels of traffic generated by the proposal. Policy 3 of FIFEplan advises that such infrastructure and services may include local transport and safe access routes which link with existing networks, including for walking and cycling. Transportation Development Guidelines set out the minimum parking standards for developments, as well as standards for roads developments including visibility splays.

2.4.3 This application has attracted support comments which contend that the proposal would have no road safety impacts. Conversely, the proposal has also attracted objection comments which contend that there are existing road safety issues and the proposal would worsen these. It is also noted that further parking facilities should be provided. These issues will be considered below.

2.4.4 The application site would utilise an existing access onto an adopted road (Main Street). Furthermore, the submitted plans indicate that 17 off-street parking spaces would be provided; 2 for the proposed dwellinghouse and 15 for the existing livery business.

2.4.5 Fife Council Transportation Development Management Team (TDM) were consulted on this application and advised that this site has a number of previous applications relating to the siting of a temporary caravan for residential use and for the extension of the existing stables. Transportation Development Management have commented on each of these applications and have asked that road safety conditions related to access, turning, off street parking and appropriate visibility splays be included in any planning approval. All of the road safety conditions have now been adhered to, some of these following intervention by Fife Council planning enforcement officers. After discussion on this application, a revised drawing has been submitted showing a satisfactory level and configuration of the required off street parking provision.

2.4.6 In light of the above, the proposal would raise no significant road safety concerns and as such, would be deemed to comply with FIFEplan (2017) Policies 1, 3 and 10 and other relevant guidance in this instance.

2.5 Flooding Impact

2.5.1 SPP and FIFEplan policies 1 and 12 advise that developments should not place unacceptable demands on public infrastructure including drainage systems, developments will not be supported if they would increase the risk of flooding, nor will they be supported if Sustainable Urban Drainage Systems (SUDS) or other similar appropriate measures are not undertaken. Development will not be supported where a proposal would increase the risk of flooding unless adequate mitigation measures can be secured by conditions or an appropriate legal agreement can be put in place.

2.5.2 This application has attracted an objection which notes that no SUDS scheme is proposed. This will be considered below.

2.5.3 Scottish Environment Protection Agency (SEPA) flood maps have been analysed and show that the application site is not located within an area of known river, coastal or surface water flood risk. Furthermore, as the proposal is for only one dwellinghouse, there is no requirement to provide a sustainable urban drainage system.

2.5.4 In light of the above, the proposal would raise no significant concerns in terms of its flooding impact and as such, be deemed to comply with FIFEplan (2017) Policies 1 and 12 in this instance.

2.6 Land Contamination/Stability

2.6.1 FIFEplan policies 1 and 10 apply in this instance. It indicates that development will only be supported if it does not have a significant detrimental impact on the amenity of existing or proposed land uses. These policies will be applied to ensure the safe development of potentially contaminated and unstable land.

2.6.2 Fife Council records do not indicate any instances of contaminated land in this instance. Fife Council's Land and Air Quality Team were consulted on this application however and noted that a suspensive condition requiring the reporting of any unforeseen contamination to be reported. The response also raises concerns with regard to radon gas potentially being present however this is not considered to be a planning issue.

2.6.3 This application has attracted an objection with regard to it being in a Coal Authority Development High Risk Area and it notes that conditions suggested by the Coal Authority should be enforced. This will be considered below.

2.6.4 The application site falls within a Coal Authority Development High Risk Area. A Coal Mining Risk Assessment (CMRA) was submitted with this application which confirms that there is a potential for shallow mine workings to affect the proposed development. Accordingly, recommendations are included for intrusive site investigation works, in the form of rotary boreholes.

2.6.5 The Coal Authority was consulted to provide comments on the submitted CMRA. The Coal Authority's response noted that the applicant has obtained appropriate and up-to-date coal mining information for the proposed development site and has used this information to inform the Coal Mining Risk Assessment (May 2020, prepared by Earth Environmental & Geotechnical Ltd). The Coal Authority ultimately concurs with the recommendations of the submitted Coal Mining Risk Assessment; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site. Accordingly, the Coal Authority recommends suitable conditions be attached to the permission if it was to be approved.

2.6.6 In light of the above, the proposal would be deemed to comply with FIFEplan (2017) Policies 1 and 10 in this instance.

2.7 Low Carbon Fife

2.7.1 SPP (paragraph 154), Policies 1 and 11 of FIFEplan (2017) and Fife Council's Low Carbon Fife Supplementary Guidance (January 2019) apply with regards to the low carbon requirements expected of this proposal.

2.7.2 SPP (paragraph 154) notes that the planning system should support the transition to a low carbon economy consistent with national objectives and targets.

2.7.3 Policy 11 (Low Carbon) of the FIFEplan (2017) and Fife Council's Low Carbon Fife Supplementary Guidance (January 2019) notes that small and local applications will be expected to provide information on the energy efficiency measures and energy generating technologies which will be incorporated into their proposal. In addition, planning applicants are expected to submit a completed sustainable building statement.

2.7.4 No low carbon checklist has been submitted with this application and no renewable energy generating technologies have been proposed. It is considered however, that these could be requested by condition if this application was to be approved.

2.7.5 In light of the above, the proposal would be deemed to comply with FIFEplan Policies 1 and 11 in this instance, subject to condition.

2.8 Tree impact

2.8.1 FIFEplan Policies 1 and 13 support proposals where they protect or enhance natural heritage and access assets, including trees and that have a landscape, amenity, or nature conservation value. Making Fife's Places (2018) states that where an existing tree is to be

retained on a development site, or existing trees are identified on an adjacent site, no new buildings or gardens should be built within the falling distance of the tree at its final canopy height.

2.8.2 This application has attracted an objection which notes that no trees are shown on the submitted plans. Whilst existing trees are shown on the submitted site plan, the impact on these trees will be considered below.

2.8.3 An existing tree would be located approximately 8m away from the proposed dwellinghouse. Whilst this tree is not protected, it is considered that the construction of the house would have no impact on the root protection area of this tree. It is also noted that other biodiversity enhancements are proposed including the planting of a new tree and hedging, which is welcomed.

2.8.4 In light of the above, the proposal would be deemed to comply with FIFEplan (2017) Policies 1 and 13 in this instance.

2.9 Right of Access

2.9.1 FIFEplan Policies 1 and 13 support proposals where they protect or enhance natural heritage and access assets, including core paths, cycleways, bridleways, existing rights of way, established footpaths are also protected. Making Fife's Places (2018) also applies.

2.9.2 This application has attracted an objection comment raising concerns regarding access issues to an existing right of way through the site. This issue will be considered below.

2.9.3 It is understood that there is an existing right of way through the site however it should be noted that the proposed development would not be deemed to impact this.

2.9.4 In light of the above, the proposal is deemed to comply with FIFEplan (2017) Policies 1 and 13 in this instance.

CONSULTATIONS

Land And Air Quality - EPES	No objections subject to condition.
Scottish Water	No objections.
Transportation And Environmental Services - Operations Team	No response.
Environmental Health (Public Protection) - EPES	Noise nuisance established on site and request that house is tied to owners/employees of business.
Transportation	No objections subject to condition.
The Coal Authority	No objections subject to condition.

REPRESENTATIONS

A total of 11 objections and 19 support representations have been received. A petition containing 36 signatures has been received which objects to the proposal on road safety and noise grounds.

Support comments which are deemed material in the assessment of this application include:

- The proposal would allow owners to live on site which would improve the business offering - Considered in Section 2.1
- Design would enhance and is in keeping with surrounding area - Considered in Section 2.2
- Living on site would allow full supervision of horses and other equipment and is essential for the business - Considered in Section 2.1
- Addition of a permanent residence would benefit the local economy and community - Considered in Section 2.1
- Proposals would visually improve the site and is well suited for its countryside location - Considered in Section 2.2
- Proposal would have no impact on grazing space - Considered in Section 2.1
- No issue with access/turning/off-street parking - Considered in Section 2.4
- No residential amenity impacts - Considered in Section 2.3
- Applicant has resided in caravan on site for over 2 years to develop the business - Considered in Section 2.1
- Viability of the business has already been accepted by Fife Council - Considered in Section 2.1

Support comments which are not deemed material in the assessment of this application include:

- Having an ex policeman in the community can only be an enhancement to the local area
- Business has developed despite abuse from nearby residents
- Current facilities are well run, clean and tidy
- Horses are a source of organic matter for gardens and are assets to the visual aspect of rural environment

Objection comments which are deemed material in the assessment of this application include:

- Proposal would have adverse impact on rural nature of the area - Considered in Section 2.2
- Proposal consists of a random house type and may lead to the whole north side of Main Street being developed - Considered in Section 2.2
- Insufficient turning space for large delivery vehicles/existing road safety issues/need for additional parking - Considered in Section 2.4
- Site is not large enough to support commercial livery and domestic dwelling - Considered in Section 2.1
- Applicant blocks right of access through the site - Considered in Section 2.9
- No SUDS scheme proposed- Considered in Section 2.5
- Trees not shown on site plans- Considered in Section 2.8
- It has not been proven that business can justify permanent accommodation - Considered in Section 2.1
- Development falls within Coal Authority High Risk Area and that conditions should be enforced - Considered in Section 2.6
- No information regarding training room - Considered in Section 2.1
- Proposal would constitute unjustified residential development in the countryside and set a precedent for future applications - Considered in Section 2.1
- Existing caravan not used on a permanent basis so there is no need for permanent residence - Considered in Section 2.1
- New house to west is within village boundary and should not be used as a precedent - Considered in Section 2.2
- Business accounts should be made public- Considered in Section 2.1

Objection comments which are not deemed material in the assessment of this application include:

- Star has become free for all
- Previous conditions for permissions on this site have not been met
- Supporting comments are from people who live outside of village
- Residents of village subjected to abuse and there is ongoing noise issues with cockerels from site
- Complaints from villagers regarding the way livery users conduct themselves
- Questions the extension to temporary caravan use
- Development would leave 1.6 hectares of space British Horse Society recommends 2 horses per hectare
- Plans do not show location of overhead cables
- No Riding for Disabled facilities has been established
- Plans do not make provision for disabled users
- Business has not benefitted local community or provided local employment opportunities
- Does application have appropriate riding establishment license?
- Garage building could become separate house in future
- Legal burdens prevent residential building on site
- Applicant's should not be rewarded with planning approval
- Temporary consent for caravan occupation has lapsed
- Development of grazing ground will have an impact on viability of business
- Questions if permit was granted for previous coal mining investigations

CONCLUSIONS

Whilst the principle of housing on this site can be accepted in order to support an existing rural business, it is considered that by virtue of the unacceptable location, orientation, scale and massing of the proposal, the proposal is not a scale and nature compatible with its countryside location and it would therefore be deemed to have a significant visual impact which would damage the landscape and environmental quality of the countryside and surrounding area which would be contrary to FIFEplan (2017) Policies 1, 7, 8, 10, 13 and Making Fife's Places Supplementary Guidance (2018).

RECOMMENDATION

The application should be refused for the following reason(s)

1. The design of proposal, by virtue of its scale and massing would be deemed an incongruous addition within the rural environment, and this, combined with its unacceptable location, would be deemed to erode the rural character of the area. As such the proposal is not considered to be of a scale and nature compatible with its countryside location and it would therefore be deemed to have a significant detrimental visual impact which would damage the landscape and environmental quality of the countryside and surrounding area which would be contrary to FIFEplan (2017) Policies 1, 7, 8, 10, 13 and Making Fife's Places Supplementary Guidance (2018).

STATUTORY POLICIES, GUIDANCE & BACKGROUND PAPERS

In addition to the application the following documents, guidance notes and policy documents form the background papers to this report.

National:

SPP - Scottish Planning Policy (2014)

Planning Advice Note (PAN) 1/2011: Planning and Noise

Development Plan:

Adopted FIFEplan (2017)

Making Fife's Places Supplementary Guidance (2018)

Local Guidance:

Fife Council's Planning Customer Guidelines on Daylight and Sunlight (2018)

Fife Council's Planning Customer Guidelines on Garden Ground (2016)

Fife Council's Planning Customer Guidelines on Minimum Distances between Window Openings (2011)

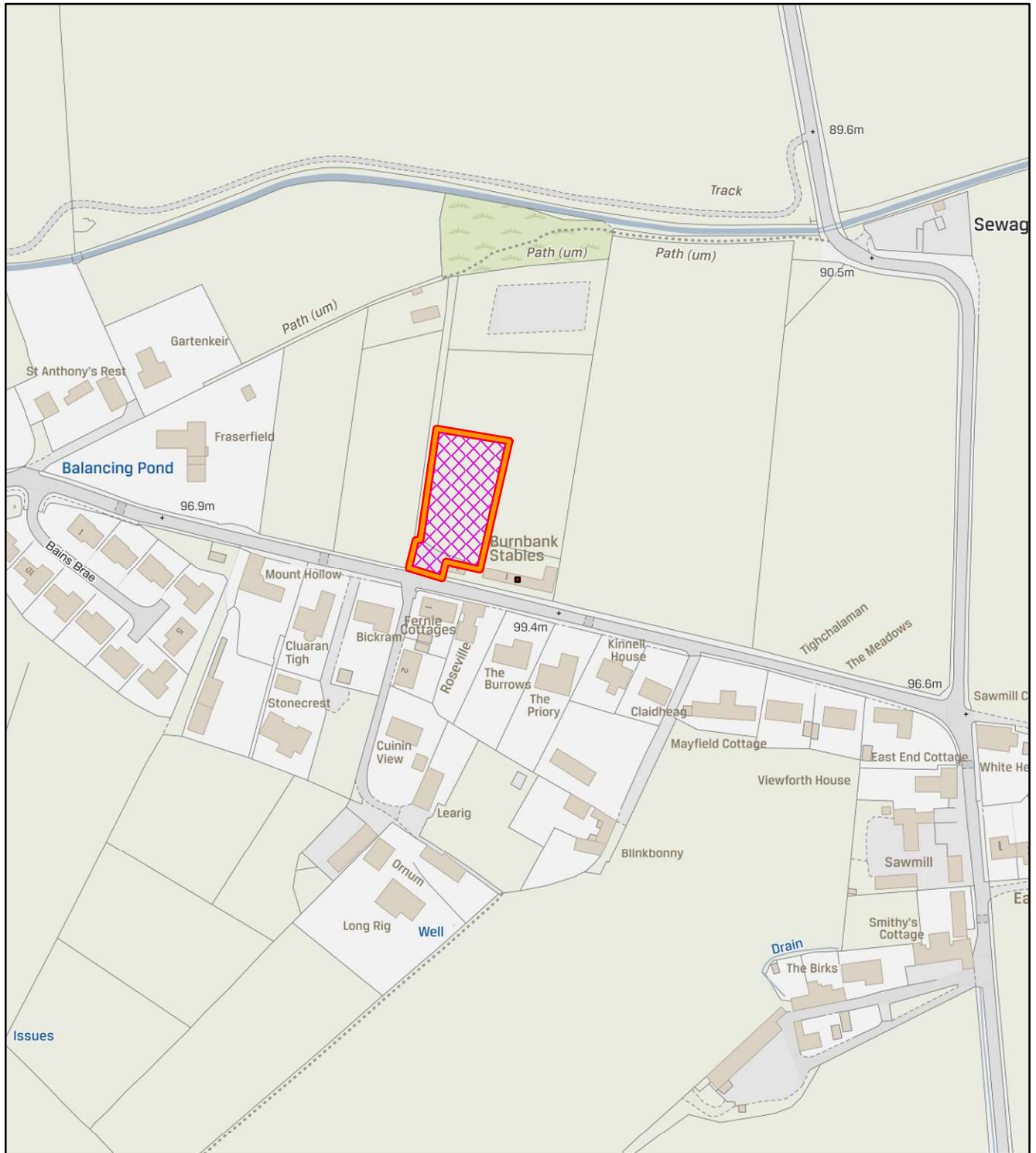
Report prepared by Jamie Penman – Graduate Planner

Report reviewed and Agreed by Mary Stewart, Service Manager & Committee Lead

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1 Burnbank Stables East End Main Street Star Glenrothes



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Legend			
	Application Boundary		