

Wednesday, 16 August, 2023 - 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 are asked to declare any interest in particular items on the agenda and the nature of the interest(s) at this stage.

3. MINUTE – Minute of Meeting of West & Central Planning Committee of 7 June, 2023. 5 - 8

4. 22/01914/FULL - LAND TO NORTH OF 10 TO 22 CAMERON CRESCENT WINDYGATES 9 - 55

Erection of 77 residential units with associated engineering, infrastructure, landscaping and open space.

5. 23/00701/FULL - LAND 300M EAST OF WESTER BALBEGGIE COTTAGES WESTER BALBEGGIE FARM BALBEGGIE AVENUE 56 - 79

Proposed battery energy storage system with ancillary equipment and associated access.

6. 23/00739/PPP - THE FARMHOUSE MASTERTON MASTERTON ROAD 80 - 93

Planning permission in principle for residential development (Section 42 application for the development the subject of planning permission in principle 22/00984/PPP without complying with that permission's conditions 1(d) and 3).

7. APPLICATIONS FOR PLANNING PERMISSION DEALT WITH UNDER DELEGATED POWERS

Lists of applications dealt with under delegated powers for the periods 15 May to 11 June, 12 June to 9 July and 10 July to 6 August, 2023.

Note – these lists are available to view with the committee papers on the Fife.gov.uk website.

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.

Lindsay Thomson
Head of Legal and Democratic Services
Finance and Corporate Services

Fife House
North Street
Glenrothes
Fife, KY7 5LT

9 August, 2023

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www.fife.gov.uk/committees

BLENDED MEETING NOTICE

This is a formal meeting of the Committee and the required standards of behaviour and discussion are the same as in a face to face meeting. Unless otherwise agreed, Standing Orders will apply to the proceedings and the terms of the Councillors' Code of Conduct will apply in the normal way

For those members who have joined the meeting remotely, if they need to leave the meeting for any reason, they should use the Meeting Chat to advise of this. If a member loses their connection during the meeting, they should make every effort to rejoin the meeting but, if this is not possible, the Committee Officer will note their absence for the remainder of the meeting. If a member must leave the meeting due to a declaration of interest, they should remain out of the meeting until invited back in by the Committee Officer.

If a member wishes to ask a question, speak on any item or move a motion or amendment, they should indicate this by raising their hand at the appropriate time and will then be invited to speak. Those joining remotely should use the "Raise hand" function in Teams.

All decisions taken during this meeting, will be done so by means of a Roll Call vote.

Where items are for noting or where there has been no dissent or contrary view expressed during any debate, either verbally or by the member indicating they wish to speak, the Convener will assume the matter has been agreed.

There will be a short break in proceedings after approximately 90 minutes.

Members joining remotely are reminded to have cameras switched on during meetings and mute microphones when not speaking. During any breaks or adjournments please switch cameras off.

THE FIFE COUNCIL - WEST AND CENTRAL PLANNING COMMITTEE – REMOTE MEETING

7 June, 2023

2.00 pm – 3.40 pm

PRESENT: Councillors David Barratt (Convener), David Alexander, Lesley Backhouse, Alistair Bain, John Beare, James Calder, Derek Glen, James Leslie, Julie MacDougall, Lea Mclelland, Derek Noble, Gordon Pryde, Sam Steele and Andrew Verrecchia.

ATTENDING: Mary Stewart, Service Manager – Major Business and Customer Service, Natasha Cockburn, Lead Professional (Infrastructure), Scott Simpson, Planner and Emma Baxter, Graduate Planner, Planning Services; Steven Paterson, Solicitor and Emma Whyte, Committee Officer, Legal and Democratic Services.

APOLOGIES FOR ABSENCE: Councillors Colin Davidson and Dave Dempsey.

95. DECLARATIONS OF INTEREST

Councillor Barratt declared an interest in Paras 101 and 102 below – 22/03945/FULL and 23/00081/FULL both at South Pargillis, Clockluine Road, Hillend – as he had a prior involvement in a previous iteration of the application.

Councillor MacDougall declared an interest in Para 100 below – 6 Blair Place, Kirkcaldy – as she had been made aware of the application.

96. MINUTE

The Committee considered the minute of West and Central Planning Committee of 10th May, 2023.

Decision

The Committee agreed to approve the minute.

97. 22/01344/FULL - LAND NORTH AND SOUTH OF A994 CONSCIENCE BRIDGE NORTH, CAIRNEYHILL

The Committee considered a report by the Head of Planning Services relating to an application for erection of seventy residential units with associated works including formation of accesses, open space, drainage infrastructure and landscaping.

Members were advised that Condition 19 would be deleted and that the wording of Condition 30 had been changed to:-

30. Within 3 months of the occupation of the last unit, written evidence demonstrating that the mitigation measures as set out within the Noise Impact Assessment by Charlie Fleming Associates (dated February 2023) approved through this application have been implemented and the noise

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levels as set out in the report have been achieved shall be submitted and approved in writing by the planning authority. If it cannot be demonstrated that the aforementioned sound levels have been achieved, a further scheme incorporating further measures to achieve those sound levels shall be submitted for the written approval of the planning authority.

Reason: In the interests of the residential amenity of future residents.

Decision

The Committee agreed:-

- (1) to approve the application subject to the thirty-three conditions and for the reasons detailed in the report and following the conclusion of a legal agreement to secure the necessary planning obligations, namely:-
 - (a) £225.26 per 3-bed unit (excluding affordable units) towards St Margaret's Roman Catholic Primary School;
 - (b) £6,067 per 3-bed unit (excluding affordable units) towards the Dunfermline Secondary School solution;
 - (c) £2,428 per residential unit (excluding affordable units) towards the Strategic Transport Interventions;
 - (d) 25% affordable housing; and
 - (e) £386 per residential unit (excluding affordable units) towards the constructed MUGA.
- (2) that authority be delegated to the Head of Planning Services in consultation with the Head of Legal and Democratic Services to negotiate and conclude the legal agreement necessary to secure the planning obligations; and
- (3) that, should no agreement be reached in relation to the planning obligations within 6 months of the Committee's decision, authority is delegated to the Head of Planning Services in consultation with the Head of Legal and Democratic Services to refuse the application.

98. 22/02932/FULL - THE GUNNER CLUB SCHOOL LANE, KIRKCALDY

The Committee considered a report by the Head of Planning Services relating to an application for erection of six dwellinghouses and ancillary accommodation and associated infrastructure.

Decision

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

99. 22/04288/PPP - CROMBIE POINT, FIFE

The Committee considered a report by the Head of Planning Services relating to an application for planning permission in principle for erection of two dwellinghouses with associated garages and access.

Decision

The Committee refused the application for the reason detailed in the report.

Councillor Bain left the meeting during consideration of the above item.

Councillor Steele joined the meeting during consideration of the above item.

Councillor MacDougall left the meeting prior to consideration of the following item, having earlier declared an interest.

100. 23/00132/FULL - 6 BLAIR PLACE KIRKCALDY FIFE

The Committee considered a report by the Head of Planning Services relating to an application for erection of pergola, raised platform and wooden poles to rear of dwellinghouse (retrospective).

Decision

The Committee agreed that the application be approved unconditionally.

Councillor MacDougall rejoined the meeting following consideration of the above item.

Councillor Barratt left the meeting prior to consideration of the following two items, having earlier declared an interest. Councillor Glen, Depute Convener took the Chair.

101. 22/03945/FULL - SOUTH PARGILLIS CLOCKLUINE ROAD, HILLEND

The Committee considered a report by the Head of Planning Services relating to an application for erection of a battery energy storage system and associated infrastructure including DNO substation, switchroom building, storage containers, fencing and CCTV cameras.

Members were advised that the wording of Condition 15 had been changed to:-

C15. If the battery storage facility (BSF) fails to export electricity to the grid for a continuous period of 12 months, the Company responsible for the facility shall; (i) submit a scheme to Fife Council as Planning Authority detailing how the BSF and its ancillary equipment and associated infrastructure shall be removed from the site and the ground fully restored to a condition agreed with Fife Council; and (ii) following written approval of the scheme by Fife Council as Planning Authority, implement the approved scheme within six months of the date of this approval, UNLESS OTHERWISE AGREED IN WRITING WITH THIS PLANNING AUTHORITY, all to the satisfaction of this Planning Authority.

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Reason: In the interests of maintaining adequate control of the BSF should it become redundant, and to ensure that the site is restored to an acceptable condition.

Decision

The Committee agreed that the application be approved subject to the fifteen conditions and for the reasons detailed in the report.

102. 23/00081/FULL - SOUTH PARGILLIS CLOCKLUINE ROAD, HILLEND

The Committee considered a report by the Head of Planning Services relating to an application for installation of cable associated with battery energy storage system.

Decision

The Committee agreed to approve the application subject to the condition and for the reason detailed in the report.

103. APPLICATIONS FOR PLANNING PERMISSION DEALT WITH UNDER DELEGATED POWERS

Decision

The Committee noted the list of applications dealt with under delegated powers for the period 17 April to 14 May 2023.

ITEM NO: 4

APPLICATION FOR FULL PLANNING PERMISSION REF: 22/01914/FULL

**SITE ADDRESS: LAND TO NORTH OF 10 TO 22 CAMERON CRESCENT
WINDYGATES**

**PROPOSAL: ERECTION OF 77 RESIDENTIAL UNITS WITH ASSOCIATED
ENGINEERING, INFRASTRUCTURE, LANDSCAPING AND
OPEN SPACE**

**APPLICANT: CAMPION HOMES LTD
CAMPION HOUSE PITREAVIE DRIVE PITREAVIE BUSINESS
PARK**

**WARD NO: W5R21
Leven, Kennoway And Largo**

CASE OFFICER: Natasha Cockburn

DATE REGISTERED: 24 June 2022

REASONS FOR REFERRAL TO COMMITTEE

This application requires to be considered by the Committee because:

This is a major development in terms of the Town and Country Planning (Hierarchy of Development) Regulations 2009 and more than 5 representations have been received which express views contrary to officers' recommendation.

SUMMARY RECOMMENDATION

The application is recommended for:

Conditional approval requiring a legal agreement.

1.0 BACKGROUND

1.1 The Site

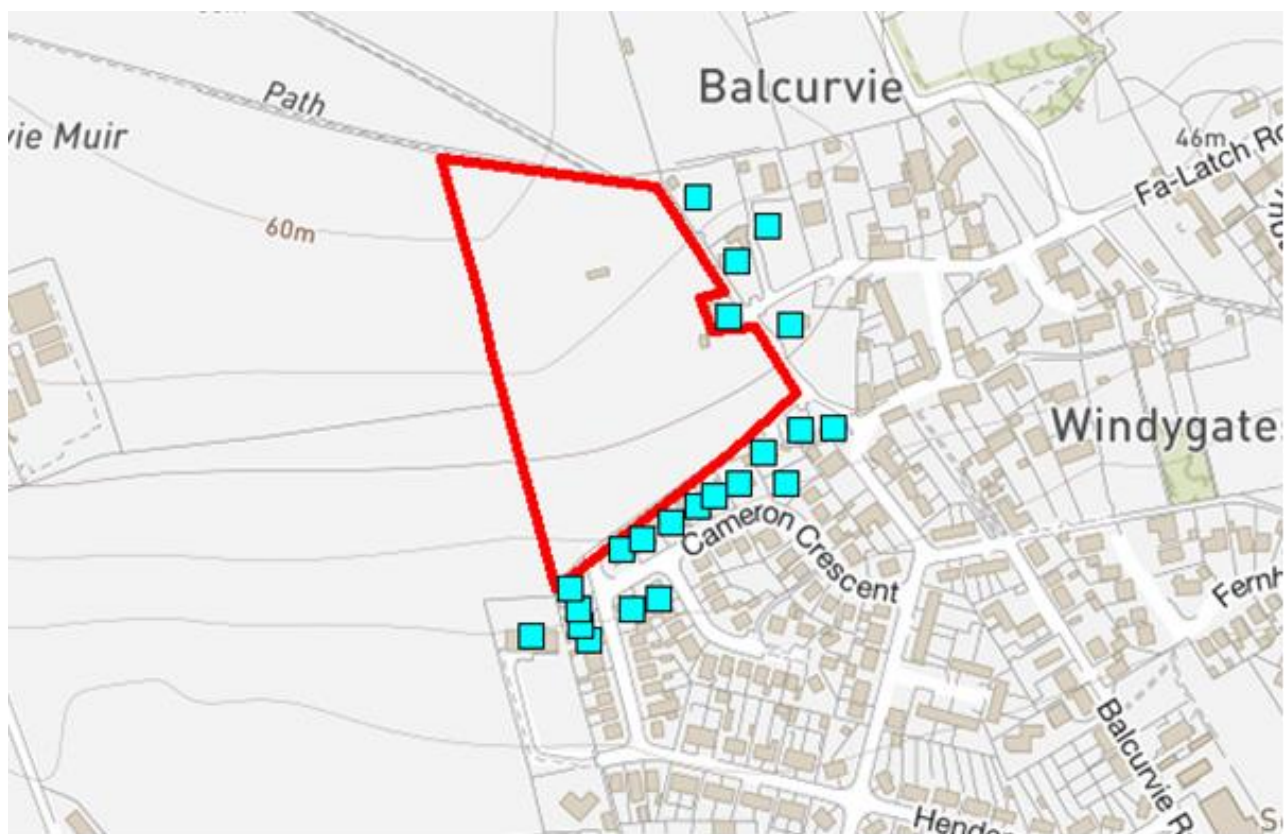
1.1.1 The application site extends to an area of approximately 3.3 hectares, comprising agricultural land locally known as the 'temple'. The site is allocated in the adopted FIFEplan

(2017) for housing (ref: WDY 002). The site is located to the north of Cameron Crescent and is bound by countryside to the north and west and existing houses to the east and south. The site is accessed from Cameron Crescent with a network of core paths surrounding the site (P372/01, P373/01 and P378/01), with pedestrian access available to Fa-Latch Road to the eastern boundary and Durie Place to the south east corner of the site. The site has open aspects to the countryside to the north and east. The application site itself comprises a large field of grassland and is largely overgrown with well-worn paths running through. The site is bordered by hedgerows at the southern and western boundaries and a mix of vegetation and trees to the northern and eastern boundaries.

1.1.2 The site is designated for housing in FIFEplan (2017) under site ref: WDY 002 Land at Temple which states that the site has capacity for 75 units. Allocation WDY 002 sets out a number of requirements for development on the site. This includes lower density development on the northern portion of the site and two points of access into the site to be taken from Cameron Crescent and via an upgraded link through Durie Place. In addition, the following Green Network Priorities have been established for the site under WDY 002:

- Deliver a high quality development edge along Fa-latch Road and Durie Place.
- Establish a new high quality landscape edge along the northern and western boundary of the site to create an appropriate landscape setting for the development.

LOCATION PLAN



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1.2 The Proposed Development

1.2.1 The proposed development comprises the erection of 77 residential units, with associated engineering, infrastructure, landscaping and open space. The proposals include 8 affordable houses. The proposed houses range from 2 bedroom to 6-bedroom properties and include a mix of terraced, semi-detached, detached and bungalow properties with a mix of two and single storey

properties across the site. The affordable housing is proposed to be arranged in the southeast corner of the site, and would be a mix of terraced, semi-detached and detached properties. The proposed materials across the site, including the affordable units, include grey concrete roof tiles, grey weatherboard cladding, grey facing brick, white dry dash render with white upvc eaves, gutters and downpipes, and grey upvc windows. The proposed housing would be served by a single means of prospectively adoptable access from Cameron Crescent with three pedestrian links to the core path network on the northern and eastern boundary of the site. Parking is arranged as both in-curtilage parking, and parking courts with visitor parking incorporated. The development is more dense to the southern end of the site, with an area of lower density to the north where the site meets the countryside.

1.3 Relevant Planning History

19/01386/PAN - Proposal of Application Notice for residential development (76 properties of which 25 are allocated as Affordable housing) - PANA - 29/05/19

21/03871/PAN - Proposal of Application Notice for proposed housing development with associated landscape framework and infrastructure - PANA - 04/01/22

1.3.1 Numerous objection comments received make reference to previous planning applications and refusals of planning applications submitted for this site. From review of this site's planning history, it is clear that no planning applications have previously been submitted or refused for this site. The only planning history for this site are two Proposal of Application Notices, which are not planning applications, but a notice to the council advising of how the developer intends to engage with the community about their proposal. One of these PANs relates to this application. The history of this site goes back to the 1992 Levenmouth Local Plan. This site was not allocated in the 1992 Local Plan but there was a caveat in the inquiry report that if another site (Balcurvie) became non-effective then this site should be substituted. The site has been allocated for housing within Fife's Local Development Plan since 2012, where it was allocated in the Mid Fife Local Plan as WDY 03. There were no objections made to this allocation at this time and the site was not considered in the examination of the Mid Fife Local Plan. The site's allocation went through all usual Local Plan processes allowing people to comment on the proposed allocation at that time. The allocation of the site was continued in FIFEplan (2017), which is the most recent Local Development plan. There were no objections to the allocation of the site as it went through Local Development plan consultation processes – as a result the allocation of the site was not considered in the examination of the plan.

1.4 Application Procedures

1.4.1 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.

1.4.2 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 a public information event (ref: 21/03871/PAN). 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 an online consultation where the public could view details of the proposed development and make comments via the applicant's website. The online public events were held on 3rd March and 30th March 2022. Details of the event was advertised in the East Fife Mail and the Fife Free Press. A copy of the PAN was issued to Windygates Community Council and event information was

circulated to local Councillors, MSP, MPs and the Windygates Community Council. A poster was provided to the local shop within Balcurvie and were placed on lamp posts within Balcurvie.

1.4.3 The application was advertised in the local press on 27th June 2022 for neighbour notification purposes.

1.4.4 The Case Officer carried out a site visit during the assessment of the planning application.

2.0 ASSESSMENT

2.1 Relevant Matters

The matters to be assessed against the development plan and other material considerations are:

- Principle of Development
- Design and Layout/Visual Impact
- Residential Amenity
- Transportation/Road Safety
- Flooding and Drainage
- Contaminated Land and Air Quality
- Natural Heritage and Trees
- Sustainability
- Affordable Housing
- Education
- Open Space and Play Areas
- Public Art
- Strategic Transport Interventions
- Other Infrastructure Considerations
- Archaeology

2.3 Relevant Policies

National Planning Framework 4 (2023)

Policy 1: Tackling the climate and nature crises

Policy 2: Climate mitigation and adaptation

Policy 3: Biodiversity

Policy 4: Natural places

Policy 5: Soils

Policy 6: Forestry, woodland and trees

Policy 7: Historic assets and places

Policy 11: Energy

Policy 12: Zero Waste

Policy 13: Sustainable transport

Policy 14: Design, quality and place

Policy 15: Local Living and 20 minute neighbourhoods

Policy 16: Quality Homes

Policy 18: Infrastructure first

Policy 19: Heat and cooling

Policy 20: Blue and green infrastructure

Policy 21: Play, recreation and sport

Policy 22: Flood risk and water management

Policy 24: Digital infrastructure

Policy 25: Community wealth building

Policy 33: Minerals

FIFEplan Local Development Plan (2017)

Policy 1: Development Principles

Policy 2: Homes

Policy 3: Infrastructure and Services

Policy 4: Planning Obligations

Policy 10: Amenity

Policy 11: Low Carbon Fife

Policy 12: Flooding and the Water Environment

Policy 13: Natural Environment and Access

Policy 14: Built and Historic Environment

Summaries of the relevant policies as they relate to this application and all other relevant are guidance are provided as Appendix A.

2.4 Principle of Development

2.4.1 Objection comments received state that the site should not be developed and should be retained as green space. Comments also state that the proposals would be over-development of Balcurvie/Windygates. The application site is allocated for housing in FIFEplan (2017) under site reference: WDY 002 'Land at Temple' which states that the site has an estimated capacity for 75 homes. Allocation WDY 002 sets out a number of requirements for development on the site. This includes lower density development on the northern portion of the site and two points of access into the site to be taken from Cameron Crescent and via an upgraded link through Durie Place. In addition, the following Green Network Priorities have been established for the site under WDY 002:

- Deliver a high quality development edge along Fa-latch Road and Durie Place.
- Establish a new high quality landscape edge along the northern and western boundary of the site to create an appropriate landscape setting for the development.

This is identified as site "The Temple" (LEV112), a non-effective site in the Housing Land Audit (HLA) for 75 homes.

2.4.2 In accordance with NPF4 (2023) Policy 9 and FIFEplan (2017) Policy 1 and 2, the principle of a housing development on this site is supported because the site is located within the settlement boundary of Windygates and is allocated for housing in the Local Development Plan. The proposal is required to comply with the Development Plan requirements of WDY002 as set out above. A full assessment of these detailed aspects is assessed throughout this report. In accordance with NPF4 Policy 16 b) i, the submitted Statement of Community Benefit confirms that the proposal would assist in meeting local housing requirements by delivering new homes which would help to meet the needs of the local community including both private market housing and affordable homes, as well as incorporating a range of different house types. In relation to NPF 4 Policy 16 b) ii and iii the proposal would provide areas of open space, informal play and public art. Footpath connections would be provided to Cameron Crescent, pedestrian and cycle access would be provided to connect from the site to the existing core paths surrounding the site to the east and north. The proposed planting and landscaping to the north of the site and along the southern boundary of the site would enhance the visual amenity of the area. Any potential negative impact of the development on local infrastructure and facilities such as the road network and education capacity have been assessed and contributions can address any impact on road infrastructure. Education Services have confirmed that the proposed

development would not significantly impact on the school roll, therefore no contributions would be sought towards schools. These issues are discussed further in Section 2.17 of this report.

2.4.3 The proposal is for 77 units, which is 2 more units than is set out within the estimation in the LDP allocation. The number of units expected on the site is an estimated number and the increase of this by 2 is not a significant increase. WD002 sets out that development on the site should include lower density development on the northern portion of the site and sets out Green Network Requirements to deliver a high-quality development edge along Fa-latch Road and Durie Place and to establish a new high quality landscape edge along the northern and western boundary of the site to create an appropriate landscape setting for the development. The proposals have complied with these requirements and further detailed assessment on these aspects is considered in the relevant sections of the report below. WD002 also sets out that two points of access should be taken into the site, from Cameron Crescent and via an upgraded link through Durie Place. The proposal does not fully comply with the allocation requirements because the proposal only includes one point of access, through Cameron Crescent. The applicant has provided robust evidence and justification which shows that a vehicular access to the site via Durie Place is technically not possible and cannot be delivered due to lack of available width, the need for retaining structures, and major level changes required to address the excessive long gradient. Taking account of the applicant's justification, on balance, although the proposals would not fully comply with the requirements set out in WD002, the justification that has been provided is thorough and is accepted by Fife Council Transportation Development Management. The applicant has provided a shared pedestrian/cycle path in replacement of the vehicular access and the site is otherwise well connected with a well-designed layout proposed, therefore the lack of access at Durie Place is accepted in this instance.

2.4.4 Overall, the proposed development comprises residential development on an allocated housing site with the number of houses proposed is in-keeping with the estimated capacity for the site noted in FIFEplan, therefore, the principle of the proposed development is acceptable and complies with NPF 4 Policies 9 and 16 and FIFEplan Policies 1 and 2 in this regard.

2.5 Design And Layout / Visual Impact

2.5.1 Policy 14 of NPF4 (2023) and Policies 10 and 14 of FIFEplan (2017), Fife Council Customer Guidelines on Garden Ground (2016) and Supplementary Guidance Making Fife's Places (2018) in regards to design and visual impact.

2.5.2 Lower density development to the northern portion of the site is a requirement for this site, as set out in the LDP allocation. Amendments have been made to the proposed layout of this development since it has been submitted, following comments from the case officer and urban design officer and the density of the northern portion of the site has been decreased and units removed. The northern part of the site, with a lower density, sits well with the adjacent countryside edge and the settlement character adjacent to the north-eastern edge, which is very low density with housing plots set within a robust landscape structure, breaking the plots up. An appropriate, high quality and robust landscaping edge has been proposed to the northern, western and southern edges of the site, which helps to address the transition from the rural to urban environment. The layout increases its massing towards the centre of the site and keeps the lower density units to the south and north, with the planting in front of the units which also helps to transition between the rural to urban environment.

2.5.3 The SUDS, located to the south, would be useable open space at the entrance into the site and there are further pockets of open space scattered throughout the site, with informal play features and seating areas proposed to encourage their use – this creates the impression throughout the site that the streets have been designed for people rather than cars. These areas

also break up the built form throughout the site and the open space areas to the entrance create a good transition from Cameron Crescent into the new development.

2.5.4 The layout of the internal streets has been designed to slow traffic, by pulling some buildings forwards at key locations throughout the site. The streets generally meander through the site, incorporating distinctive nodal points with buildings enclosing these spaces, reducing forward visibility and horizontal road deflection, which would help to slow traffic naturally and create distinctive places. The parking arrangement varies throughout the site, with a courtyard-type arrangement in the centre of the site, which is well overlooked, with a long row of parking broken up with tree planting but with a different type of material used to give the parking spaces more of a courtyard feel than a car park feel. The majority of parking spaces throughout the rest of the site are frontage parking and courtyards which are all broken up and softened by planting wherever possible.

2.5.5 The boundary treatments proposed include hedges to front gardens, which gives definition between public and private space whilst helping to soften the built form and create attractive frontages without using hard boundary treatments throughout the site. Retaining walls are required throughout the site due to the site's topography, predominantly between proposed plots. The highest retaining wall would measure 3.5m high between plots 3 – 5 and 17 – 20, which lowers to 2.8m at plots 6 – 8 and 14 – 16. This wall would not be visible from the public street, so its visual impact would be minimal. The remaining retaining walls would measure 1.5m and under and most would not be visible from the public street. A retaining wall with a maximum height of 1.4m is proposed to the southern boundary, backing on to Cameron Crescent. The wall would be planted to soften its appearance and it would not adversely impact on the visual appearance of this area. Throughout the remaining areas of the site, it is suggested any timber fencing proposed consists of closed boards up to 1.2 m in height, with a more visually open form up to 1.8m to facilitate visual and social interaction between residents but allowing privacy to be retained. This is especially important to the site edges where they are visually prominent or are located adjacent to the adjacent core path network. The applicant has agreed that a planning condition should be recommended for the submission of further details of the boundary treatments throughout the site.

2.5.6 Objection comments note concern that the development is not in keeping with the surrounding area. The surrounding area includes a diverse range of house types, including cottages with stone, two storey rendered terraces, and semi-detached houses, and two storey rendered detached houses all in various colours including white, brown and grey. The proposals are for a contemporary design with materials including white render with grey features including the roof tiles. The proposed materials would not be out of keeping with the surrounding area, which includes a mix of various materials and house types although would be of a more contemporary design which is welcomed. The materials and house types proposed would be acceptable and would not adversely affect the visual amenity of the surrounding area, particularly when considering the proposed landscaping features, including tree planting and hedge planting to the edges of the site, which would screen and enhance the appearance of the site and proposed development in its surrounding context.

2.5.7 The proposals include private garden ground for each residential plot which vary in size, given the mix of house types proposed but the majority of the proposed houses would contain from 90sqm up to 400sqm, which is above or just below the 100sqm set out in the guidance. To the northern edge of the site, the provision of garden ground is generous and significantly exceeds the minimum standard because this approach is consistent with the character of the existing surrounding houses to the north east and meets the requirement of WDY002 for the northern portion of the site to be low density. In a few select plots, it is noted that provision would fall below the minimum. Any breaches of the minimum standard are related to smaller house types (all

terraced properties at plots 32 – 37 and 71 – 77) and it is accepted that, by their nature, as they are narrower house types it is more typical that a more proportionate, smaller garden is provided, otherwise the plots would become long and narrow. In this instance the provision of garden ground across the development is considered acceptable.

2.5.8 The proposals comply with Policy 14 of NPF4 (2023) and Policies 10 and 14 of FIFEplan (2017) and Supplementary Guidance Making Fife's Places (2018) regarding design and visual impact.

2.6 Residential Amenity

2.6.1 NPF 4 Policies 14 and 23, Policies 1 and 10 of FIFEplan Local Development Plan (2017) and Fife Council Customer Guidelines on Daylight and Sunlight (2018), Minimum Distances between Window Openings (2011), Garden Ground (2016) and PAN 1/2011 (Planning and Noise) apply in terms of residential amenity.

2.6.2 Objection comments express concern that the proposed dwellings would adversely impact on residential amenity, including privacy and daylight and sunlight. The proposed site layout includes mostly single storey properties along the southern and eastern edges of this site, to minimise the impact of the proposed development relative to the existing properties out with the site. A cottage is situated to the east of the site, and the proposals include new properties either side of the cottage. These properties would not contain windows to the gables to prevent overlooking from the new properties into the existing cottage out with the site. Tree planting is proposed around plot 55 to provide further screening between the cottage and plot 55. The window-to-window distance between proposed plots 54 and 55 to the existing property to the east out with the site, would be 18 – 21 metres, which meets the requirements of guidance, and the gardens would be over 9m long. The gable of proposed plot 71 would be 15m from the rear of the adjacent existing property out with the site, to the south but there would be no window on the gable of plot 71, so no overlooking can occur between windows. The rear of Plot 70 would measure approximately 17.84m to the rear of the existing neighbouring property out with the site. This is slightly below the 18m window to window distance as recommended within the Fife Council Customer Guidelines but given the proposed property would be a bungalow and there would be a retaining wall and rear boundary fence which would provide privacy screening between the properties, it is not considered that there would be any significant impact on privacy at this location. The garden for plot 70 would be 11m long, which is over the 8m recommended within the guidance. The rears of plots 67 – 69 would be 28m – 30m from the rear of the adjacent existing house out with the site boundary, so the proposed houses would not significantly impact on privacy at this location. Similarly with plots 64 – 66 which would be 22m from the respective existing properties out with the site boundary. Furthermore, plots 64 and 65 would benefit from planting as a buffer to the rear. The window-to-window distance between plot 47 and the existing property out with the site to the rear of plot 47 would be 19.8m which is over the 18m specified within the guidance, and the garden would be over 8m long (11m). This plot would also benefit from a hedge buffer between the proposed new house and the existing house. Overall, the proposals would not significantly impact on privacy to neighbouring properties out with the site. Within the site itself, a window-to-window distance of 17 – 18m is maintained throughout the site. Whilst some properties therefore would experience a window-to-window distance of slightly less than is recommended within the guidance, this is not considered to be a significant departure which would give rise to significant privacy concerns and a slight reduction in some plots is accepted.

2.6.3 The proposal would have no significant impact on the properties to the south of the proposed dwellings at Cameron Crescent, in terms of loss of sunlight, due to its orientation and distance from these neighbouring dwellings, whereby the proposal is located to the north of the nearest garden ground areas and the sun rises in the east and sets in the west. The proposed dwellings adjacent to the existing dwellings to the east of the site would be to the west of the existing dwellings at this location. The cottage to the east of the site appears to have a small area of amenity space, predominantly to the north of the cottage itself. Given the proposed dwellings would be located to the north of this space, the proposal would have no significant impact in terms of loss of sunlight to this property. There would be some overshadowing from proposed dwellings to the south of the cottage but still, no significant loss of sunlight would occur at this location given the distance of the proposed dwellings in comparison to the existing. Similarly, the existing dwelling to the north east of the site contains its amenity space behind the dwelling to the east. In regards to daylight, a 25 degree test is appropriate for this site, given all proposed and existing dwellings are directly facing. There would be no significant detrimental to the daylight levels experienced by the neighbouring dwellings as a result of the proposal. The proposal would, therefore, comply with the Development Plan in this respect and would be acceptable in this instance. The proposed dwellings within the application site have also been designed to ensure that no properties would significantly overshadow or block daylight/ sunlight to any other adjacent proposed properties within the site itself. The proposal would, therefore, be acceptable and would comply with the Development Plan in this respect.

2.6.4 The objections state that the proposal would result in a detrimental noise impact from construction. Any construction disturbance caused as a result of the proposal would be temporary in nature and any developer should also work to the best practice contained in British Standard 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". This is in order to mitigate the effects on sensitive premises/areas (i.e. neighbouring properties and road) of dust, noise and vibration in relation to construction works. It should also be noted that Fife Council's Environmental Health Public Protection team (PPT) can also deal with any complaints should they arise, and they can control noise and the operating hours of a construction site by serving a notice under the Control of Pollution Act 1974. A condition requiring the submission of a scheme of works to mitigate any potential effects on sensitive premises/areas (i.e. neighbouring properties and road) of dust, noise and vibration resulting from the construction of the proposed development is, however, also considered to be appropriate and a condition is recommended regarding this matter. The proposal would, therefore, be acceptable subject to this condition.

2.7 Transportation/Road Safety

2.7.1 Policy 14 of NPF4 (2023) and Policies 10 and 14 of FIFEplan (2017) and Supplementary Guidance Making Fife's Places (2018) apply regarding transportation and road safety impact.

2.7.2 Objection comments received express concern regarding transportation and road safety, specifically that the existing road infrastructure cannot cope with additional traffic; that there is only one point of access proposed; that the core paths are not suitable access routes; that there would be an adverse impact on Durie Place and Fa Latch Road from additional traffic and that there is poor public transport service in the area.

2.7.3 In terms of connectivity, the proposals include a single means of vehicular access from Cameron Crescent, to the south. A loop road is proposed within the site with a separate short cul-de-sac serving 10 dwellings. The proposals include a path link to core path P378 on the north eastern boundary of the site. This would provide a pedestrian link for leisure purposes, but it does not provide a key transport link. The alignment has been improved and would be constructed and illuminated to a prospectively adoptable standard. The proposed path would

connect with the core path approximately 90 metres from Durie Place. It is recognised that the existing core path is poorly surfaced, narrow, and not illuminated and would be unlikely to be deemed a safer route to Balcurvie Primary School in darker mornings and evenings. However, the path is currently well used by pedestrians, horse riders and vehicles. The applicant cannot upgrade the private access but would provide prospectively adoptable street lighting columns to the rear of plots 74 – 78 on land within the applicant's control to provide improved illumination. This would provide an overall enhancement to the existing route and increase its attractiveness for use by this site and outwith the site, enhancing connectivity overall. An additional footpath link to the west of plots 3 and 20 has been provided, which means a shorter walking route between Cameron Crescent and the plots in the northwest of the site would be available which would improve the permeability of the site. The path link includes donkey steps, which is unavoidable due to site levels.

2.7.4 Regarding the second access, which is set out as a requirement within the FIFEplan allocation (WDY 002) the applicant has provided a supporting statement which notes that a vehicular access to the site via Durie Place is technically not possible and cannot be delivered. This is due to the lack of available width, the need for retaining structures, and major level changes required to address the excessive long gradient. Drawings have been submitted showing an indicative access route from Durie Place which shows the extent of third-party land and cut and fill that would be required to form a second means of vehicular access, with a narrow 4 metres wide carriageway and 2 metre wide footway. The existing private access is used by vehicles, pedestrians and horse riders. Given third-party ownership issues, it would not be possible for the applicant to provide a narrow-shared pedestrian/cyclist/vehicle route to a prospectively adoptable standard from the existing private access route. Therefore, the proposed housing would be served by a single means of prospectively adoptable access from Cameron Crescent with three pedestrian links to the core path network on the northern and eastern boundary of the site. Considering all of the above, the applicant cannot provide a second means of vehicular access in accordance with the FIFEplan requirements and it is therefore accepted that, with the robust justification provided by the applicant, a second access is not possible in this instance.

2.7.5 Regarding access to public transport, a Transport Statement has been submitted in support of the planning application. The closest bus stops on Milton Road are approximately 420 metres walking distance of the southern boundary of the site. The closest bus stops on Kennoway Road are 660 metres walk distance from the eastern boundary of the site. The proposed Cameron Bridge Railway Station on the reinstated Levenmouth Railway would be approximately 1550 metres walking distance from the southern boundary of the site. The site has reasonable access to existing bus routes and would benefit from its proximity to the proposed Cameron Bridge railway station. The objection comments regarding the public transport service being poor cannot be resolved by this planning application, it is for the bus providers to provide a service suitable for its users. However, the site is in a good position to utilise the service that is provided from the existing bus stops.

2.7.6 Regarding additional traffic, the applicant has submitted a Transport Statement with the application. Transportation Development Management Officers have reviewed the statement and note that the vehicular trips proposed would represent an increase of less than 1 vehicle per minute on the local road network. An assessment of the Milton Road (K21)/Milton Road (housing street) junction has been submitted, which shows that the junction would continue to operate well below its practical capacity in both the am and pm peaks in the design year plus full development scenario. It is therefore not considered that the development would produce a significant increase in vehicular trips that would impact on the existing road infrastructure, including the adjacent junctions.

2.7.7 In regards to parking, it is noted that house types Azalea, Camellia and Tamerisk have internal garages that provide 1 off-street parking space. The remaining house types with internal garages would be provided with the required level of off-street car parking in acceptable arrangements. The affordable housing would also be provided with adequate off-street car parking. Overall, the site provides adequate parking throughout the site, in accordance with Making Fife's Places Supplementary Guidance (2017).

2.7.8 The Council's Access Officer has reviewed the proposals and has no objections, subject to the core paths being kept open and free of obstruction for the duration of the construction process and thereafter.

2.7.9 On balance, when considering that the site is allocated for housing development and it has been robustly demonstrated by the applicant that a second access from Durie Place cannot be provided, as is set out within FIFEplan allocation WDY002, the provision of only one vehicular access has been fully justified in this instance and a departure from this FIFEplan requirement is accepted in this instance. The proposals do not fully comply with FIFEplan allocation WDY002, however a departure is accepted in this instance and the proposals comply with Policy 14 of NPF4 (2023) and Policies 10 and 14 of FIFEplan (2017) and Supplementary Guidance Making Fife's Places (2018) in regards to transportation and road safety impact.

2.8 Flooding and Drainage

2.8.1 NPF4 (2023), Policies 1, 3 and 12 of FIFEplan Local Development Plan (2017), the Council's Design Criteria Guidance on Flooding and Surface Water Management Plan Requirements (2022) and the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended) (CAR) are taken into consideration with regard to drainage and infrastructure of development proposals.

2.8.2 Objection comments note concern that the proposals would exacerbate current flooding issues. The proposals include porous paving, swales and cellular storage crates on the site. All surface water would be discharged into the closest connections, following treatment and attenuation at the SUDS pond proposed to the south of the site and then to the existing storm water sewer on the southern boundary of the site. A new separate drainage system would be installed within the proposed site. Given the site will discharge into an existing sewer, the surface water discharge from the site is to be attenuated to the 1 in 2-year Greenfield run-off rate from the existing site. Calculations have been provided by the applicant, which demonstrates that the site will provide a betterment to the current situation. The overall combined treatment and attenuation volumes required for the surface water, inclusive of porous pavement and cellular storage have been calculated based on the 1:30 year storm including 40% climate change and 1 in 200-year storm including 40% climate change being attenuated within the SUDS features. The flow control system will limit outfall to 1 in 2-year Greenfield run-off rates prior to outfall to the existing sewer system. Fife Council Flooding, Shoreline and Harbours Officers have reviewed the proposals and have no objections to the proposals in regards to drainage and flooding.

2.8.3 Objection comments also express concern that there is insufficient capacity within the water and wastewater treatment works for the development. In this regard, Scottish Water have confirmed that there is sufficient capacity within their water and wastewater treatment works for the development.

2.8.4 Per the most recent SEPA flood maps, the application site is not considered to be at risk from flooding.

2.8.5 The application has been supported by calculations which confirm the proposed SuDS would effectively manage surface water runoff before connecting to the Scottish Water combined

sewer. No concerns have been raised regarding the submitted drainage information by the Council's Structural Services Officers. A condition is included for evidence of Scottish Water's acceptance for the development to discharge surface water to the combined sewer. The proposals comply with the terms of NPF4 Policy 20 and 22, FIFEplan (2017) Policy 3 and 12 in regards to flooding and drainage.

2.9 Contaminated Land and Air Quality

2.9.1 NPF4 (2023), Policies 1 and 10 of FIFEplan Local Plan (2017) PAN 33: Development of Contaminated Land (2000) and PAN 51: Planning, Environmental Protection and Regulation (2006) apply. A site investigation report has been submitted with this application in regards to land contamination on the site. Fife Council's Land and Air Quality Officers have reviewed the report and conclude that, given the conditions encountered on the site, specific risk mitigation measures would not be deemed necessary on this site.

2.9.2 An Air Quality Assessment has been submitted with the application. The assessment concludes that air quality impacts would be considered insignificant. Fife Council's Land and Air Quality Officers have reviewed the report and agree with the conclusions set out in regards to air quality impact.

2.9.3 The proposed development is considered to be acceptable and in accordance with FIFEplan (2017) Policy 10 and NPF4 (2023) Policies 9 and 23.

2.10 Natural Heritage and Trees

2.10.1 NPF4 (2023) Policies 3, 4, 6 and 20, FIFEplan (2017) Policy 13 and Making Fife's Places Supplementary Guidance apply in regards to natural heritage and trees.

2.10.2 No greenspace priorities or nature conservation designation have been identified in close proximity to the application boundary. Parts of the Core Path network pass along the eastern boundary: R372 Windygates roads and paths (P372/02) and R378 Balcurvie to Bell Field (P378/01); these are joined at Temple Cottage by R373 Fa-Latch Road (P373/01). Green Network Priorities have been established for the site under WDY 002:

- Deliver a high-quality development edge along Fa-latch Road and Durie Place.
- Establish a new high quality landscape edge along the northern and western boundary of the site to create an appropriate landscape setting for the development.

2.10.3 Objection comments have been received with concerns that the proposals would have adverse natural heritage impacts. In regards to the Green Network priorities, a high quality development edge is proposed to the south and east, with proposed replacement Beech and Hawthorn hedge planting to the south eastern corner, a new tree in the corner, trailing plants in conjunction with hedge planting on top of the proposed crib wall to the south with a further two trees adjacent to the parking spaces to the south east. Structure shrub planting with ornamental shrubs are proposed at the boundary to the open space to the south and specimen shrubs are proposed at the site entrance to create a sense of arrival. The open space in the south western boundary would be backed by tree and structure shrub planting to increase biodiversity and interest. The proposed connection to the east where the site meets the core path is supplemented by hedge planting and tree planting which would create a welcoming and attractive feature to the east of the site. The proposals include the retention of the hedge along the full length of the western boundary of the site, which would also be supplemented with infill planting of Hawthorn and Beech where gaps occur and an additional Beech and Hawthorn mix hedge to the north west to provide a continuous green boundary to the west where the existing hedge stops. To the northern boundary, double width hedge planting comprising Beech and Hawthorn is proposed on the north eastern corner at the core path, double width native hedge

planting along the remainder of the northern boundary to provide a continuous green boundary adjacent to the core path and tree and structure shrub planting is proposed on the north western corner to screen views of the garden of Plot 31 on the corner from the core path. 12 trees are also proposed along the northern boundary, in addition to the double width hedge. Objection comments note concern that the proposals would adversely impact on wildlife and ecology. A preliminary ecological appraisal has been undertaken for the proposals and submitted with the application. A dilapidated building is located within the site, and this was checked for bats. The survey undertaken indicated a negligible potential for bats to be located within the building or any of the mature trees, therefore no further surveys are required for bats. Potential badger activity was identified on the site and a search for badger setts was widened to investigate the area for any setts at a 1km limit, where none were found. Sufficient detail has been provided in regards to protected species and none were found to be present on the site. It is therefore accepted that there would be no adverse impact on protected species as a result of the proposed development. The proposals would meet the Green Network priorities set out for this site.

2.10.4 The applicant has submitted a Biodiversity Gain Statement which sets out that the development would include the provision of considerable biodiversity enhancements, including open space provision with planting and wildflower meadow, landscaped links to the surrounding core path networks, new hedging to reinforce the existing hedge and tree planting, all which would add significant biodiversity gain and provide a nature network to strengthen habitat connectivity within and beyond the development. New native species trees would be planted throughout the site to add to the biodiversity enhancement of the site.

2.10.5 The site is currently a field, which has not been in agricultural production for some time and now contains low grade grass with low level vegetation and hedgerows. The proposals include the retention of the existing hedgerows which would protect the site's current natural habitats in these locations. Further, the proposals include new hedgerows and trees of appropriate native species, which is welcomed. The SUDS are proposed to be located beneath an area of greenspace, which is welcomed as there is a preference for surface water management to be removed from pipes as far as possible to provide an opportunity to create wildlife-friendly, visually attractive SUDS features that integrate with landscaping and amenity and deliver biodiversity enhancement. Biodiversity enhancement includes the proposed additional planting, landscaped areas with links to the surrounding core path networks, all of which would assist in providing a nature network through the site and beyond.

2.10.6 Fife Council's Natural Heritage Officer is supportive of the proposals, however has advised that the proposed close mown grass to the common areas should incorporate components of native wildflower grassland in order to maximise the biodiversity of the site. Where proposed, these areas should include mown paths to allow the areas to be useable. Mowing protocols for such areas would be required to follow best practice, to ensure the species diversity is maintained (e.g. only one cut, late autumn, with arisings removed). The use of swales and native species is proposed within the development but to further enhance the biodiversity of the site, integrated bird nesting boxes should be incorporated into the site. The applicant advises that further maintenance arrangements can be submitted, and this can be covered through an appropriate planning condition which would request maintenance details and biodiversity enhancement such as integrated bird boxes throughout the site.

2.10.7 In regards to trees, three groups of trees or hedgerows have been identified on the site – H1, H2 and H3. H1 is classified as Category C comprising two hedges, located on the eastern boundary; H2 is classified as Category C comprising eight trees (Ash, Elm, Hawthorn and Sycamore) located on the southern boundary and H3 is classified as Category B, comprising a hedge with Hawthorn, Beech, Ash and Elder, located on the western boundary of the site. In order to facilitate development, the removal of 8 Category C trees (T0825, T0830, T0831,

T0832, T0833, T0834, T0835, T0838) and 2 Category C hedgerows (H1 and H2) have been stated as necessary. The trees are a mix of native broadleaf species and 6 category U Ash trees would require to be removed. All trees to be removed are located in the south east corner of the site. The total number would amount to 14 trees and 2 hedges to be removed, which would be mitigated through compensatory planting. It is concluded that none of the trees are particularly tall, old, or of good form; the tallest trees are Ash, and as they are not significantly mature and established, it is likely that Ash Dieback will affect them before they reach a point in life where they can sufficiently fight the disease.

2.10.8 The landscape plans include details on protective fencing to protect the hedge located to the western boundary of the site (Category B, H3) throughout development. The planting proposals include a range of both native and non-native broadleaf and conifers, some fruit and some ornamental trees, and a range of shrubs to compensate for the loss of H1 and H2. The proposals would sufficiently address the losses of trees and shrubs and the mixture and number of plantings proposed would create an overall net gain in flora biodiversity.

2.10.9 Fife Council's Tree Officer has been consulted on this application and has no objection to the proposals.

2.10.10 The proposals comply with NPF4 (2023) Policies 3, 4, 6 and 20, FIFEplan (2017) Policy 13 and Making Fife's Places Supplementary Guidance in regards to natural heritage and trees.

2.11 Sustainability

2.11.1 NPF4 (2023) Policies 1 and 2 and FIFEplan (2017) Policy 11 apply, in relation to low carbon and sustainability.

2.11.2 The applicant confirms that greenhouse gases will be reduced within the proposed development through the adoption of "fabric first" principles supplemented by renewable technologies. The proposed houses would be resource efficient and include products that have been developed to fully comply and exceed the most up to date Building Standards Regulations in Scotland. The proposals include renewable technology in the form of PV panels for the market units and air source heat pumps for the affordable homes, smart thermostats with zone controls and energy efficient radiators positioned in the most efficient locations to reduce wasted heat. Electric car charging points can be provided at each plot should the homebuyer request one. The proposed development includes a sustainable drainage system to 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. Fife Council Flooding, Shoreline and Harbours Team have confirmed that the proposed sustainable drainage system is acceptable. The collection of dry recyclable waste and food waste shall be in full accordance with the management process currently provided by Fife Council. To cater for Fife Council's "4 bin" service, suitable and adequate hardstanding areas will be provided within the curtilage of each property for the storage of wheeled refuse and recycling containers. The site is not within 1km of a district heat network. Therefore, the applicant is not required to investigate connection into the district heat network.

2.11.3 The proposed development is in accordance with NPF4 (2023) Policies 1 and 2 and FIFEplan (2017) Policy 11 in relation to low carbon and sustainability.

2.12 Affordable Housing

2.12.1 NPF 4 Policy 16 and FIFEplan Policy 2 and Fife Council's Affordable Housing Supplementary Guidance apply in regard to affordable housing.

2.12.2 Objection comments received have expressed concern that the development only provides the minimum number of affordable housing. In accordance with the Affordable Housing

Supplementary Guidance, housing developments within Windygates are required to provide 10% of the total units as affordable units, which would equate to 7.7 and the applicant is providing 8 units as affordable housing units, meeting the requirement set out within the Supplementary Guidance. Fife Council Housing Services have advised that to meet the affordable housing needs identified within the Levenmouth Local Housing Strategy Area, the affordable housing on this development should be provided as social rented housing. The applicant has confirmed that the proposed affordable homes would be provided by Kingdom Housing Association for social rent. The developer has proposed a mix of 1 x 2 bed amenity bungalow, 3 x 2 bed houses and 4 x 3 bed houses within the site and this proposed mix has been agreed with Fife Council Housing Services.

2.12.3 Fife Council Housing Services have been consulted on this application and support the proposed housing mix and number of units proposed within the development.

2.12.4 The proposals meet the requirements of NPF 4 Policy 16 and FIFEplan Policy 2 and Fife Council's Affordable Housing Supplementary Guidance in relation to the provision of affordable housing.

2.13 Education

2.13.1 NPF4 (2023) Policy 18, FIFEplan (2017) Policy 4 and the Fife Council Planning Obligations Framework Supplementary Guidance apply regarding education. The application site is within the catchment areas for Balcurvie Primary School; St Agatha's Roman Catholic Primary School; Levenmouth Academy; and St Andrew's Roman Catholic High School. This site is also within the Levenmouth Central local nursery area.

2.13.2 Objection comments received for this application have noted concern that the proposed development would have unacceptable impacts on schools in the area. Fife Council Education Service has been consulted and confirm that the proposals would not contribute towards any capacity issues for the relevant catchment schools for this site. School roll projections, including the expected completion rate of known housing sites, indicate that there is currently no capacity risk at Balcurvie Primary School. At the Pupil Census there were 147 pupils on the school roll organised in 6 classes in accordance with class size regulations. The school has 7 class areas available which provide capacity for a maximum of 212 pupils, only if all classes are 100% full at all stages across the school. School roll projections, including the expected completion rate of known housing sites, indicate that there is currently a risk that Levenmouth Academy will need more class areas than are currently available. At the Pupil Census there were 1710 pupils on the school roll and the school has capacity for a total of 1800 pupils. As this issue is not current or expected within the next two years it is not considered to be a critical capacity risk. School roll projections, including the expected completion rate of known housing sites, indicate that there is currently no capacity risk at St Agatha's Roman Catholic Primary School. At the Pupil Census there were 232 pupils on the school roll organised in 9 classes in accordance with class size regulations. The school has 10 class areas available which would provide capacity for a maximum of 292 pupils only if all classes are 100% full at all stages across the school. School roll projections, including the expected completion rate of known housing sites, indicate that there is currently no capacity risk at St Andrew's Roman Catholic High School. At the Pupil Census there were 836 pupils on the school roll and the school has a maximum capacity for 1137 pupils.

2.13.3 Local area nurseries were approved by Fife Council Education and Children's Services Committee in September 2019. This site is within the Levenmouth Central local nursery area. From August 2020 the Scottish Government and Fife Council were committed to increasing the funded entitlement to Early Learning & Childcare for all 3- and 4-year-olds and eligible 2-year-olds, from 600 hours to 1140 hours. This development site was factored into the programme to

deliver the Scottish Government's expansion of 1140 hours for nursery pupils when implemented in 2016, with a capacity of only 50 houses. At the Pupil Census there were 368 children aged 3 and 4 years old attending all nursery provision in this local nursery area. There are currently 429 places for 3 and 4 year old children at Fife Council nurseries in this local nursery area.

2.13.4 The proposals would therefore meet the requirements of NPF4 (2023) Policy 18, FIFEplan (2017) Policy 4 and the Fife Council Planning Obligations Framework Supplementary Guidance in regard to education and no contributions would be required.

2.14 Open Space and Play Areas

2.14.1 NPF4 (2023) Policy 20 and 21, FIFEplan (2017) Policy 3 and Making Fife's Places Supplementary Guidance (2018) apply.

2.14.2 Making Fife's Places Supplementary Guidance requires 60 sq. m of open space to be provided on site per residential unit, where the nearest area of open space is over 250m away. For the proposed development, this equates to 4,620 sq. m of open space to be provided on site. Analysis of the submitted proposed site plan has confirmed that the proposed development would provide approximately 3,017sq. m of open space on the site, which is below the requirements set out within Making Fife's Places. Given the nearest area of open space is over 250m from the development site, then no contributions would be sought towards open space out with the site. Taking account of the low density of the site to the north side, the well-designed layout, the landscaping proposed, the provision of informal play features scattered throughout the site and small pocket parks available to the site and to surrounding existing areas, the shortfall is accepted in this instance. The site would be well connected to surrounding core path, which would allow residents attractive walking/wheeling routes to the east of the site and many of the gardens within the site are large, where the density is lower, which would contribute towards a justification for less open space being provided on site in this instance. It is therefore considered that, on balance, the proposed development provides an appropriate level of open space on the site, when considering this together with other factors such as design, connectivity and the quality of the open space being provided. A condition is suggested, which would request further details for the proposed park equipment to ensure that it is suitable for all ages.

2.14.3 The proposals are acceptable in regards to open space and play areas and comply with the relevant policies and guidance, subject to the aforementioned conditions.

2.15 Public Art

2.15.1 NPF4 (2023) Policy 31, FIFEplan (2017) Policy 4 and Making Fife's Places Supplementary Guidance (2018) (Appendix F) apply.

2.15.2 As this is an application for a major housing development and a proposal that involves a significant change to existing (as per NPF4 Policy 31) public art would be required. There are opportunities throughout the site to include public art, such as the pocket park areas. A condition is recommended requiring the submission of a Public Art Strategy to provide and agree these details. This would also specify the need for public consultation and the need for detail on the level of cost apportioned to the art.

2.15.3 Subject to the aforementioned condition, the proposals comply with the relevant policies and guidance regarding public art and would be acceptable.

2.16 Strategic Transport Interventions

2.16.1 NPF4 (2023) Policies 13 and 18, FIFEPlan (2017) Policies 3 and 4 and the Planning Obligations Framework Guidance apply in regards to Strategic Transport Interventions.

2.16.2 The site is located within the Glenrothes Intermediate Zone as identified within the Planning Obligations Framework Guidance (2017). As such, a contribution of £288 per residential unit is required. This contribution applies to market units only, with affordable housing exempt from these contributions. The total contribution would therefore be £22,176. The contribution would be index linked to Q1 2017, when the intervention measure was costed. The applicant has agreed to pay this contribution.

2.16.3 Subject to the aforementioned contribution requirements, which would be set out within a Section 75 legal agreement, the proposed development would not create an adverse impact on infrastructure that cannot be addressed. The proposals therefore meet the requirements of NPF4 (2023) Policies 13 and 18, FIFEplan (2017) Policies 3 and 4 and the Fife Council Planning Obligations Framework Guidance (2018).

2.17 Other Infrastructure Considerations

2.17.1 NPF4 (2023) Policy 18, FIFEPlan (2017) Policy 4 and the Fife Council Planning Obligations Framework Guidance (2017) apply.

2.17.2 Objection comments received set out concerns that the development would not contribute towards infrastructure, including health care, pharmacies, shops and schools. Circular 3/2012: Planning Obligations and Good Neighbour Agreements sets out Scottish Government expectations on the role planning obligations will play in addressing the infrastructure impacts of new development. The circular requires that planning obligations meet all the five tests as set out in paragraphs 14-25 of the circular. A planning obligation should be necessary to make the proposed development acceptable in planning terms; serve a planning purpose and where it is possible to identify infrastructure provision requirements in advance, should relate to development plans; 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.

2.17.3 Healthcare 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 practices 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 who make a business case to expand and establish the practices 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 and they 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, which 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 for healthcare services, and this would be the same for shops.

2.17.4 The proposals would comply with NPF4 (2023) Policy 18, FIFEPlan (2017) Policy 4 and the Fife Council Planning Obligations Framework Guidance in regards to other infrastructure considerations.

2.18 Archaeology

2.18.1 NPF4 (2023) Policy 7, FIFEplan (2017) Policy 14 and Making Fife's Places Supplementary Guidance (2018) apply in regards to archaeology.

2.18.2 No sites, monument or deposits are recorded within the application site and the site is not covered by any historic environment designations. However, given the unusual place-name of the site 'The Temple' Fife Council's Archaeologist advised that there was indication that this part of the medieval estate of Balcurvie (divided in the early 16th century into Little and Meikle Balcurvie) was formerly in the possession of, or the rents derived from it, were directed to the support of the Order of the Knights of the Temple of Solomon of Jerusalem, more commonly known as the Knights Templar. Fife Council's Archaeologist therefore advised that there was potential for archaeological deposits of prehistoric and/or medieval date to exist on this site and recommended that a Written Scheme of Investigation was carried out. The applicant submitted a Written Scheme of Investigation (Access Archaeological Condition Services Ltd, August 2022). The investigation sets out a programme of archaeological works, which the Council's Archaeologist has reviewed and is agreed upon. The works set out within the WSI should therefore be carried out prior to works commencing on site, in accordance with the WSI approved through this planning application. A condition requiring the submission of a programme of archaeological work is therefore recommended and these works would be carried out prior to works commencing on site.

2.18.3 The proposals comply with the terms of NPF4 (2023) Policy 7, FIFEplan (2017) Policy 14 and Making Fife's Places Supplementary Guidance (2018) in regards to archaeology, subject to the aforementioned condition.

CONSULTATION SUMMARY

Structural Services - Flooding, Shoreline And Harbours	No objections.
TDM, Planning Services	No objections, subject to conditions.
Urban Design, Planning Services	No objections.
Scottish Water	No objections.
Natural Heritage, Planning Services	No objections, subject to conditions.
Trees, Planning Services	No objections, subject to conditions.
Archaeology Team, Planning Services	No objections, subject to conditions.
Housing And Neighbourhood Services	No objections, subject to conditions.
NHS Fife	No response.
Parks Development and Countryside - Rights of Way/Access	No objections, subject to conditions.
Land And Air Quality, Protective Services	No objections.
Education (Directorate)	No objections.
Transportation And Environmental Services - Operations Team	No response.
Parks Development and Countryside	No response.

REPRESENTATIONS SUMMARY

117 representations have been received, with 9 of these being support comments, 4 being general comments and 104 being objections. It is noted that the content of the 4 comments that have been submitted as 'general' comments read as objection comments and the issues within those comments are addressed as part of the objection comments below.

Material Planning Considerations

Objection Comments:

Issue	Addressed in Paragraph
a. The site should not be developed	2.4.1
b. The proposals would be over-development of Balcurvie/Windygates	2.4.1 - 2.4.2
c. Existing road infrastructure cannot cope with additional traffic	2.7.6
d. There is only one point of access proposed	2.7.4
e. The core paths are not suitable access routes	2.7.3
f. There would be an adverse impact on Durie Place and Fa Latch Road from additional traffic	2.7.6
g. There is poor public transport service in the area	2.7.5
h. There would be significant impact on the NHS services	2.17.2 - 2.17.3
l. Previous planning applications were refused on this site	1.3.1
i. The proposed design is not in keeping with the surrounding area	2.5.6
j. There are only a minimum number of affordable homes proposed	2.12.2
k. There would be unacceptable natural heritage impacts	2.10.3 - 2.10.10
l. There would be overlooking of existing homes	2.6.2
m. There would be loss of amenity as a result of the development during construction – noise, dust	2.6.4
n. There would be loss of amenity as a result of the development – daylight, sunlight and privacy	2.6.3
o. There is a lack of capacity in the water supply system and drainage networks. The proposals would exacerbate current flooding issues.	2.8.2
p. There is lack of capacity at the local schools	2.13.2
q. Two previous planning applications have been refused on this site.	1.3

Support Comments:

- a. Lack of suitable availability of housing in Windygates currently
- b. The local school is not at full capacity

- c. A train station is being built in the local vicinity to support development

Other Concerns Expressed

Issue	Comment
a. Fife Council currently not maintaining the village to a reasonable standard.	Not an issue that can be resolved through this planning application.

CONCLUSIONS

The proposal does not fully comply with the FIFEplan allocation requirements because it only includes one point of access, through Cameron Crescent. The applicant has provided robust evidence and justification which shows that a vehicular access to the site via Durie Place is technically not possible and cannot be delivered and this supporting evidence has been accepted. The site is allocated for housing within FIFEplan (2017) Local Development Plan WD002. On balance, although the proposals would not fully comply with the requirements set out in WD002, the justification that has been provided is thorough and is accepted by Fife Council Transportation Development Management. The site is otherwise well connected with a well-designed layout proposed. Overall, the proposed development would be compatible with its surrounds in terms of land use and would not cause any detrimental impacts on surrounding residential properties or the surrounding area. The proposal would be considered acceptable in terms of its impact on road safety and would provide the necessary transport measures to minimise and manage future levels of traffic generated by the proposal. The proposal is also considered to be in keeping with the scale, massing, layout and height of the existing built form at this location and would, therefore, be an appropriate form of development which would represent a positive visual improvement to the site and surrounding area. The proposal, subject to conditions would, therefore, be acceptable in meeting the terms of the Development Plan and National Guidance.

RECOMMENDATION

It is accordingly recommended:

- A. That the application is approved subject to the undernoted conditions and reasons, following the conclusion of a legal agreement to secure; £288 per residential unit for strategic transport interventions, excluding affordable housing units. Index linked to Q1 2017.
- 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
- C. That should no agreement be reached 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.

PRE-COMMENCEMENT CONDITIONS:

- 8. BEFORE ANY WORKS COMMENCE ON SITE a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by Fife Council as Planning Authority. The CTMP shall specify construction traffic routes and timings.

Reason: In the interest of road safety and pedestrian safety; to ensure the management of construction traffic.

9. BEFORE ANY WORKS COMMENCE ON SITE details of the measures to be employed to prevent mud, debris or other deleterious material being carried onto and accumulating on the public roads adjacent to the site shall be submitted for the written approval of this planning authority and shall thereafter be implemented and maintained throughout the construction period of the development.

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

16. BEFORE ANY WORKS COMMENCE ON SITE, the developer shall submit a Scheme of Works the details of which 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' or applicable updated versions 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 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 noise sensitive receptors.

21. BEFORE ANY WORKS COMMENCE ON SITE biodiversity enhancement measures shall be submitted to and approved in writing by Fife Council as Planning Authority. The measures shall include details relating to the provision of bird boxes or bricks throughout the site. All works shall then be carried out in full accordance with any subsequent approved details and all approved bird and bat roost boxes or bricks shall be provided BEFORE EACH RELATED DWELLING IS OCCUPIED unless otherwise agreed in writing with Fife Council as Planning Authority.

Reason: In the interests of ecological enhancements.

22. BEFORE ANY WORKS COMMENCE 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 earth mounding, shall be submitted to and approved in writing by this Planning Authority. These submitted details shall also include details of all proposed boundary treatments and retaining walls. The scheme as approved shall be implemented within the first planting season following the completion or occupation of the development, whichever is sooner.

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

23. BEFORE ANY WORKS COMMENCE ON SITE; full details of the proposed energy generating technologies (including 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 full accordance with these approved details.

Reason: In the interests of sustainability; to ensure the development complies with Policy 11 of the Adopted FIFEplan (2017).

24. The construction of the development shall be carried out fully in accordance with the recommendations contained within the submitted Tree Survey Report (Plan Reference 51) and as per the tree protection plan contained within this document. This Planning Authority shall be formally notified in writing of the completion of the required tree protection measures and NO WORKS SHALL COMMENCE ON SITE until this 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 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 the interests of safeguarding trees.

CONDITIONS:

1. The development to which this permission relates must be commenced no later than 3 years from the date of this permission.

Reason: In order to comply with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by Section 32 of The Planning (Scotland) Act 2019.

2. The units hereby approved on plots 70 to 77, shall be affordable housing as defined within Fife Council's Supplementary Guidance on Affordable Housing (2018) and shall be retained as such for the lifetime of the development unless otherwise agreed in writing with Fife Council as Planning Authority.

Reason: To ensure that the development meets its affordable housing provision in line with the Adopted FIFEplan (2017) and Fife Council's Supplementary Guidance on Affordable Housing (2018).

3. 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%) and shall have appropriate vertical curves to ensure adequate ground clearance for vehicles prior to house occupation. 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

4. PRIOR TO THE OCCUPATION OF THE FIRST UNIT within the site, 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 all internal junctions of prospectively adoptable roads 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 OCCUPATION OF EACH UNIT, all roadside boundary markers shall 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.

6. PRIOR TO OCCUPATION OF EACH UNIT, the off-street car parking for that plot shall be provided as shown on document 03C. 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. The visitor car parking spaces as shown on document 03C shall be provided pro-rata in relation to the occupation of houses and 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.

10. PRIOR TO OCCUPATION OF THE FIRST UNIT within the site, a raised table (1 metre ramps formed clear of driveways and 75mm high) shall be formed at the existing Cameron Crescent T-junction fronting no. 26. The existing vehicular crossings to nos. 26 & 28 shall be raised. It may be possible to tie in the bottom of the ramps with the existing road gullies.

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

11. 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.

12. The development shall be carried out in accordance with the Written Scheme of Investigation (Access Archaeological Condition Services Ltd, 18th August 2022) as approved through this permission (document 53).

Reason: In order to safeguard the archaeological heritage of the site and to ensure that the developer provides for an adequate opportunity to investigate, record and rescue archaeological remains on the site, which lies within an area of archaeological importance.

13. No works shall be undertaken which in any way impinge or obstruct alleged or vindicated rights of way on or adjacent to the application site, unless otherwise agreed in writing with Fife Council as Planning Authority.

Reason: To ensure that all IN are protected and not adversely affected as a result of the development.

14. Vegetation removal shall not take place at any time between March and August (inclusive) in any calendar year unless otherwise agreed in writing with the Planning Authority following the submission of an updated breeding bird survey.

Reason: In the interests of ecology, to minimise disruption within the bird nesting season.

15. The development shall be implemented in accordance with the recommendations set out within the Preliminary Ecological Appraisal by David Dodds Associates Ltd Ecological Consultants (March 2022) unless otherwise agreed in writing with Fife Council as planning authority.

Reason: In the interests of protecting the ecology of the site.

17. All planting carried out on site shall be maintained by the developer in accordance with good horticultural practice 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.

18. The SUDS and drainage infrastructure hereby approved shall be constructed/installed contemporaneously with the build out of the development hereby approved and shall be fully operational prior to the completion of the last unit on site unless otherwise agreed in writing. Thereafter shall be retained and maintained for the lifetime of the development.

Reason: To ensure the effective management of surface water and to ensure that the required drainage works are carried out and operational at the required stage of the development.

19. PRIOR TO OCCUPATION OF THE LAST UNIT on site confirmation that the approved SUDS has been constructed in line with current best practice shall be submitted to Fife Council. The required confirmation shall comprise the submission of a completed and signed Appendix 6 of Fife Council's Design Criteria Guidance on Flooding and Surface Water Management Plan Requirements.

Reason: To ensure the approved SUDS infrastructure has been constructed in accordance with the approved plans and in accordance with current best practice.

20. PRIOR TO OCCUPATION OF THE FIRST UNIT a public art strategy including the details of the proposed items of work relating to this strategy shall be submitted for the prior written approval of Fife Council as Planning Authority. The strategy shall demonstrate that the value of the works contributing to the public art scheme, shall meet the terms of the Council's Guidance on Public Art in terms of the financial value of the items of work. For the avoidance of doubt, this equates to a contribution of £300 per eligible unit. The strategy shall include a phasing timescale for the implementation of the public art works. Thereafter the public art works shall be carried out entirely in accordance with the details and phasing approved under this condition and will be maintained for the lifetime of the development by the applicant or other agreed party.

Reason: In the interests of good placemaking; to ensure a strategy for deploying the financial contribution towards public art is agreed.

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 Guidance and Legislation:

PAN 33 Development of Contaminated Land

PAN 1/2011: Planning and Noise

Circular 3/2012: Planning Obligations and Good Neighbour Agreements

PAN 51: Planning, Environmental Protection and Regulation (2006)

Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended) (CAR)

Development Plan:

National Planning Framework 4 (2023)

FIFEplan Local Development Plan (2017)

Making Fife's Places Supplementary Guidance Document (2018)

Low Carbon Fife Supplementary Guidance (2019)

Affordable Housing Supplementary Guidance (2018)

Other Guidance:

Design Criteria Guidance on Flooding and Surface Water Management Plan Requirements (2022)

Fife Council Planning Customer Guidelines on Garden Ground (2016)

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

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

Planning Obligations Framework Guidance (2017)

Report prepared by Natasha Cockburn

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

Date Printed 05/07/2023

APPENDIX A RELEVANT POLICY SUMMARIES

National Planning Framework 4 (2023)

Policy 1: Tackling the climate and nature crises

NPF4 Policy 1 Tackling the Climate and Nature Crises states significant weight will be given to same.

Policy 2: Climate mitigation and adaptation

NPF4 Policy 2 Climate Mitigation and Adaptation states siting and design will minimise greenhouse gases as far as possible and adapt development to a changing climate. Retrofit measures are supported.

Policy 3: Biodiversity

NPF4 Policy 3 Biodiversity states a) proposals will contribute to biodiversity enhancement, including, where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. Proposals should also integrate nature-based solutions, where possible.

b) National, major or EIA development will only be supported where demonstrated it will conserve, restore and enhance biodiversity, including nature networks so they are demonstrably better than without intervention; demonstrating how: the proposal is based on an understanding of existing site characteristics and ecological context; where feasible, nature-based solutions have been integrated and made best use of; potential negative effects have been assessed and fully mitigated in line with the mitigation hierarchy prior to identifying enhancements; significant biodiversity enhancements are provided; and local community benefits have been considered.

c) Non-householder local development will include appropriate and proportionate measures to conserve, restore and enhance biodiversity.

d) Potential adverse impacts on biodiversity, nature networks and the natural environment will be minimised.

Policy 4: Natural places

NPF4 Policy 4 Natural Places states proposals which by virtue of type, location or scale will have unacceptable impact on the natural environment, will not be supported.

Proposals that will affect a SSSI or National Nature Reserve will only be supported where: their designation objectives and overall integrity will not be compromised; or significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance. Ramsar sites are also SSSIs and protected under the relevant statutory regimes.

Proposals affecting a local nature conservation site or landscape area designated in the LDP will only be supported where: there will be no significant adverse effects on the integrity of the area or the qualities for which it has been identified; or significant adverse effects on that integrity are clearly outweighed by social, environmental or economic benefits of at least local importance.

If there is reasonable evidence suggesting a protected species is present or may be affected, steps must be taken to establish its presence; the level of protection required by legislation must be factored into planning and design, and potential impacts fully considered.

Policy 5: Soils

NPF4 Policy 5 Soils states proposals will only be supported where designed and constructed: in accordance with the mitigation hierarchy, first avoiding then minimising soil disturbance on undeveloped land; and protecting soil from damage and minimise sealing.

Proposals on prime agricultural land, or lesser quality land culturally or locally important for primary use, as identified by the LDP, will only be supported where: essential infrastructure with specific locational need and no other suitable site; small-scale and directly linked to a rural business or farm or for essential workers for the rural business to be able to live on site; development of production and processing facilities associated with the land produce where no other local site is suitable; and renewable energy generation or minerals extraction and there is secure provision for restoration; in all these exceptions minimising the use of protected land.

Proposals on peatland, carbon-rich soils and priority peatland habitat will only be supported where: essential infrastructure with specific locational need and no other suitable site; renewable energy generation optimising the area's contribution to meeting greenhouse gas targets; small-scale development directly linked to a rural business or farm; supporting a fragile community in a rural area; or peatland habitat restoration.

Proposals for commercial peat extraction will only be supported where: the extracted peat is supporting the Scottish whisky industry; there is no reasonable substitute; the extraction area is the minimum necessary and the proposal retains an in-situ residual peat depth of at least one metre across the site, including drainage features; the extraction timescale is the minimum necessary; and there is an agreed restoration plan for progressively restoring, over a reasonable timescale, the area of extraction to a functioning peatland system capable of achieving carbon sequestration.

Policy 6: Forestry, woodland and trees

NPF4 Policy 6 Forestry, Woodland and Trees states proposals that enhance, expand and improve woodland and tree cover will be supported.

Proposals will not be supported where they will result in: loss of ancient woodland, ancient and veteran trees, or adversely impact their ecological condition; adverse impacts on native woodland, hedgerows and individual trees of high biodiversity value, or identified for protection in the Forestry and Woodland Strategy; fragmenting or severing woodland habitats, unless appropriate mitigation measures are identified and implemented in line with the mitigation hierarchy; conflict with Restocking Direction, Remedial Notice or Registered Notice to Comply issued by Scottish Forestry.

Proposals involving woodland removal will only be supported where they will achieve significant and clearly defined additional public benefits in accordance with relevant Scottish Government policy on woodland removal. Where woodland is removed, compensatory planting will most likely be expected.

Proposals on sites including existing woodland or land identified in the Forestry and Woodland Strategy as suitable for woodland creation will only be supported where enhancement and improvement of woodlands and new tree planting on site (in accordance with the Forestry and Woodland Strategy) are integrated.

Policy 7: Historic assets and places

NPF4 Policy 7 Historic Assets and Places states proposals for demolition of listed buildings will not be supported unless demonstrated there are exceptional circumstances and that all reasonable efforts have been made to retain, reuse and/or adapt the building. Considerations include whether the: building is no longer of special interest; building is incapable of repair and re-use as verified through structural condition survey; repair of the building is not economically viable and there has been adequate marketing for existing and/or new uses at a price reflecting its location and condition for a reasonable period to attract interest from potential restoring purchasers; or demolition is essential to delivering significant benefits to economic growth or the wider community.

Proposals for reuse, alteration or extension of a listed building will only be supported where they will preserve its character, special architectural or historic interest and setting. Proposals affecting the setting of a listed building should preserve its character, and its special architectural or historic interest.

Proposals in or affecting conservation areas will only be supported where the character and appearance of the conservation area and its setting is preserved or enhanced. Considerations include the: architectural and historic character of the area; existing density, built form and layout; context and siting, quality of design and suitable materials.

Proposals in conservation areas will ensure existing natural and built features contributing to its character and its setting, including structures, boundary walls, railings, trees and hedges, are retained.

Demolition of buildings in a conservation area which make a positive contribution to its character will only be supported where demonstrated that: reasonable efforts have been made to retain, repair and reuse; the building is of little townscape value; structural condition prevents retention at reasonable cost; or form or location makes reuse extremely difficult. Where redevelopment follows, consent to demolish will only be supported when acceptable design, layout and materials are being used.

Proposals affecting scheduled monuments will only be supported where: direct impacts are avoided; significant adverse impacts on the integrity of the setting are avoided; or exceptional circumstances have been demonstrated to justify the impact and its setting and impacts on the monument or its setting have been minimised.

Proposals affecting nationally important Gardens and Designed Landscapes will be supported where they protect, preserve or enhance their cultural significance, character and integrity and where they will not significantly impact on important views to, from and within the site, or its setting.

Proposals affecting nationally important Historic Battlefields will only be supported where they protect and, where appropriate, enhance their cultural significance, key landscape characteristics, physical remains and special qualities.

Proposals at the coast edge or extending offshore will only be supported where they do not significantly hinder Historic Marine Protected Area preservation objectives.

Proposals affecting a World Heritage Site or its setting will only be supported where their Outstanding Universal Value is protected and preserved.

Proposals which sensitively repair, enhance and bring historic buildings, as identified as at risk locally or in the national Buildings at Risk Register, back into beneficial use will be supported.

Enabling development for historic environment assets or places otherwise unacceptable in planning terms, will only be supported when demonstrated it is: essential for the future of an historic environment asset or place at risk of serious deterioration or loss; and the minimum necessary for restoration, adaptation and long-term future of the asset or place.

Non-designated historic environment assets, places and their setting should be protected and preserved in situ wherever feasible. Where there is potential for non-designated buried archaeological remains, developers will provide an evaluation of the archaeological resource at an early stage so planning authorities can assess impacts. Historic buildings may also have archaeological significance which is not understood and may require assessment.

Where impacts cannot be avoided they should be minimised. Where demonstrated that avoidance or retention is not possible, excavation, recording, analysis, archiving, publication and activities to provide public benefit may be required.

When new archaeological discoveries are made during works, they must be reported to the planning authority for agreement on inspection, recording and mitigation.

Policy 11: Energy

NPF4 Policy 11 Energy states proposals for all forms of renewable, low-carbon and zero emissions technologies will be supported, including: wind farms including repowering, extending, expanding and extending the life of existing wind farms; enabling works, e.g. for transmission and distribution; energy storage; small-scale renewable energy generation; solar arrays; proposals associated with negative emissions technologies and carbon capture; and proposals including co-location of these technologies.

Proposals will only be supported where they maximise net economic impact, including local and community socio-economic benefits, e.g., employment, associated business and supply chain opportunities.

Proposals impacting on international or national designations will be assessed in relation to Policy 4.

Project design and mitigation will demonstrate how the following are addressed: impacts on communities and individual dwellings, including, residential amenity, visual impact, noise and shadow flicker; significant landscape and visual impacts, recognising these are to be expected for some forms of renewable energy. Where impacts are localised and/or appropriate design mitigation has been applied, they will generally be considered acceptable; public access, including impact on long distance walking and cycling routes and scenic routes; impacts on aviation and defence interests including seismological recording; impacts on telecommunications and broadcasting installations, particularly ensuring transmission links are not compromised; impacts on road traffic and adjacent trunk roads, including during construction; impacts on historic environment; effects on hydrology, water environment and flood risk; biodiversity including impacts on birds; impacts on trees, woods and forests; proposals for decommissioning developments, including ancillary infrastructure, and site restoration; the quality of restoration plans including measures to safeguard or guarantee finances for effective implementation; and cumulative impacts.

In considering the above impacts, significant weight will be attached to contributing to renewable energy/greenhouse gas targets.

Grid capacity should not constrain renewable energy development. It is for developers to agree connections to the grid with the network operator. In the case of proposals for grid infrastructure, consideration should be given to underground connections, where possible.

Consents for development may be time-limited. Areas identified for wind farms are, however, expected to be suitable for use in perpetuity.

Policy 12: Zero Waste

NPF4 Policy 12 Zero Waste states proposals will seek to reduce, reuse, or recycle materials in line with the waste hierarchy.

Proposals will be supported where they: reuse existing buildings and infrastructure; minimise demolition and salvage materials for reuse; minimise waste, reduce pressure on virgin resources and enable building materials, components and products to be disassembled, and reused at the end of their useful life; use materials with the lowest forms of embodied emissions, such as recycled and natural construction materials; use materials suitable for reuse with minimal reprocessing.

Proposals likely to generate waste when operational, will set out how much waste is expected and how it will be managed, including: provision to maximise waste reduction and waste

separation at source, and measures to minimise cross-contamination, through appropriate segregation and storage of waste; convenient access for waste collection; and recycling and localised waste management facilities.

Proposals for waste infrastructure and facilities (except landfill and energy from waste) will be only supported where: there are no unacceptable impacts (including cumulative) on residential amenity; the transport network; and the natural and historic environment; environmental (including cumulative) impacts relating to noise, dust, smells, pests and pollution are acceptable; any greenhouse gases resulting from processing and transportation of waste are minimised; an adequate buffer between sites and sensitive uses is provided; restoration and aftercare (including appropriate financial mechanisms) is agreed; consideration has been given to co-location with end users of outputs.

Landfill site proposals will only be supported if: there is demonstrable need for additional capacity, taking into account Scottish Government objectives; and waste heat and/or electricity generation is included. Where this is considered impractical, evidence and justification will be provided.

Proposals for capture, distribution or use of gases captured from landfill or wastewater treatment plant will be supported.

Proposals for energy-from-waste facilities will not be supported except under limited circumstances where national or local need has been sufficiently demonstrated (e.g. capacity need or carbon benefits) as part of a strategic approach to residual waste management and where the proposal: is consistent with climate change targets and in line with circular economy principles; can demonstrate a functional heat network can be created and provided within the site for appropriate infrastructure to allow development of a heat network and potential local consumers have been identified; is supported by a heat and power plan, demonstrating how energy recovered from the development would be used to provide electricity and heat and where consideration is given to methods to reduce carbon emissions of the facility (e.g. through carbon capture and storage); complies with relevant SEPA guidelines; and has supplied an acceptable decarbonisation strategy aligned with Scottish Government decarbonisation goals.

Policy 13: Sustainable transport

NPF4 Policy 13 Sustainable Transport states proposals to improve, enhance or provide active travel and public transport infrastructure or multi-modal hubs will be supported, including proposals: for electric vehicle charging infrastructure and electric vehicle forecourts, especially where fuelled by renewable energy; which support shift of freight from road to more sustainable modes, including last-mile delivery; that build in resilience to climate change effects and where appropriate incorporate blue and green infrastructure and nature rich habitats.

Proposals will be supported where demonstrated that transport requirements generated have been considered in line with sustainable travel and investment hierarchies and where appropriate they: provide direct, easy, segregated and safe links to local facilities via walking, wheeling and cycling networks before occupation; will be accessible by public transport, ideally supporting use of existing services; integrate transport modes; provide low or zero-emission vehicle and cycle charging points in safe and convenient locations, in alignment with building standards; supply safe, secure and convenient cycle parking to meet user needs and more conveniently located than car parking; are designed to incorporate safety measures including safe crossings for walking and wheeling and reducing the number and speed of vehicles; have taken into account, at the earliest design stage, the transport needs of diverse groups to ensure the safety, ease and needs of all users; and adequately mitigate any impact on local public access routes.

Where a proposal will generate a significant increase in person trips, a transport assessment will be required to be undertaken in accordance with relevant guidance.

Proposals for significant travel generating uses will not be supported in locations which would increase reliance on the private car, taking into account the specific characteristics of the area.

Proposals which are ambitious in terms of low/no car parking will be supported, particularly in urban locations well-served by sustainable transport modes and where they do not create barriers to access by disabled people.

Proposals for significant travel generating uses, or smaller-scale developments where important to monitor travel patterns resulting from the development, will only be supported if accompanied by a Travel Plan with supporting planning conditions/obligations. Travel plans should set out clear arrangements for delivering against targets, as well as monitoring and evaluation.

Proposals with potential to affect operation and safety of the Strategic Transport Network will be fully assessed to determine their impact. Where demonstrated that existing infrastructure does not have the capacity to accommodate a development without adverse impacts on safety or unacceptable impacts on operational performance, the cost of mitigation measures required to ensure continued safe and effective network operation should be met by the developer.

The case for a new trunk road junction will be considered by Transport Scotland where significant economic or regeneration benefits can be demonstrated. New junctions will only be considered if designed in accordance with relevant guidance and where there will be no adverse impact on road safety or operational performance.

Policy 14: Design, quality and place

NPF4 Policy 14 Design, Quality and Place states proposals will be designed to improve an area's quality, regardless of scale.

Proposals will be supported where consistent with the qualities of successful places: healthy, pleasant, connected, distinctive, sustainable and adaptable.

Proposals that are poorly designed, detrimental to amenity or inconsistent with the qualities of successful places, will not be supported.

Policy 15: Local Living and 20 minute neighbourhoods

NPF4 Policy 15 Local Living and 20 Minute Neighbourhoods states proposals will contribute to local living including, where relevant, 20-minute neighbourhoods. To establish this, consideration will be given to existing settlement pattern, and the level and quality of interconnectivity of the proposal with the surrounding area, including local access to: sustainable transport modes including local public transport and safe, high-quality walking, wheeling and cycling networks; employment; shopping; health and social care facilities; childcare, schools and lifelong learning opportunities; playgrounds and informal play opportunities, parks, green streets and spaces, community gardens, opportunities for food growing and allotments, sport and recreation facilities; publicly accessible toilets; affordable and accessible housing options, ability to age in place and housing diversity.

Policy 16: Quality Homes

NPF4 Policy 16 Quality Homes states proposals for homes on land allocated for housing in LDPs will be supported.

Proposals including for 50 or more homes, and smaller developments if required by local policy or guidance, should be accompanied by a Statement of Community Benefit explaining the development's contribution to: local housing requirements, including affordable homes; local infrastructure, facilities and services; and improving the residential amenity of the surrounding area.

Proposals for homes that improve affordability and choice by being adaptable to changing and diverse needs, and which address identified gaps in provision, will be supported. This could include: self-provided homes; accessible, adaptable and wheelchair accessible homes; build to rent; affordable homes; a range of size of homes such as for larger families; older people's homes, including supported accommodation, care homes and sheltered housing; homes for people undertaking further and higher education; and homes for other specialist groups such as service personnel.

Proposals for public or private, permanent or temporary, Gypsy/Travellers sites and family yards and Travelling Showpeople yards, including on land not specifically allocated for such in the LDP, should be supported where need is identified and the proposal is otherwise consistent with the plan spatial strategy and other relevant policies, including human rights and equality.

Proposals for homes will be supported where provision is made for affordable homes to meet identified need. Proposals for market homes will only be supported where the contribution to provision of affordable homes on a site will be at least 25% of the total number of homes, unless the LDP sets out locations or circumstances where: i. a higher contribution is justified by evidence of need, or ii. a lower contribution is justified, for example, by evidence of impact on viability, where proposals are small-scale, or to incentivise particular types of homes needed to diversify supply, such as self-build or wheelchair accessible homes. The contribution is to be provided in accordance with local policy or guidance.

Proposals for homes on land not allocated for housing in the LDP will only be supported in limited circumstances where: supported by an agreed timescale for build-out; and otherwise consistent with the plan spatial strategy and other relevant policies including local living and 20 minute neighbourhoods; and either: i. delivery of sites is happening earlier than identified in the deliverable housing land pipeline, determined by reference to two consecutive years of the Housing Land Audit evidencing substantial delivery earlier than pipeline timescales and that general trend being sustained; or ii. the proposal is consistent with policy on rural homes; or iii. the proposal is for smaller scale opportunities within an existing settlement boundary; or iv. the proposal is for delivery of less than 50 affordable homes as part of a local authority supported affordable housing plan.

Householder proposals will be supported where they: do not have a detrimental impact on the character or environmental quality of the home and the surrounding area in terms of size, design and materials; and do not have a detrimental effect on neighbouring properties in terms of physical impact, overshadowing or overlooking.

Householder proposals providing adaptations to risks from a changing climate, or for people with health conditions leading to particular accommodation needs will be supported.

Policy 18: Infrastructure first

NPF4 Policy 18 Infrastructure First states proposals providing or contributing to infrastructure in line with that identified as necessary in LDPs and their delivery programmes will be supported.

Proposals' impacts on infrastructure should be mitigated. Proposals will only be supported where demonstrated that provision is made to address impacts on infrastructure.

Policy 19: Heat and cooling

NPF4 Policy 19 Heat and Cooling states proposals within or adjacent to a Heat Network Zone identified in a LDP will only be supported where designed and constructed to connect to the heat network.

Proposals for retrofitting connection to a heat network will be supported.

Where a heat network is planned but not in place, proposals will only be supported where designed and constructed to allow for later cost-effective connection.

National and major developments generating waste or surplus heat and located in areas of heat demand, will be supported providing wider considerations, including residential amenity, are not adversely impacted. A Heat and Power Plan should demonstrate how energy recovered from the development will be used to produce electricity and heat.

Energy infrastructure proposals will be supported where they: repurpose fossil fuel infrastructure for production or handling of low carbon energy; are within or adjacent to a Heat Network Zone; and can be cost-effectively linked to an existing or planned heat network.

Proposals for buildings occupied by people will be supported where designed to promote sustainable temperature management, for example prioritising natural or passive solutions such as siting, orientation, and materials.

Policy 20: Blue and green infrastructure

NPF4 Policy 20 Blue and Green Infrastructure states proposals resulting in fragmentation or net loss of blue and green infrastructure will only be supported where demonstrated the proposal would not result in or exacerbate a deficit in blue or green infrastructure provision, and the overall integrity of the network will be maintained. The planning authority's Open Space Strategy should inform this.

Proposals for blue and/or green infrastructure will be supported. Where appropriate, this will be an integral element of design that responds to local circumstances. Design will take account of existing provision, new requirements and network connections (identified in relevant strategies such as the Open Space Strategy) to ensure the blue and/or green infrastructure is of an appropriate type(s), quantity, quality and accessibility and is designed to be multi-functional and well-integrated into the overall proposals.

Proposals in regional and country parks will only be supported where compatible with the uses, natural habitats, and character of the park.

Proposals for temporary open or green space on unused or under-used land will be supported.

Proposals for blue and/or green infrastructure will provide effective management and maintenance plans.

Policy 21: Play, recreation and sport

NPF4 Policy 21 Play, Recreation and Sport states proposals resulting in loss of outdoor sports facilities will only be supported where the proposal: i. is ancillary to the principal use of the site as an outdoor sports facility; or ii. involves only a minor part of the facility and would not affect its use; or iii. meets a requirement to replace the facility which would be lost, either by a new facility or by upgrading an existing facility to provide a better quality facility. The location will be convenient for users and overall playing capacity of the area will be maintained; or iv. can demonstrate a clear excess of provision to meet current and anticipated demand in the area, and that the site would be developed without detriment to overall quality of provision. This should be informed by the local authority's Open Space Strategy and/or Play Sufficiency Assessment and in consultation with sportscotland where appropriate.

Proposals resulting in quantitative and/or qualitative loss of children's outdoor play provision, will only be supported where demonstrated there is no ongoing or future demand or the existing play provision will be replaced by a newly created, or improved existing asset, that is better quality or more appropriate. This should be informed by the planning authority's Play Sufficiency Assessment.

Proposals for temporary or informal play space on unused or underused land will be supported.

Proposals likely to be occupied or used by children and young people will be supported where they incorporate well-designed, good quality provision for play, recreation, and relaxation that is proportionate to the scale and nature of the development and existing provision in the area.

Proposals for new streets and public realm should be inclusive and enable children and young people to play and move around safely and independently, maximising opportunities for informal and incidental play.

Play provision will, as far as possible and as appropriate: provide stimulating environments; provide a range of play experiences including opportunities to connect with nature; be inclusive; be suitable for different ages of children and young people; be easily and safely accessible by children and young people independently, including those with a disability; incorporate trees and/or other forms of greenery; form an integral part of the surrounding neighbourhood; be well overlooked; be linked directly to other open spaces and play areas.

Proposals for new or enhanced play or sport facilities will provide effective management and maintenance plans.

Policy 22: Flood risk and water management

NPF4 Policy 22 Flood Risk and Water Management states proposals at risk of flooding or in a flood risk area will only be supported if for: i. essential infrastructure where the location is required for operational reasons; ii. water compatible uses; iii. redevelopment of an existing building or site for an equal or less vulnerable use; or iv. redevelopment of previously used sites in built-up areas where the LDP has identified a need to bring these into positive use and where proposals demonstrate long-term safety and resilience can be secured in accordance with SEPA advice. The protection offered by an existing formal flood protection scheme or one under construction can be taken into account when determining flood risk. In such cases, it will be demonstrated by the applicant that: all risks of flooding are understood and addressed; there is no reduction in floodplain capacity, increased risk for others, or a need for future flood protection schemes; the development remains safe and operational during floods; flood resistant and resilient materials and construction methods are used; and future adaptations can be made to accommodate climate change effects.

For proposals meeting criteria part iv. above, where flood risk is managed at the site rather than avoided these will also require: the first occupied/utilised floor, and the underside of the development if relevant, to be above the flood risk level and have an additional allowance for freeboard; and that safe access/egress can be achieved.

Small scale proposals to existing buildings will only be supported where they will not significantly increase flood risk.

Proposals will: i. not increase the risk of surface water flooding to others, or itself be at risk; manage all rain and surface water through sustainable urban drainage systems (SUDS), which should form part of and integrate with proposed and existing blue-green infrastructure. All proposals should presume no surface water connection to the combined sewer; iii. seek to minimise the area of impermeable surface.

Proposals will be supported if they can connect to the public water mains. If connection is not feasible, the applicant will need to demonstrate that drinking water will be sourced from a sustainable water source resilient to periods of water scarcity.

Proposals for natural flood risk management, including blue and green infrastructure, will be supported.

Policy 24: Digital infrastructure

NPF4 Policy 24 Digital Infrastructure states proposals incorporating appropriate, universal, and future-proofed digital infrastructure will be supported.

Proposals delivering digital services or providing technological improvements will be supported, particularly in areas with connectivity capacity issues.

Proposals aligned with and supporting local or national digital infrastructure programmes will be supported.

Proposals delivering connectivity will be supported where there are resulting benefits for communities and the local economy.

Proposals for digital infrastructure will only be supported where: visual and amenity impacts are minimised through careful siting, design, height, materials and landscaping, taking into account cumulative impacts and relevant technical constraints; it is demonstrated that, before erecting a new ground-based mast, the possibility of erecting antennas on an existing building, mast or other structure, replacing an existing mast and/or site sharing has been explored; and there is no physical obstruction to aerodrome operations, technical sites, or transmitter/receiver facilities.

Policy 25: Community wealth building

NPF4 Policy 25 Community Wealth Building states proposals contributing to local or regional community wealth building strategies and consistent with local economic priorities will be supported, e.g. improving community resilience and reducing inequalities; increasing community spending; ensuring use of local supply chains and services; local job creation; supporting community-led proposals, including creation of local firms and enabling community-led ownership of assets.

Proposals linked to community ownership and management of land will be supported.

Policy 33: Minerals

NPF4 Policy 33 Minerals states proposals that seek to explore, develop, and produce fossil fuels (excluding unconventional oil and gas) will not be supported other than in exceptional circumstances. Any such exceptions will be required to demonstrate consistency with national policy on energy and greenhouse gas targets.

The Scottish Government does not support development of unconventional oil and gas. This means development connected to onshore exploration, appraisal or production of coal bed methane or shale oil or shale gas, using unconventional oil and gas extraction techniques, including hydraulic fracturing and dewatering for coal bed methane.

Proposals that would sterilise mineral deposits of economic value will only be supported where: there is an overriding need for the development and prior extraction of the mineral cannot reasonably be undertaken; or extraction of the mineral is impracticable or unlikely to be environmentally acceptable.

Proposals for sustainable extraction of minerals will only be supported where they: will not result in significant adverse impacts on biodiversity, geodiversity and the natural environment, sensitive habitats and the historic environment, as well as landscape and visual impacts; provide an adequate buffer between sites and settlements taking account of specific circumstances of individual proposals, including size, duration, location, method of working, topography, and characteristics of the various environmental effects likely; can demonstrate there are no significant adverse impacts (including cumulative impact) on any nearby homes, local communities and known sensitive receptors and designations; demonstrate acceptable levels (including cumulative impact) of noise, dust, vibration and potential pollution of land, air and water; minimise transport impacts through the number and length of lorry trips and by using rail or water transport wherever practical; have appropriate mitigation plans in place; include schemes for a high standard of restoration and aftercare and commitment that such work is undertaken at the earliest opportunity. As a further safeguard a range of financial guarantee options are available, and the most effective solution should be considered and agreed on a site-by-site basis. Solutions should provide assurance and clarity over the amount and period of the guarantee and in particular, where it is a bond, the risks covered (including operator failure) and the triggers for calling in a bond, including payment terms.

Proposals for borrow pits will only be supported where: the proposal is tied to a specific project and is time-limited; the proposal complies with the above mineral extraction criteria, taking into account the temporary nature of the development; and appropriate restoration proposals are enforceable.

FIFEplan Local Development Plan (2017)

Policy 1: Development Principles

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 relevance to this application is (1) Mitigate against the loss of infrastructure capacity caused by the development by providing additional capacity or otherwise improving existing infrastructure; (8) Avoid flooding and impacts on the water environment and (9) Safeguard or avoid the loss of natural resources. 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.

Policy 2: Homes

FIFEplan Policy 2: Homes states that residential development will be supported to meet strategic housing land requirements and provide a continuous 5-year effective housing land supply on sites allocated for housing. It states that all housing proposals must meet the requirements for the site identified in the settlement plan tables and relevant site brief; and include provision for appropriate screening or separation distances to safeguard future residential amenity. In regards to Affordable Housing, Policy 2 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.

Policy 3: Infrastructure and Services

FIFEplan 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. Where necessary and appropriate as a direct consequence of the development or as a consequence of cumulative impact of development in the area, development proposals must incorporate measures to ensure that they will be served by adequate infrastructure and services. Such infrastructure and services may include, local transport and safe access routes which link with existing networks, including for walking and cycling; Foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS); Green infrastructure complying with specific green infrastructure and green network requirements contained in the Making Fife's Places Supplementary Guidance and settlement proposals and low and zero carbon generating technologies.

Policy 4 Developer Contributions

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.

Developments, other than a change of use of employment land or outdoor sports facilities, will be exempt from these obligations if they are for the conversion or renovation of an existing building, particularly if it is listed or the re-use of derelict land or buildings or previously developed land.

Policy 10: Amenity

FIFEplan Policy 10: Amenity states that development proposals must demonstrate that they will not have a significant detrimental impact on amenity in relation to the visual impact on the surrounding area. It 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.

Policy 11: Low Carbon

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.

Policy 12: Flooding and the Water Environment

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.

Policy 13: Natural Environment and Access

FIFEplan Policy 13: Natural Environment and Access states that development proposals will only be supported where they protect or enhance natural heritage and access assets including: trees that have a landscape or amenity value; biodiversity in the wider environment and protected and priority habitats and species. Where adverse impacts on existing assets are unavoidable proposals will only be supported where these impacts will be satisfactorily mitigated.

Policy 14: Design

FIFEplan Policy 14 requires new development to demonstrate good design and show how the proposals adhere to the principles of good place making. Fife Council will apply the six qualities of successful places in order to assess a proposals adherence to these principles. The six qualities require places to be: distinctive; welcoming; adaptable; resource efficient; safe and pleasant; and, easy to move around. In regards to the Built and Historic Environment, it states that development which protects or enhances buildings or other built heritage of special architectural or historic interest will be supported. Proposals will not be supported where it is considered they will harm or damage built heritage assets including Inventory Historic Battlefields. Policy 14 notes that "all archaeological sites and deposits, whether statutorily

protected or not, are considered to be of significance. Accordingly, development proposals which impact on archaeological sites will only be supported where: remains are preserved in-situ and in an appropriate setting; or there is no reasonable alternative means of meeting the development need and the appropriate investigation, recording, and mitigation is proposed. In all the above, development proposals must be accompanied with the appropriate investigations. If unforeseen archaeological remains are discovered during development, the developer is required to notify Fife Council and to undertake the appropriate investigations”.

Other Relevant Guidance

Fife Council Supplementary Guidance

Making Fife’s Places Supplementary Guidance (2018)

Making Fife's Places sets out the expectation for developments with regard to design. This reflects the emphasis of Scottish Planning Policy, Designing Streets and Creating Places in the qualities it requires development to achieve in making successful places. This document encourages a design-led approach to development proposals through placing the focus on achieving high quality design. The document also illustrates how developments proposals can be evaluated to ensure compliance with the six qualities of successful places. It also requires that development 'reflects the pattern of the local settlement form'.

Regarding open space, for housing developments of 50 units and more, if the residential unit within 250m walkable distance of an existing open space and the route to be walked is safe and attractive, the developer could choose to contribute to the upgrade of existing open space or green network required rather than provide 60m² of open space onsite. The level of contribution to be based on the priorities and recommendations in the Fife Greenspace Strategy and the green network opportunities. Equipped play areas and/or other specific facilities may be required on site. Each residential unit which is further than 250m from an existing open space will need to provide 60m² of open space on site. Equipped play areas and/or other specific facilities may be required on site.

Making Fife’s Places Supplementary Guidance (2018) - Appendix A

Appendix A sets out the site appraisal information to be submitted with an application in regards to natural heritage and biodiversity. It sets out that adequate ecological assessment must be carried out for any proposed development and sufficient information must be submitted with the application. The level of detail required will be dependent upon the site, (habitats and species present or potentially present), and the development type.

Making Fife’s Places Supplementary Guidance (2018) - Appendix D

Appendix D sets out site appraisal information to be submitted with an application in regards to trees. Tree information required at Full Planning Permission stage:

- Arboricultural Impact Assessment - This evaluates information relating to the tree survey, tree retention/removal plan, tree loss, tree protection, & landscaping/mitigation planting,
- Tree Protection Plan
 - Protection plan should be superimposed on the design & layout of the site
 - Root Protection Areas
 - Location of root protection barriers
 - Plan of other construction operations i.e. storage, parking, site huts, cement, scaffolding,

- Identify areas where Root Protection Area to be breached
- Arboricultural method statement – how the site is to be developed and details relating to monitoring
- Landscape Plan – replacement planting will be required to mitigate against the effects of tree removal, native species should be encouraged wherever possible

Where large semi-mature/mature trees are present on and adjacent to a development site, distances greater than the British Standard will be expected and no new buildings or gardens should be built within the falling distance of the tree at its final canopy height.

Making Fife’s Places Supplementary Guidance (2018) - Appendix F

Appendix F outlines the approach that Fife Council will expect developers to follow in planning and implementing a public art project. It sets out that developers should integrate public art into development proposals to help deliver a high standard of design for buildings and spaces. This should be achieved by engaging experts in public art to work in the design process from the earliest stage, rather than commissioning a number of features to be added later to a particular development site. This allows an artist to contribute effectively to place-making by planning and developing a project, reduces the risk of public art becoming a single or separate issue, and supports the approach advocated in Designing Streets. Appendix F sets out that the expertise role should be undertaken by an experienced professional who may be an artist, a lead artist or a public art consultant but that the role does not always need to be undertaken by an artist. The amount of money to be dedicated to public art should be £300 per unit for a housing development. The applicant should have a public art plan prepared to set out how the developer is providing opportunities for public art. Appendix F goes on to explain the role of the artist and the commissioning process.

Fife Council may attach planning conditions to planning permission where further information is required to be approved, and Legal Agreements where delivery needs to be tightly controlled. Both options may contain clauses on timing, relating to when development starts, a particular phase is occupied, or a certain aspect is completed, such as a road link or a set number of units. A Legal Agreement will always be used to secure a sum of money, an event, or for any works that take place off-site. It may include specific wording, such as who is responsible for decommissioning, public liability or long term maintenance, and its use ensures public art is delivered through the ‘successor in title’ if the developer disposes of the site before the works have been completed.

Making Fife’s Places Supplementary Guidance (2018) - Appendix G

Appendix G sets out the Transportation Development Management Guidelines. This document details Fife Council’s departures from the SCOTS National Roads Development Guide in terms of variations and/or additions to the advice contained within the national guide. Fife Council has developed its own off-street parking standards which apply to all development within Fife.

Planning policy requires new development sites to be fully accessible to all modes of transport. In addition, Designing Streets recommends that the use of conventional cul-de-sac, are strongly discouraged. Instead Designing Streets recommends that housing layouts should be designed with a grid type road pattern with multiple points of vehicular access with the surrounding road network, including road links to existing adjoining developments. Fife Council fully supports the advice given in Designing Streets and expects this approach to be adopted by designers in all new development layouts. Appendix G sets out that multiple points of vehicular and pedestrian

access with the surrounding public road network and integration with existing settlement shall be provided. The use of cul-de-sacs shall be avoided. However, the use of short cul-de-sacs serving a small number of units (10 – 15) may be acceptable, subject to site constraints. All remote footpath/cyclepaths shall be overlooked by property frontages. Both ends of a remote footpath shall be intervisible

Parking provision for housing located within parking courts to the rear of properties is acceptable. The housing courts shall be overlooked by houses. The use of cross-roads junctions with reduced radii and raised tables is acceptable. The use of car free streets is acceptable. The provision of public squares where a number of roads meet is acceptable. Direct vehicular access to houses fronting distributor roads is acceptable in principle, subject to individual site circumstances. In general, direct vehicular access will not be acceptable from distributor roads having a design speed greater than 30mph and a weekday two-way traffic flow greater than 10,000.

Grid type street layouts shall be provided. The form of the street layout will influence the size and shape of the building blocks (or vice-versa) – the building blocks can be in any form of loose grid or geometrical shape. Maximum 400 metres (measured along the walking route) walking distance between front door of residential property and closest bus stop. Maximum 800 metres (measured along the walking route) walking distance between front door of residential property and local centre. The street layout shall accommodate adequate provision for refuse collection.

Appendix G sets out requirements for street geometry, junction visibility and forward visibility. The guidance sets out that the use of surfacing materials should be subject to them being easy maintain, safe, durable, sustainable and appropriate to the context. The guidance sets out requirements for traffic signs and road markings, street furniture, street lighting and art features.

Parking standards are set out within Appendix G, which depend on different use classes and these are set out within tables in the guidance.

Low Carbon Fife (2019)

Low Carbon Fife requires the submission a Low Carbon Checklist as part of any planning application submissions. Major applications will be required to provide an Energy Statement of Intention which sets out how the proposal will meet the requirements of Policy 11. It will 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. Where a development may create an air quality impact on a local area, a two stage approach is recommended. The first stage will screen out the smaller developments and / or the development whose impacts can be considered to have an insignificant affect. The second stage provides more detailed guidance as to when an air quality assessment is likely to be required.

Affordable Housing Supplementary Guidance (2018)

The Affordable Housing Policy requirements will apply to all applications for planning permission for housing development. It is Fife Council's intention that this Guidance and the Development Plan policies should speed up the planning application process by clarifying the affordable housing requirements in order that they form an integral part of development proposals from the outset. There are two principal mechanisms through which developers may fulfil their affordable housing

obligations on-site. Land: Depending on local circumstances, the Councils preference will be for the transfer of fully serviced land (see Section 14 Glossary for definition) to the Council or RSL in order for a RSL or Fife Council to carry out the development of the affordable units themselves. PAN 2/2010 (Paragraph 19) states "Such land can be transferred either at a value relating to its end use for affordable housing or by agreement between the developer and RSL or local authority, at a lower value". Care should be taken to ensure that the affordable element of land is not subject to any particular development constraints. The affordable and non-affordable elements of the development should ideally be completed within similar timescales, although, it is recognised that in the current financial climate this is not likely to be possible. In determining an appropriate value for such land the Council will take into account any possible extraordinary servicing costs associated with the site. Units: Alternatively in some instances, built units on-site will be required. This is where developers build units of affordable housing as an integral part of a mixed residential development. The objective of a mixed residential development is to make it impossible to tell the tenure of a particular property from its external appearance. This approach achieves integration of different tenures. Built units on-site could take the form of either subsidised or unsubsidised units. Subsidised units may be for rent or low cost sale. Rented units would be transferred at an agreed price to a RSL or Fife Council for onward management and maintenance. Houses for sale under shared equity or shared ownership would also normally be transferred to a RSL which would be responsible for the onward sale of the houses. Where funding allows, on-site affordable housing should be completed within a similar timescale to the non-affordable housing unless otherwise agreed by the Council. It should be noted that RSLs operating in Fife have their own design standards. Unsubsidised units would be marketed and either rented or sold by the developer or by a RSL. Where unsubsidised properties are being provided the timescales will be agreed within the Section 75 Legal Agreement. Fife Housing Partnership's preference and first priority is for the provision of social rented housing through an RSL/Fife Council. However, it is recognised that all of the tenures listed below have a role to play in the provision of affordable housing in Fife. Integration of affordable housing with other tenures will be encouraged and, as far as possible, developments should be tenure blind.

The affordable housing on-site requirement in Windyates is for 10% of the overall housing units to be provided as affordable housing.

Fife Council Customer Guidelines

Garden Ground (2016)

Fife Council's Guidelines on Garden Ground advises that all new semi-detached and detached dwelling houses should be served by a minimum of 100 square metres of private useable garden space with flats to contain 50 square metres.

Daylight and Sunlight (2018)

Whenever there is potential for daylight or sunlight impact on neighbouring properties this should be assessed. Generally the main reason there may not be a material impact on sunlight and/or daylight is if the development is sufficiently distant from neighbouring windows and amenity spaces. However, this has to be considered alongside other factors. The list below identifies some of the main issues to consider when determining if there may be an impact:

- Height of proposal;
- Distance to neighbouring properties;
- Position and orientation of nearby windows;

- The development's location in relation to the path of the sun (see Section 6);
- Differences in ground levels; and
- Sensitivity of neighbouring property (e.g. is it residential in use?) Once it has been established if there is a potential daylight or sunlight impact, the next stage is to do the appropriate assessments to assess this impact.

The '45° Assessment' is used where a window would be next to a development but does not directly face it. A 25° assessment is used where neighbouring windows directly face a development. In most cases, the daylight impact of a proposal on a window shall be sufficiently clear using the 45° or 25° Assessments above, however in some cases a further assessment of daylight impact on windows is required using the VSC method. If a proposal would cause a neighbouring window to fail to receive a material degree of daylight provision following a Vertical Sky Component (VSC) method assessment then this means the proposal would have an adverse impact on residential amenity.

Minimum Distances between Window Openings (2011)

The Minimum Distances between Window Openings guidance sets out that directly facing windows should be a minimum distance of 18m from one another. This guide distance shortens depending on the angle between the windows. For example, windows at a 60 degree angle from one another can be 6m apart. A table within the guidance provides further details regarding angles and distances.

Fife Council Approved Planning Policy Guidance

Planning Obligations Framework Guidance (2017)

Planning Obligations Framework Guidance sets out that planning obligations will be requested by Fife Council as Planning Authority to address impacts arising from proposed development activity consistent with the tests set out in Circular 3/2012. The guidance describes when planning obligations will be sought, where exemptions will apply, and how methodologies will be applied when considering the impacts, a proposed development will have on existing infrastructure. The priorities to be addressed are educational provision, transport, affordable housing development, greenspace, public art, and employment land.

Policy for Development and Noise (2021)

Noise sensitive developments may need to incorporate mitigation measures through design, layout, construction or physical noise barriers to achieve acceptable acoustic conditions.

Whilst it may be possible to mitigate the adverse effects of noise, new noise-sensitive development will rarely be appropriate in areas which are already subject to unacceptably high noise levels. Existing industry or commercial interests also need to be protected from the adverse impacts of complaints of nuisance from residents of new housing or other noise sensitive developments. Complaints which may arise from new residents may lead to action against the pre-existing business and potentially impact on the operations and economic viability of that business. The consideration of this potentially conflicting relationship is reflected in the principle of "agent of change" which will be addressed in the legislation arising from the new Planning (Scotland) Act 2019.

The presumption when considering noise and planning is that new industrial/commercial or residential development should not create situations which bring non-conforming noise sensitive uses into potential conflict. This may lead to detrimental impacts on existing businesses and future investment or lead to prolonged ongoing issues which impact on the health and wellbeing of new or existing residents exposed to unacceptable levels of noise. Issues which may be relevant when considering noise in relation to a development proposal include: • Type of development and likelihood of significant noise impact; • Sensitivity of location (e.g. existing land uses, Noise Management Area, Quiet Area); • Existing noise level and likely change in noise levels; • Day time and night time noise issues; • Character (tonal, impulsivity etc.), duration, frequency of any repetition and time of day of noise that is likely to be generated; and • The context of proposed development and the differences between transport and industrial noise sources. Owners, purchasers and developers of land should be aware of the potential constraints on residential and other noise sensitive development near to sources of transport and industrial noise.

To achieve wider outcomes of the Local Outcome Improvement Plan and the Local Development Plan, FIFEplan it is recognised that the physical separation of noise and noise sensitive development will not be possible in all circumstances and that it may be appropriate to make provision for development in certain exceptional circumstances in order to achieve wider strategic objectives.

It is more likely that there will be an acceptance of exceptional circumstances in relation to impacts arising from road and transport noise to achieve the above objectives than permitting development which would introduce conflicts between industrial and residential development. If the development is considered to be an exceptional circumstance, for this to be accepted the following sequential approach shall be followed in order of preference, taking into account the feasibility of their implementation, and having regard to the wider amenity, low carbon and urban design requirements of the development. (i) Setting back of dwellings from noise sources, where this can be achieved in accord with urban design principles and Masterplan; (ii) Orientation of dwellings to avoid noise impacts on sensitive elevations and/or habitable rooms, where this can be achieved in accord with urban design principles and Masterplans; (iii) Installation of acoustic barriers, where this would have no unacceptable detrimental impact; (iv) Use of acoustic insulation/ closed window approach in new dwellings and allowance for the upper limit of 55dB in gardens. The above sequential approach does not apply if the developer can prove that the windows would only be opened to purge air and are not required to be opened as part of the ventilation of a low/ zero carbon or passive house.

National Guidance and Legislation

Circular 3/2012: Planning Obligations and Good Neighbour Agreements

Circular 3/2012 sets out Scottish Government expectations on the role planning obligations will play in addressing the infrastructure impacts of new development. The circular requires that planning obligations meet all the five tests as set out in paragraphs 14-25 of the circular. A planning obligation should be necessary to make the proposed development acceptable in planning terms; serve a planning purpose and where it is possible to identify infrastructure provision requirements in advance, should relate to development plans; 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.

PAN 33: Development of Contaminated Land (2000)

PAN 33 sets out that contaminated sites, for planning purposes, may be regarded as any site where the presence or suspected presence of contaminants is an obstacle to development, regardless as to whether development is proposed. Contamination may threaten public safety, the natural and built environment, and act as a barrier to economic activity. A key role of the planning system with regard to contaminated land, is to ensure that land is made suitable for any new use, as planning permission is given for that new use. Therefore, whether confirmed or suspected, contamination is a material planning consideration. It should be considered as one of the factors in the preparation of development plans, as well as in the determination of planning applications. The best way of minimising any associated risks is to ensure that potentially contaminated sites are identified at an early stage. The necessary investigations can then be carried out to enable cost-effective solutions to be devised and thus reduce the need for urgent and expensive emergency action later. The prospect of enhanced land values is often an incentive to the remediation of a contaminated site. Development may be proposed as a means of increasing the value of a contaminated site, thus covering the cost of remediation. This is a perfectly acceptable approach to tackling contaminated land and is consistent with Scottish Executive policy with regard to sustainable development. In these circumstances, if the proposed development is satisfactory in other respects, then the planning authority is responsible for ensuring that remediation leaves the land in a condition suitable for the proposed use.

Planning authorities should require that applications include suitable remediation measures. If they do not, then there are grounds for refusal. Where applications are approved, conditions should be put in place to ensure that land is remediated before the commencement of any new use.

If initial investigations indicate significant levels of contaminants, it is appropriate to require site specific risk assessment to be applied to land that is proposed for development i.e. a new use. It is the responsibility of the developer to undertake an adequate risk assessment of a site, and to propose measures to ensure that these risks are appropriately addressed. For a mixed use development, the restoration plan should consider the most sensitive receptor for each land use.

Applications need not, however, be delayed pending an investigation by the developer unless there is good reason to suppose that the land is actually contaminated. Moreover, where there is potentially only slight contamination, planning permission may be granted on condition that development will not be permitted to start until a site investigation and assessment has been carried out and that the development itself will incorporate measures shown in the assessment to be necessary.

PAN 51: Planning, Environmental Protection and Regulation (2006)

The central purpose of PAN 51 is to support the existing policy on the role of the planning system in relation to the environmental protection regimes. In the specific context of planning proposals which raise environmental protection issues, the following considerations might also be regarded as material by the planning authority, as appropriate:

- The sensitivity of the area, in particular as reflected in landscape, agricultural land and soil quality, nature conservation or archaeological designations, if evidence suggests that there is a risk of such features being affected by pollution;
- the positioning of buildings and plant on the site and the visual impact of the development, including for example, the impact on the road network;

- the hours of operation required by the development where these may have an impact on neighbouring land use;
- the possibility that the release of smoke, fumes, gases, dust, steam, smell or noise might result in nuisance or loss of amenity, taking into account the possibility that the pollution control equipment might have to compensate automatically and safely in the event of it failing;
- the effect of a cumulative impact arising from several similar applications in a relatively confined area, e.g. provision of several floodlit pitches close to residential areas; and
- the RBMP and the environmental objectives for water included therein.

In Air Quality Management Areas (AQMAs) or adjacent to them, air quality is likely to be a material consideration for large scale proposals or if they are to be occupied by sensitive groups such as the elderly or young children or are likely to have cumulative effects. This does not mean that all such applications should be refused even if they are likely to affect local air quality, but it may mean that conditions have to be applied to mitigate adverse effects. Generally, it may be necessary to consider whether a development could lead to the designation of a new AQMA or if granting planning permission could conflict with an Air Quality Action Plan.

Planning authorities will wish to consult environmental health officers in appropriate cases. A study of air quality issues may be warranted, particularly for proposals which are likely to have a significant impact on air quality. It may however be an integral part of an environmental impact assessment. Planning authorities may also need to consider the cumulative effect of developments on air quality leading to a gradual deterioration.

New noise or nuisance sensitive developments have to be carefully considered in relation to existing noise or nuisance emitting land uses, for example, social housing adjacent to busy roads or railways, or social housing adjacent to an existing noisy industrial use. In the latter example the local authority should seek to avoid situations where noise complaints from the new occupants would result in an abatement notice being served on the pre existing use. Planning authorities will wish to consult environmental health officers in appropriate cases, even where the issues are considered as part of an Environmental Impact Assessment.

Planning authorities, the environmental protection bodies and the regimes which protect people and the environment have heavy responsibilities. The regimes reflect not only the complexities of the issues, but also the fact that the environment is not compartmentalised according to neat administrative demarcation lines. To a certain extent, it is inevitable that the protection of the environment will sometimes require more than one regime to be applied. A major task of this PAN has therefore been to acknowledge the complex nature of the environmental protection issues and seek to ensure that arrangements are in place which minimise the risks to public health and to the environment. It is the responsibility of planning authorities and the environmental protection bodies to collaborate in the task of protecting the environment, and to apply controls so that duplication is minimised and overlap is avoided whenever possible.

Planning Advice Note 1/2011: planning and noise

Planning Advice Note 1/2011 provides advice on the role of the planning system in helping to prevent and limit the adverse effects of noise. The PAN promotes the principles of good acoustic design and a sensitive approach to the location of new development. It promotes the appropriate location of new potentially noisy development, and 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. Environmental Health Officers and/or professional acousticians 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. Issues which may be relevant when considering noise in relation to a development proposal include:

- Type of development and likelihood of significant noise impact,
- Sensitivity of location (e.g. existing land uses, NMA, Quiet Area),
- Existing noise level and likely change in noise levels,
- Character (tonal, impulsivity etc), duration, frequency of any repetition and time of day of noise that is likely to be generated, and
- Absolute level and possible dose-response relationships 2 e.g. health effects if robust data available.

It is preferable that satisfactory noise levels can be achieved within dwellings with the windows sufficiently open for ventilation. Local circumstances, particularly relating to the existing noise character of the area, should influence the approach taken to noise levels with open or closed windows. It may be appropriate to take a different approach to noise levels in different areas. It may also be appropriate to take a different approach to noise levels when considering the effects of new noisy development on existing residential properties from the approach taken to new residential development close to existing noisy land uses. Satisfactory internal noise levels with open windows may not always be achievable, but are always preferable. Where satisfactory levels with open windows are not achievable, practicable mitigation solutions should be explored, taking into account their possible impact on the built environment. Design solutions may be possible, such as locating living rooms and bedrooms on the opposite side of a building to the source of the noise or use of windows designed to provide for ventilation while providing improved sound reduction. In some circumstances however, closed windows with alternative means of ventilation may be unavoidable. Passive systems may be considered but mechanical ventilation should only be used as a last resort. Sound levels in gardens and amenity areas may also need to be considered in terms of enabling a reasonable degree of peaceful enjoyment of these spaces for residents.

The preparation and consideration of planning applications that raise significant noise issues can be greatly assisted by a Noise Impact Assessment (NIA). Planning authorities can require a NIA either as part of an Environmental Impact Assessment or separately. The need for noise impact assessments is best identified during pre-application discussions. The purpose of a NIA is to demonstrate whether any significant adverse noise impacts are likely to occur and if so, identify what effective measures could reduce, control and mitigate the noise impact. A number of measures can be used to control the source of or limit exposure to noise. Such measures should be proportionate and reasonable. Possible measures include: engineering, layout, operational; work sequencing; baffle mounds; acoustic fencing; alternatives to vehicle reversing alarms; off-site road traffic noise; rail traffic; and Acoustic double glazing and secondary glazing for existing development.

Design Criteria Guidance on Flooding and Surface Water Management Plan Requirements (2022)

This supplementary guidance document on flooding and surface water management has been prepared by Fife Council to inform developers, their consultants and all stakeholders involved in the planning process in relation to flooding and surface water management of the requirements of Fife Council.

The guidance sets out what is required to be submitted with a planning application in regard to flooding and drainage, when a Flood Risk Assessment is required, and it sets out exemptions for the requirement of surface water management plans.

A Sustainable Drainage System (SuDS) is required to be installed for all new developments where surface water discharges to ground or water to prevent pollution, with the exception of runoff from a single dwelling or discharge to coastal waters.

There are many ways to provide sustainable surface water drainage solutions, such as: swales; filter strips; filter drains; infiltration devices; permeable surfaces; infiltration basins; extended detention basins; ponds and pools; constructed wetlands; green roof systems; and below ground storage.

The guidance provides information as to what should be submitted with a planning application in regards to flooding and drainage, including compliance certificates and appendices within the guidance document.

Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended) (CAR)

The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended) provide a regulatory framework for controlling activities which could have an adverse effect on Scotland's water environment, including abstraction, impoundments, engineering, dredging, surface water drainage, and pollution.

ITEM NO: 5

APPLICATION FOR FULL PLANNING PERMISSION REF: 23/00701/FULL

**SITE ADDRESS: LAND 300M EAST OF WESTER BALBEGGIE COTTAGES
WESTER BALBEGGIE FARM BALBEGGIE AVENUE**

**PROPOSAL: PROPOSED BATTERY ENERGY STORAGE SYSTEM WITH
ANCILLARY EQUIPMENT AND ASSOCIATED ACCESS**

**APPLICANT: MR PHILIP JOHN
1 VINE STREET LONDON**

**WARD NO: W5R15
Glenrothes Central And Thornton**

CASE OFFICER: Martin McGroarty

DATE REGISTERED: 09/05/2023

REASONS FOR REFERRAL TO COMMITTEE

This application requires to be considered by the Committee because:

This application relates to a major development.

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.

National Planning Framework 4 (NPF4) was formally adopted on the 13th of February 2023 and is now part of the statutory Development Plan. NPF4 provides the national planning policy

context for the assessment of all planning applications. The Chief Planner has issued a formal letter providing further guidance on the interim arrangements relating to the application and interpretation of NPF4, prior to the issuing of further guidance by Scottish Ministers.

The Adopted FIFEplan (2017) (LDP) and associated Supplementary Guidance continue to be part of the Development Plan. The SESplan and TAYplan Strategic Development Plans and any supplementary guidance issued in connection with them cease to have effect and no longer form part of the Development Plan.

As per Section 24 (3) of the Town and Country Planning (Scotland) Act 1997 (as amended) where there is any incompatibility between a provision of the National Planning Framework and a provision of a Local Development Plan, whichever of them is the later in date is to prevail. The Chief Planner's Letter dated 8th February 2023 also advises that provisions that are contradictory or in conflict would be likely to be considered incompatible.

1.0 BACKGROUND

1.1 Site Description

1.1.1 The proposal is for planning permission for the construction and operation of a battery energy storage system of 49.9MW, and the proposal area indicated on plan covers around 0.5Ha of land to the east of Wester Balbeggie Cottages, which lies north of the A92 Dunfermline to Aberdeen road, between the settlements of Kirkcaldy and Thornton. The land is currently in agricultural use and the access is proposed to be via the existing unadopted road (Balbeggie Avenue) off the B9130 Kirkcaldy to Thornton Road.

1.1.2 The site for the battery storage lies 900m north of Kirkcaldy, and 1.6km southwest of Thornton. The site forms part of Wester Balbeggie Farm and the surrounding landscape mainly consists of agricultural land with some scattered isolated properties, although a large complex of warehouses (Diageo's Cluny Bond) lies 650m to the west of the site. The field where the proposed development will be sited measures approximately 5Ha and gently slopes down in elevation from south-west to north-east. However, the proposals will only occupy around 0.5Ha of the plot's south-eastern corner. The site is accessed from Balbeggie Avenue to the north, a 'no through' single-track road that serves a number of farms in the area. As such, the road sees relatively little traffic. The strategic road network, in the form of the A92 and the B9130 provide relatively easy access to the site from the wider area. The surroundings to the site are agricultural in nature. There are a number of agricultural buildings in the vicinity, as well as very sporadic residential use (the nearest being a dwelling 420m to the north-west of the site). The area is also characterised by several renewable energy developments, including wind turbines to the north and an existing solar farm a short distance to the east.

1.2 Proposal

1.2.1 This application seeks full planning permission for the erection of a battery energy storage system and associated infrastructure including a DNO substation, switch room building, storage containers, fencing and CCTV cameras. The system would have a maximum import capacity of up to 49 MW. The proposed batteries store electricity and would allow the local Grid network to operate more efficiently; taking excess energy storing it and releasing it onto the network when the grid needs it at times of peak demand. The proposed development will contribute to such

grid balancing as we switch to renewables using advanced and highly efficient battery technology which offers low environment impact, producing zero emissions.

1.2.2 There would be 30 battery container units on the site positioned in 3 groups of 8 containers and 1 group of 6 containers, interspersed with a group of 8 and a group of 7 Power Conversion System (PCS) units. The dimensions of each of the elements of the proposal are as follows:

- 30 battery container units (2.9m high x 2.4m wide x 12.2m long);
- 15 PCS units (2.9m high x 2.4m wide x 6.0m long);
- 1 x Customer substation cabin (2.6m high x 2.5m wide x 12.2m long);
- 1 x Spare parts container (2.6m high x 2.5m wide x 12.2m long);
- 1 x DNO substation cabin (2.6m high x 2.5m wide x 12.2m long);
- Erection of a 2.1 m high mesh steel security fence with gate;
- Erection of 10 x infrared CCTV cameras and a satellite communications dish on 3.1m high poles; and
- laying out of a 4m wide crush aggregate access track connecting the battery compound to Balbeggie Avenue.

1.2.3 All containers and fencing will be painted a dark green colour to mitigate their visual appearance within the landscape. Each battery unit will have an inverter, a transformer, a 33 kV ring main unit, and a switchgear unit. It is expected that each battery container will have 2 externally mounted HVAC (Heating, Ventilation and Air Conditioning) battery cooling/heating units.

1.2.4 The development itself involves the creation of an access track from Balbeggie Avenue to the north, with the track extending along the eastern boundary of the field. The compound would be located in the south-eastern corner and a security fence and vehicular access gate would form the perimeter of the compound. Within the compound, the development would involve the installation of 30 battery containers and 15 power conversion system units. The access track would lead into the compound, and provide access to the southern end of the compound, where a control room and substation would be located. The development would be relatively low lying, with the battery containers being similar in size and profile to shipping containers. There is an established landscape screen around part of the eastern and southern boundary to the site. The site is more open in aspect to the north and west, albeit there is no development in particularly close proximity in these directions. Nonetheless, some landscape screening will be provided along these boundaries to minimise visual impact.

1.2.5 The planning application is accompanied by a full set of drawings and plans, with technical reports including: a Planning, Design and Access Statement; a Preapplication Consultation (PAC) report; a Noise Assessment; a Flood Risk and Drainage Assessment; a Construction Traffic Management Plan (CTMP); Geophysical and Geological reports; a Landscape and Visual Impact Appraisal; a Biodiversity Net Gain appraisal; and a Preliminary Ecological Appraisal (PEA).

1.2.6 The proposed development is temporary, with decommissioning envisaged after the 40-year life span, returning the land to its original full agricultural use after the decommissioning period during the 41st year.

1.3 Planning History

1.3.1 There is no recorded planning history for this site in terms of previous planning applications.

1.3.2 22/03271/PAN was registered on 26th September 2022, setting out the proposed public consultation arrangements in advance of this current planning application, and the PAN was agreed on 20th October 2022.

1.4 Application Procedure

1.4.1 The proposal comprises development of an energy storage facility which has a capacity which exceeds 20 megawatts but does not exceed the 50MW limit at which the Scottish Government's Energy Consents Unit would determine the application under the Electricity Acts. The Chief Planner's Letter dated 27th August 2020 advises that the Scottish Government considers that a battery installation generates electricity and is therefore to be treated as a generating station. This application is, therefore, classified as a Major Development under The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. The applicant has carried out the required pre-application consultation (ref: 22/03271/PAN) and 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.

1.4.2 A physical site visit was undertaken on 22nd May 2023 by the Case Officer and drone footage of the site is also available.

1.4.3 This application was advertised in The Courier newspaper on 18th May 2023. Neighbour notification letters (7 in total) were also sent out to all physical premises closest to the application site boundary on 10th May 2023.

2.0 ASSESSMENT

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

- Principle of Development (including Contribution to Renewable Energy Supply)
- Landscape and Visual Impact
- Amenity Impact
- Transportation/Road Safety
- Community and Economic Benefits
- Water/Drainage/Flood Risk
- Natural Heritage
- Contaminated Land/Land Stability
- Archaeological Impact
- Decommissioning of the proposal

2.2 Principle of Development, including Contribution to Renewable Energy Supply

2.2.1 NPF4 sets out the overarching spatial strategy for Scotland to 2045. Policy 1 (Tackling the climate and nature crises) of NPF4 states that when considering all development proposals significant weight will be given to the global climate and nature crises.

2.2.2 Policy 11 (Energy) of NPF4 states that proposals for all forms of renewable, low-carbon and zero emissions technologies will be supported, and these include enabling works, such as grid transmission and distribution infrastructure. The policy further states that development

proposals will only be supported where they maximise net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities. Policy 11 also advises that significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emissions reduction targets. The policy further states that project design and mitigation will demonstrate how the following impacts are addressed:

1. impacts on communities and individual dwellings, including, residential amenity, visual impact, noise and shadow flicker;
2. significant landscape and visual impacts, recognising that such impacts are to be expected for some forms of renewable energy. Where impacts are localised and/or appropriate design mitigation has been applied, they will generally be considered to be acceptable;
3. public access, including impact on long distance walking and cycling routes and scenic routes;
4. impacts on aviation and defence interests including seismological recording;
5. impacts on telecommunications and broadcasting installations, particularly ensuring that transmission links are not compromised;
6. impacts on road traffic and on adjacent trunk roads, including during construction;
7. impacts on historic environment;
8. effects on hydrology, the water environment and flood risk;
9. biodiversity including impacts on birds;
10. impacts on trees, woods and forests;
11. proposals for the decommissioning of developments, including ancillary infrastructure, and site restoration;
12. the quality of site restoration plans including the measures in place to safeguard or guarantee availability of finances to effectively implement those plans; and
13. cumulative impacts.

2.2.3 Policy 29 of NPF4 states that proposals that contribute to the viability, sustainability and diversity of rural communities and local rural economy will be supported, including essential infrastructure. This policy further advises that proposals in rural areas should be suitably scaled, sited and designed to be in keeping with the character of the area, whilst they should also consider how the development will contribute towards local living and take into account the transport needs of the development as appropriate for the rural location.

2.2.4 The glossary of NPF4 defines essential infrastructure as including all forms of renewable, low-carbon and zero emission technologies for electricity generation and distribution and transmission, electricity grid networks and primary sub stations. A battery installation should also be considered to generate electricity and is therefore to be treated as a generating station as per The Chief Planner's Letter dated 27th August 2020.

2.2.5 The Scottish Government's Energy Storage: Planning Advice document (2013) provides advice for Planning Authorities on energy storage and states that energy can be stored at variable scales, for both electricity and heat, in a number of ways, through technologies such as hydro pumped storage, hydrogen and fuel cells, compressed air and cryogen. This document further advises that a clear case has been made that, if the energy sector is to maximise environmental, economic and social benefits, renewable energy will need to be linked to energy storage, whilst, energy storage technologies can counteract intermittency associated with certain energy supplies, can ensure excess power is not lost at times of high production and can provide energy on demand off-grid in a variety of ways. Oversupply is likely to become more prevalent the closer Scotland gets to realising its 100% electricity from renewables target. It is

also expected that energy storage will be essential if Scotland is to realise its ambition to become a renewable energy exporter and to attract the economic advantages of ensuring that the energy storage supply chain locates in Scotland. The document also advises that in deciding applications for all renewable types Planning Authorities should consider the potential for energy storage such as hydrogen and fuel cell storage, within the site or in accessible nearby sites or within transitional technologies and that they should encourage new developments to plan for energy centres incorporating transitional technologies which give the potential for energy storage linked to renewable storage at a future date.

2.2.6 Policy 1, Part A, of the Adopted FIFEplan LDP 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 LDP. Policy 7 (Development in the Countryside) of the LDP states that development in the countryside will only be supported where it is for other development which demonstrates a proven need for a countryside location. Policy 7 also advises that in all cases development must be of a scale and nature compatible with surrounding uses; be well-located in respect of available infrastructure and contribute to the need for any improved infrastructure; and be located and designed to protect the overall landscape and environmental quality of the area.

2.2.7 Fife Council's Low Carbon Supplementary Guidance (2019) advises that consideration of the scale of contribution to renewable energy generation targets and the effect of proposals on greenhouse emissions shall form part of the assessment process.

2.2.8 The application site is located outwith any designated settlement boundary and is, therefore located within the countryside as per the LDP. It has previously been accepted that this type of infrastructure may have a proven need for a countryside location as required by Policy 7 of the LDP. Policy 29(a) (Rural Development) of NPF4 also provides support for essential infrastructure applications of this type within the countryside, whilst Policy 11 of NPF4 provides support in principle to new and replacement transmission and distribution infrastructure providing the proposal is designed to address its impacts, with significant weight to be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emissions reduction targets.

2.2.9 The agent has submitted a Planning Statement containing commentary on the site selection process for this Battery Energy Storage System. The proposed development can only be sited where a practical and viable connection to the national electricity grid is possible and therefore there are strict locational requirements. The grid system across Scotland and the UK is very constrained with little headroom for additional capacity and this area of Fife is one of the few places where there is capacity to connect. An existing Substation is located approximately 1km southeast of the Application Site, therefore avoiding the need for prohibitive lengths of cable route disturbance, keeping connection costs to an acceptable level and minimising transmission losses. The cabling will be laid in a shallow trench along the route that will be backfilled ensuring the land will return fully to its original condition. Other factors that were considered in the site selection process were as follows:

- no national, regional or local sites of environmental interest are impacted by the location;
- the significant majority of the application site (90%) comprises non-prime agricultural land;
- suitable construction access can be provided between the site and the main road network;
- the site has few neighbouring sensitive receptors;
- the site is well screened from the majority of public views by existing, mature planting; and
- landowner agreement to develop the site has been secured, ensuring a viable development.

2.2.10 The proposed development would have an output of 49.9MW and would contribute to the nation's electricity needs and the Government's energy objectives. Battery storage, both now and into the future, will play a vital role in maintaining grid stability as we switch our energy generation to renewable sources and is a necessity in the energy generating infrastructure mix. Commercial scale battery storage will assist in the prevention of events such as power surges and outages, both of which are very damaging to electrical infrastructure. Without such infrastructure, power supply becomes unreliable, and it will be extremely difficult to switch our energy generation to entirely clean, green production.

2.2.11 The UK energy system is currently undergoing an enormous and fundamental transformation and commercial scale BESS will be a major enabler of this. Centralised large power generators, predominantly fossil fuels, one-way power flows and predictable energy consumption are now being phased out. As the UK transitions towards a self-sufficient, green and carbon free energy future literally thousands of generators of all types and sizes (from residential solar to large scale off-shore wind farms) the intermittent renewable energy generation, bi-directional power flows and a requirement for flexible demand result in an essential requirement for the deployment of BESS to optimise networks through Active Network Management.

2.2.12 In this case, whilst it is recognised that there are elements of both national guidance and the LDP which discourage development within the countryside, the applicant has submitted sufficient supporting information which details the reasoning for the facility to be situated at this location; principally, it requires to be located close to an existing substation site. The proposal would also comply with Policy 29 of NPF4 as it is essential infrastructure, and this policy provides support for essential infrastructure applications of this type within the countryside. The proposal has evidenced the need for a countryside location in compliance with Policy 7 of the LDP. The proposal would also contribute to the need for improved energy infrastructure within Fife and would contribute to Fife's Net Zero targets and would, therefore, comply with Policy 11 of NPF4 which provides support for all forms of renewable, low-carbon and zero emissions technologies. Whilst the proposal makes use of a small section of prime agricultural land (less than 0.5Ha in a 5Ha field, 90% of which field is non-prime land), NPF4 Policy 5 Soils allows for development proposals on prime agricultural land where it is for essential infrastructure.

2.2.13 In conclusion, it is considered that the applicant has justified the need for the development to be located in the countryside and the proposal has met the requirements of the Development Plan. The principle of the energy storage facility therefore accords with the provisions of National Guidance and the Development Plan. The proposal would also operate for a temporary period and a condition has been attached to this recommendation requiring that on expiry of the temporary period, the battery storage facility and its ancillary equipment shall be dismantled, removed from the site and the ground fully reinstated to the satisfaction of Fife Council as Planning Authority. The overall acceptability of such a development must, however also meet other policy criteria and the proposal should not result in unacceptable significant adverse effects or impacts which cannot be satisfactorily mitigated. These issues are considered in detail in the following sections of this Report of Handling.

2.3 Landscape and Visual Impact

2.3.1 Policy 11 (Energy) of NPF4 states that project design and mitigation will demonstrate how visual impacts on communities and individual dwellings are addressed along with any significant landscape and visual impacts and cumulative impacts, recognising that such impacts are to be expected for some forms of renewable energy. Where impacts are localised and/or appropriate

design mitigation has been applied, they will generally be considered to be acceptable. The policy also advises that impacts on the historic environment should also be addressed through acceptable design and mitigation.

2.3.2 Policy 14 of NPF4 states that development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale. It further advises that development proposals will be supported where they are consistent with the six qualities of successful places (Health, Pleasant, Connected, Distinctive, Sustainable and Adaptable) and development which is poorly designed or inconsistent with the six qualities will not be supported. Annex D of NPF4 sets out further details relating to the delivery of these six qualities of a successful place. Policy 29 of NPF4 states that development proposals in rural areas should be suitably scaled, sited and designed to be in keeping with the character of the area.

2.3.3 Policies 1 and 10 of the LDP advise that development will only be supported if it does not have a significant detrimental visual impact on the surrounding area. Policy 7 of the LDP continues that new development in the countryside must be of a scale and nature that is compatible with its surrounding uses and must be located and designed to protect the overall landscape and environmental quality of the area. Policy 13 of the LDP states that development proposals will only be supported where they protect or enhance natural heritage and access assets including landscape character and views.

2.3.4 Making Fife's Places Supplementary Guidance (2018) sets out the expectation for developments with regards to design. These documents encourage a design-led approach to development proposals through placing the focus on achieving high quality design. These documents also illustrate how development proposals can be evaluated to ensure compliance with the six qualities of successful places. The guidance sets out the level of site appraisal an applicant is expected to undertake as part of the design process. This includes a consideration of the landscape setting, character and the topography of the site. The appraisal process may also require an assessment of the townscape character of the site context, where appropriate. Appendix B of the Supplementary Guidance sets out the detailed site appraisal considerations in relation to landscape change.

2.3.5 The proposal site is not located in, or near, any Local Landscape Area as identified in the Adopted FIFEplan LDP.

2.3.6 The applicant has a landscape and visual impact assessment which includes a zone of theoretical visibility (ZTV) and photos taken from six viewpoints. These demonstrate how the proposal would sit within the site and the surrounding landscape and demonstrate that views of the site would be very localised. The six viewpoints identified to illustrate the potential visual impacts of the development are as follows:

- Viewpoint 1 from Core Path adjacent to the A92 on its north side at Heathery Wood.
- Viewpoint 2 from Core Path to the south of Balbeggie Avenue at Hurlburn
- Viewpoint 3 from Core Path at Heathery Wood.
- Viewpoint 4 from Core Path east of Cluny Bond.
- Viewpoint 5 from East of Wester Balbeggie Cottages.
- Viewpoint 6 from Core Path east of the Three Stanes Footbridge.

2.3.7 The applicant's landscape assessment concludes that the proposed development will introduce a new, vertically low, medium-scale renewable energy feature into a relatively contained point in the surrounding landscape which is lower in height than other adjacent

industrial features connected with wind turbines and electricity transmission to the north and large warehousing distribution to the west. It will therefore be seen alongside other larger scale renewable energy and power generation elements in the wider landscape and in the context of a simple scaled farmland context. The proposed mitigation and enhancement landscape measures along the site boundaries will also assist in reducing the duration of effects and aid in retaining and improving the field boundaries and biodiversity in the wider site context.

2.3.8 Direct landscape effects will include changing the prevailing agricultural land use within a section of one field to renewable energy storage. The layout has been designed to retain existing vegetation as far as possible around the boundaries and no notable tree or hedgerow sections will be removed. The overall field scale surrounding the site will remain and views to surrounding features including hedgerows and ridgelines and to wider skylines will be retained. LVA effects are considered to be relatively localised, with clear visibility likely from just the adjoining highway at publicly accessible locations to the north. Clear and open views are likely to be restricted to more intermittent points elsewhere to the northeast and limited elsewhere. At this point the development will be seen as a series of elements, at a point contained by mature woodland and below the surrounding landscape features and rising slopes to the south, allowing views to the landscape beyond the site. In the medium to long term the proposed mitigation planted along the boundaries will mature, which will further screen views towards the proposed development site.

2.3.9 The viewpoint appraisal has indicated a positive picture regarding the degrees of effects upon visual receptors. There will be no Major effects and only Moderate short-term effects from the points to the northeast before mitigation planting has established to reduce effects further. For the remaining viewpoints and areas of the ZTV, visibility will be limited where the proposed development sits at a contained point alongside woodland and other taller industrial features. When considered together with the effects on all relevant key receptor groups present and the limited geographical extent of the ZTV across the area, the overall effect on visual amenity is considered by the applicant's landscape specialist to be acceptable given the nature and context of the existing setting.

2.3.10 In this instance, the scale of the proposal is such that changes to the landscape as a result of the development would be limited to a small area of a previously undeveloped agricultural field. The proposed battery storage facility avoids the need to remove any mature trees or hedgerows within the site and, as illustrated within the proposed landscaping mitigation plan, additional woodland edge planting is proposed along the south-eastern corner of the site perimeter to screen and aid visual enclosure. To the north and southwest of the Battery Energy Storage System, biodiversity enhancement is proposed in the form of grassland and scattered tree planting. A wetland area is also proposed directly to the north of the facility, within the overall application site, to further enhance the biodiversity of the site. All containers and fencing will be painted a dark green colour to mitigate their visual appearance within the landscape, and a condition is recommended to secure this.

2.3.11 In this instance it is considered that the applicant has demonstrated through the siting, use of materials and the submitted Landscape and Visual Impact Assessment that the expected landscape impacts of the proposed development are modest, and any localised impacts will be appropriately and successfully mitigated by carrying out improvements to existing landscape screening as detailed in the submitted Landscape Mitigation Plan. The Development Plan framework indicates that, where impacts are localised and/or appropriate design mitigation has been applied for this type of development, they will generally be considered to be acceptable. In

combination with the site selection process, which requires developments of this nature to be in close proximity to Electricity substations with sufficient capacity to deal with the electricity being imported and exported from and to the grid, and the government's aspirations for the planning system to help reduce emissions and energy use by enabling development that contributes to efficient energy supply and storage, it is therefore considered that any localised impact on the landscape, as described above, can be accepted. The proposal would, therefore, be visually acceptable, would have no significant detrimental impact on the site or surrounding landscape and would comply with the Development Plan in this respect.

2.4 Amenity Impact

2.4.1 Policy 14 of NPF4 states that development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale. This policy further states that development proposals that are poorly designed, detrimental to the amenity of the surrounding area or inconsistent with the six qualities of successful places, will not be supported.

2.4.2 Policies 1 and 10 of the LDP 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.

Noise

2.4.3 PAN (Planning Advice Note) 1/2011 Planning and Noise 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.

2.4.4 Policy 11 of NPF4 states that project design and mitigation will demonstrate how impacts on communities and individual dwellings, including, residential amenity and noise are addressed. Policy 23 (Health and Safety) of NPF4 requires that development proposals that are likely to raise unacceptable noise issues will not be supported, whilst the agent of change principle applies to noise sensitive development and a noise impact assessment may be required where the nature of the proposal or its location suggests that significant effects are likely.

2.4.5 Policies 1, and 10 of the LDP state that proposals must demonstrate that they will not lead to a significant detrimental impact on amenity in relation to noise and they will only be supported where they 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.

2.4.6 An Environmental Noise Impact Report has been submitted in support of this application. The nearest residential property is located approximately 185m to the south-west of the site at Grantsmuir Farm. 5 other identified Noise Sensitive Receptors (NSRs) were also mapped and considered in the Noise Impact Assessment. The baseline noise assessment also took cognisance of the presence of the A92 trunk road between Dunfermline and Aberdeen, which lies 500m south of the site.

2.4.7 In order to predict the noise immission levels of the Proposed Development, TNEI has produced a noise propagation model in accordance with ISO 9613 based on candidate plant typical for this type of development. The noise model assumes that all plant will be operational at

full capacity continuously and concurrently, however, this is unlikely to occur. Accordingly, the noise assessment is inherently conservative.

2.4.8 Two assessments considering the nearest residential Noise Sensitive Receptors (NSRs) have been carried out:

- a quantitative assessment concluded that levels would remain below the fixed guideline levels detailed in BS 8233 for the daytime and night-time assessment periods; and
- a qualitative assessment was also undertaken in accordance with BS4142. This assessment concluded that, for all of the Noise Assessment Locations (NALs) during the daytime, and for all NALs except for NAL03 - Grantsmuir Farm during the night-time, "the rating level does not exceed the background sound level, this is an indication of the specific sound source having a low impact, depending on the context."

2.4.9 At NAL03, the Rating Level exceeds the background sound level during the night-time by 5dB, which could be "indication of an adverse impact, depending on the context." After consideration of the context however, the assessment concludes that there is no indication of an adverse impact at this receptor.

2.4.10 Accordingly, the NIA concludes that the Proposed Development will not have an adverse noise impact on the local area.

2.4.11 Fife Council's Environmental Health Public Protection team advise that the approach taken in the noise assessment is suitable for the context of this site in terms of the methodology of the report and its conclusions, with the only potential issue being the modelled levels at Grantsmuir Farm. However, the modelling assumes a full load on the development, and this would only occur under extreme climatic circumstances. This being the case, it would be prudent to set a receptor condition to protect nearby residents.

2.4.12 The submitted Noise Report has demonstrated that it is unlikely that there will be any detrimental noise impact on the surrounding area resulting from the proposed development and the findings of the report are accepted. The proposed development, subject to a condition limiting and verifying noise levels, would therefore comply with the Development Plan in this respect and would be acceptable in terms of noise impact.

Construction Impacts

2.4.13 Policy 23 of NPF4 states that proposals which are likely to have a significant adverse effect on health will not be supported.

2.4.14 Policies 1 and 10 of the LDP advise that development will only be supported if it does not have a detrimental impact on amenity in relation to construction impacts.

2.4.15 The proposal is not located within the direct vicinity of any residential properties with the nearest residential area being located approximately 185 metres to the south-west. Any construction impact would also be temporary in nature; therefore, these would have no significant detrimental impact on the site or surrounding area. A condition is recommended, however, requiring that a Construction Environmental Management Plan (CEMP) be submitted for approval. The remote location of the site and adherence to best working practices detailed in the CEMP will be sufficient to mitigate any potential negative impact during the construction phase. The proposal subject to this condition would, therefore, be acceptable and would comply with the Development Plan in this respect.

Light Pollution

2.4.16 Policy 23 of NPF4 states that proposals which are likely to have a significant adverse effect on health will not be supported.

2.4.17 Policies 1 and 10 of the LDP state that proposals will only be supported where they 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. Policy 10 further states that development will only be supported where it will have no significant detrimental impact on amenity in relation to light pollution and the operation of existing or proposed businesses and commercial operations or on the amenity of surrounding existing land uses.

2.4.18 It is considered that due to the location of the site that there would be no significant impact on any surrounding residential areas because of light pollution. Existing planting and trees would provide mitigation against this, which would be increased as the proposed landscape enhancement planting matures. The proposed infra-red CCTV lighting could, however, impact on nearby habitats and a condition is recommended requiring the submission of a lighting plan in this respect. The proposal, subject to conditions would, therefore, be acceptable and would comply with the Development Plan in this respect.

2.5 Transportation/Road Safety

2.5.1 Policy 14 of NPF4 states that development proposals will be supported where they provide well connected networks that make moving around easy and reduce car dependency. Policy 15 (Local Living and 20 Minute Neighbourhoods) requires that development proposals will contribute to local living including, where relevant, 20-minute neighbourhoods. To establish this, consideration will be given to existing settlement pattern, and the level and quality of interconnectivity of the proposed development with the surrounding area. Policy 13 (Sustainable Transport) of NPF4 advises that proposals which improve, enhance or provide active travel infrastructure, public transport infrastructure or multi-modal hubs will be supported. It further states that development proposals will be supported where it can be demonstrated that the transport requirements generated have been considered in line with the sustainable travel and investment hierarchies and where appropriate they will provide direct, easy, segregated and safe links to local facilities via walking, wheeling and cycling networks before occupation. A Transport Assessment should also be submitted where a proposal would generate a significant increase in the number of person trips. Policy 14 also advises that development proposals for significant travel generating uses will not be supported in locations which would increase reliance on the private car, taking into account the specific characteristics of the area.

2.5.2 Policy 1, Part C, Criterion 2 of the LDP 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 the LDP advises that such infrastructure and services may include local transport and safe access routes which link with existing networks, including for walking and cycling. Further detailed technical guidance relating to this including parking requirements, visibility splays and street dimensions are contained within Appendix G (Transportation Development Guidelines) of Making Five's Places Supplementary Guidance (2018).

2.5.3 A Construction Traffic Management Plan (CTMP) prepared by i-Transport on behalf of the applicant has been submitted in support of the application and this has been assessed as below by Fife Council's Transportation Development Management (TDM) team.

2.5.4 Paragraph 2.3.2 notes that the B9130 has "a footway that runs along the western side for its entirety and is street lit". There is a shared footway/cycleway on the western side of the B9130 between the Redhouse Roundabout and Thornton but the only street lighting is on the Redhouse Roundabout and within the settlement boundary of Thornton. There is no existing street lighting at the Balbeggie Avenue/ B9130 junction. The provision of the shared path on the west side of the B9130 has improved visibility at the junction. Paragraph 3.1.7 notes that visibility splays of 2.4 metres x 215 metres are available at the Balgeddie Avenue/B9130 junction. Paragraph 4.2.2 notes that there would be a 22- 24 weeks construction period generating some 48 two-way vehicle trips (deliveries and site staff) per day. During its 20 years operational life the facility would generate only 2 two-way maintenance vehicle trips every 28 days. Given the relatively low construction traffic trips and negligible maintenance vehicle trips the available visibility splays of 2.4 metres x 210 metres at the Balgeddie Avenue/B9130 junction is acceptable.

2.5.5 Paragraph 3.1.8 notes that the visibility splay at the junction of the site access with Balbeggie Avenue is based on Designing Streets. The use of the visibility splays within the Designing Streets document is totally inappropriate for a rural location. However, the visibility splays that would be available at the junction of the site access with the private road would be acceptable for only 2 two-way maintenance vehicle trips every 28 days. Section 5 – Construction Traffic Management Measures is acceptable. Paragraph 5.3.3 – the wheel washing proposals are acceptable. Given the distance between the site access and the B9130 it would be very unlikely that mud and debris from the site would be dragged onto the public road.

2.5.6 Overall, having considered the applicant's submitted CTMP, Fife Council's TDM team has no objections to approval being granted for the proposed development, without the need for transportation related conditions. The proposal would, therefore, have no significant impact on the site or surrounding area in terms of road safety and would comply with the Development Plan in this respect.

2.6 Community and Economic Benefits

2.6.1 Policy 11 (Energy) of NPF4 states that development proposals will only be supported where they maximise net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities.

2.6.2 Policy 11 of the LDP states that permission will only be granted for new development where it has been demonstrated that the net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities have been demonstrated.

2.6.3 The project will provide valuable inward investment to the local community by providing local job opportunities during construction and decommissioning, either directly or down the supply chain for construction and decommissioning; by enabling local clean energy production and by increased local economic activity from construction and maintenance workers. The proposal would also make a significant contribution towards meeting renewable energy targets by providing much needed grid support to facilitate greater deployment of renewable energy. Based on the submitted information, it is considered that the proposal would provide

economic and community benefits as required by Policy 11 of NPF4. The proposal would, therefore, be acceptable and would comply with the Development Plan in this respect.

2.7 Water/Drainage/Flood Risk

2.7.1 Policy 11 (Energy) of NPF4 states that development proposals will only be supported where they demonstrate how effects on hydrology, the water environment and flood risk have been addressed. Policy 22 (Flooding) of NPF4 states that proposals at risk of flooding or in a flood risk area will only be supported if they are for essential infrastructure where the location is required for operational reasons. This policy further states that it will be demonstrated by the applicant that all risks of flooding are understood and addressed, there is no reduction in floodplain capacity, increased risk for others, or a need for future flood protection schemes, the development remains safe and operational during floods and flood resistant and resilient materials and construction methods are used.

2.7.2 Policy 22 of NPF4 also requires that development proposals manage all rain and surface water through sustainable urban drainage systems (SUDS), which should form part of and integrate with proposed and existing blue-green infrastructure. All proposals should also presume no surface water connection to the combined sewer and development should seek to minimise the area of impermeable surface.

2.7.3 Policy 20 (Blue and Green Infrastructure) of NPF4 states that proposals for or incorporating new or enhanced blue infrastructure will be supported and where appropriate, this will be an integral element of the design that responds to local circumstances. This policy further states that proposals that include new or enhanced blue infrastructure will provide effective management and maintenance plans covering the funding arrangements for their long-term delivery and upkeep, and the party or parties responsible for these.

2.7.4 Policies 1 and 3 of the LDP state 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. Where necessary and appropriate as a direct consequence of the development or because of cumulative impact of development in the area, development proposals must incorporate measures to ensure that they will be served by adequate infrastructure and services. Such measures will include foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS).

2.7.5 Policy 12 of the LDP advises that development proposals will only be supported where they can demonstrate that they will not, individually or cumulatively increase flooding or flood risk from all sources (including surface water drainage measures) on the site or elsewhere, that they will not reduce the water conveyance and storage capacity of a functional flood plain or detrimentally impact on future options for flood management and that they will not detrimentally impact on ecological quality of the water environment, including its natural characteristics, river engineering works, or recreational use.

2.7.6 The applicant has submitted a flood risk assessment (FRA) and surface water management plan (SWMP). The flood risk assessment concludes that overall, there are no overriding impediments to the development being granted planning permission on the grounds of flood risk or surface water drainage.

2.7.7 The FRA indicates that the topography of the site is such that the site slopes generally downhill from south-west to north-east while gently undulating. The site's lowest elevation is

approximately 74mAOD and is situated along the centre of the northern site boundary which is associated with a topographical depression which appears to join with a culvert which runs under Balbeggie Avenue. The site's highest elevation is approximately 83m and is situated in the southwest corner of the site. The total difference in elevation across the site is 9m.

2.7.8 The FRA notes that SEPA's Fluvial Flood Risk mapping indicates that the site presents no risk of fluvial flooding within the area surrounding the proposed development. The closest area of fluvial flooding is associated with River Ore, approximately 800m to the north which is of no concern to the proposed BESS development. Similarly, SEPA's Groundwater Flood Risk Mapping indicates that the proposed development is not located within an area where groundwater could influence the duration and extent of flooding from other sources. The FRA therefore concludes that Fluvial flooding is assessed not to be a significant hazard and the proposed development is at little or no risk. Similarly, the site is considered to be at little or no risk from groundwater flooding.

2.7.9 In relation to Infrastructural Flood Risk, flooding from existing infrastructure such as reservoirs, drainage systems or flood defences can occur where capacity in the system is insufficient or when maintenance lapses. The site is not nearby or constricted by any upslope infrastructural flooding risk. The FRA determined a private water pipe linked to a mains supply runs beneath the northwest area of the site. This pipe feeds Grantsmuir Farm to the southwest of the site and bursts periodically, causing temporary flooding towards the north of the site. This pipe should be investigated, located and protected during construction, including diversion if it is found to be located under the BESS infrastructure. If the water pipe is dealt with effectively then it is therefore considered infrastructural flooding is not a significant hazard and the site is at little or no risk.

2.7.10 The FRA does, however, indicate that SEPA's Surface Water Flood Risk mapping shows that the site is in an area of high likelihood of flooding. The flooding coincides with the topographical depression by the eastern edge of the site (as referenced in paragraph 2.7.7 of this Report of Handling) and also at the site's lowest elevation near the northern boundary. Topographical and site data suggests the eastern drain may feed this area of flooding during periods of persistent rainfall. Overall, the proposed BESS infrastructure is considered to be at a medium to high risk of surface water flooding, primarily due to the potential to increase flooding downslope, and mitigation is required in the form of a SUDS, including special treatment to the SUDS access track.

2.7.11 Access to the BESS will be via a track formed from crushed aggregate along the site's western boundary. A formal drainage network has not been modelled for this given the limited size of the feature and semi pervious nature. The FRA recommends that a grassed surface water channel or filter drain is adopted alongside the track to capture, treat and attenuate runoff. Runoff should then be connected with the open field drains present. An unbound porous paving layer is proposed below the BESS hardstanding to provide the required attenuation and treatment. The fill would function similarly to permeable paving, storing stormwater within a porous subsurface layer prior to controlled discharge on the downslope side of the feature to an open ditch. Over areas of uncompacted fill, rainwater would infiltrate naturally into the subsurface layer. Over compacted areas (accesses), porous asphalt or reinforced gravel/grass may be required to ensure infiltration. Underdrains are proposed to effectively drain the subsurface layer and prevent ponding. Outflows would be controlled via a 44mm orifice, though the applicant's flooding specialist queried whether Fife Council may require a larger (75mm orifice). The outfall would then discharge into a new open channel connecting with the existing ditch along the eastern boundary of the site.

2.7.12 Fife Council's Flooding, Shorelines and Harbours Team advise that they have no objections to the proposed development and are content that the 44mm orifice in the control chamber would be sufficient to allow the regulated flow and resist blockage by debris.

2.7.13 Policy 22 (Flooding) of NPF4 also states that proposals at risk of flooding or in a flood risk area will only be supported if they are for essential infrastructure where the location is required for operational reasons. The proposal is considered to be essential infrastructure and is required at this location for operational reasons as discussed earlier in this report of handling. The FRA concludes that the site has been assessed in terms of flood risk both to and from the development and, with mitigation measures in place, the overall flood risk would be low, and the proposal is not predicted to increase flows or flooding offsite. Fife Council is content with the FRA findings and the proposal would therefore be acceptable and would comply with Development Plan Policy in this respect.

2.8 Natural Heritage

2.8.1 Policy 3 (Biodiversity) of NPF4 states that proposals will contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them, whilst, proposals should also integrate nature-based solutions, where possible.

2.8.2 Policy 4 of NPF4 advises that proposals that are likely to have an adverse effect on species protected by legislation will only be supported where the proposal meets the relevant statutory tests. If there is reasonable evidence to suggest that a protected species is present on a site or may be affected by a proposed development, steps must be taken to establish its presence, whilst the level of protection required by legislation must be factored into the design of the development.

2.8.3 Policy 6 (Forestry, Woodland and Trees) of NPF4 advises that proposals that enhance, expand and improve woodland and tree cover will be supported, however, proposals will not be supported where they would result in the loss of ancient woodlands, ancient and veteran trees, or adverse impact on their ecological condition. This policy further states that proposals will not be supported where they would result in adverse impacts on native woodlands, hedgerows and individual trees of high biodiversity value, or identified for protection in the Forestry and Woodland Strategy.

2.8.4 Policies 1 and 13 of the LDP state that development proposals will only be supported where they protect or enhance natural heritage and access assets including protected and priority habitats and species, designated sites of international and national importance, including Natura 2000 sites and Sites of Special Scientific Interest, designated sites of local importance, including Local Wildlife Sites, Regionally Important Geological Site, green networks and greenspaces and woodlands (including native and other long-established woods), and trees and hedgerows that have a landscape, amenity, or nature conservation value.

2.8.5 A Preliminary Ecological Appraisal (PEA) and Preliminary Roost Assessment (PRA) was conducted by Gavia Environmental, with a September 2021 survey being reported in November 2021. Fife Council's Natural Heritage officer has assessed the proposal and notes that there are Ancient Woodland Inventory-listed coupes immediately to the north and adjacent to the south-eastern site boundary (Fraser's Corner, 2b Long-established [of plantation origin] and part of Heathery Wood, 2b Long-established [of plantation origin], respectively). However, it is unlikely

that these areas will be impacted, with the extension of Heathery Wood actually providing connectivity between the proposed tree planting of the site and the wider area.

2.8.6 Noting that the PEA is now towards the end of its “shelf-life” of 18 months, Fife Council’s Natural Heritage specialist indicates that the site was revisited in October 2022 as part of the Biodiversity Net Gain Assessment (Gavia Environmental, December 2022). Phase 1 habitat codes were converted to correspond to the UK Habitat Classification system, as used by the Biodiversity Metric tool (the Biodiversity Net Gain (BNG) Assessment report notes that no changes to the habitats were recorded), in order to complete a BNG assessment for the proposed development. Extract tables have been presented to illustrate the assessment process, which indicate a realistic target Condition for each habitat to be created and a possible BNG of 33.91% if the prescribed measures are applied as described in both PEA and BNG reports. Species identified for the landscape planting are noted to be consistent with the approaches detailed in Making Fife's Places Supplementary Guidance.

2.8.7 Mitigations identified by Gavia and reproduced in the Pre-Application Consultation (PAC) Report (Murray Planning Associates, December 2022) are all considered appropriate to the location, and these are anticipated to be included in the final installation design.

2.8.8 With reference to the proposed biodiversity enhancements, it should be noted that meadow grassland management will be key to retaining its value and the single annual cut and arisings removal process must be applied as described (for the lifetime of the facility).

2.8.8 Fife Council’s Natural Heritage officer has no objections to the proposal and advises that the mitigation and enhancement measures presented in the report are deemed both comprehensive and appropriate to the location and these should be controlled through conditions. The proposal, subject to conditions would, therefore, have no significant ecological impact on protected species, wildlife habitats or birds. The proposal would, therefore, be acceptable and would comply with the Development Plan in this respect.

2.8.9 The submitted information demonstrates that the proposal would include planting of native species and a number of measures to enhance biodiversity on site. The proposal would, therefore, bring about a significant biodiversity enhancement to the site and surrounding area when compared to the existing site. The proposal subject to conditions would, therefore, be acceptable and would also comply with the Development Plan in respect of Biodiversity Enhancement.

2.9 Contaminated Land/Land Stability

2.9.1 Policy 9 of NPF4 states that where land is known or suspected to be unstable or contaminated, development proposals will demonstrate that the land is, or can be made, safe and suitable for the proposed new use.

2.9.2 Policies 1 and 10 of the LDP advise that development proposals must not have a significant detrimental impact on amenity in relation to contaminated and unstable land, with particular emphasis on the need to address potential impacts on the site and surrounding area.

2.9.3 Fife Council's Land and Air Quality team advises that they have no objections to the proposal. The proposal is not located on an area which is potentially contaminated and would, therefore, have no significant impact on amenity in relation to contaminated land and would comply with the Development Plan in this respect.

2.9.4 The site is also located within a coal mining low risk area and the Coal Authority do not, therefore, require to be consulted. The proposal would, therefore, have no significant impact on amenity in relation to ground stability and would comply with the Development Plan in this respect.

2.10 Archaeological Impact

2.10.1 Policy 7 of NPF4 states that where there is potential for non-designated buried archaeological remains to exist below a site, developers will provide an evaluation of the archaeological resource at an early stage so that planning authorities can assess impacts.

2.10.2 Policies 1 and 14 of the LDP advise that development which protects or enhances buildings or other built heritage of special architectural or historic interest will be supported. Development proposals which impact on archaeological sites will only be supported where remains are preserved in-situ and in an appropriate setting or there is no reasonable alternative means of meeting the development need and the appropriate investigation, recording, and mitigation is proposed. Policy 14 also states that the archaeological investigation of all buried sites and standing historic buildings within an Archaeological Area of Regional Importance will be required in advance of development unless good reason for an exemption can be shown.

2.10.3 Fife Council's Archaeologist advises that the site has no significant archaeological implications and, therefore, has no objections to the proposal. The proposal would, therefore, be acceptable and would comply with the Development Plan in this respect.

2.11 Air Quality

2.11.1 Policy 23 (Health and Safety) of NPF4 states that proposals that are likely to have significant adverse effects on air quality will not be supported. It further advises that an air quality assessment may be required where the nature of the proposal or the air quality in the location suggest significant effects are likely.

2.11.2 Policies 1 and 10 advise that proposals must have no 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). It also advises that an air quality assessment may be required for developments that are within AQMAs or where the proposed development may cause or significantly contribute towards a breach in air quality management standards. Development proposals that lead to a breach of National Air Quality Standards or a significant increase in concentrations within an existing AQMA will not be supported. Supplementary guidance will provide additional information, detail and guidance on air quality assessments, including an explanation of how proposals could demonstrate that they would not lead to an adverse impact on air quality.

2.11.3 Fife Council's Air Quality in Fife Advice for Developers advises that an air quality impact assessment (AQIA) may be required where the construction and occupation of a proposed development has the potential to significantly increase road traffic emissions and if the proposal would introduce ten new parking spaces or more and is for a commercial development of 1 hectare or more. This guidance further advises that a simple assessment should be carried out to determine if a more detailed air quality impact assessment is required. The guidance sets out several relevant criteria such as daily vehicle movements increasing by more than 500, daily H.G.V movement increasing by more than 100, the introduction of a roundabout and any other

sources of air pollution. The guidance states that if these criteria are not breached then a more detailed air quality impact assessment would not be required.

2.11.4 An air quality impact assessment report would not be required, in this instance, as the proposal would not significantly increase road emissions and would not breach any of the relevant criteria where a more detailed assessment would be required. The battery storage facility which is for the storage of electricity would also not result in any air pollution as there would be no emissions associated with the proposal. The proposal would therefore have no significant detrimental impact on air quality and would comply with the Development Plan in this respect.

2.12 Decommissioning of the Proposal

2.12.1 Policy 11 (Energy) of NP4 states that project design and mitigation will demonstrate how proposals for the decommissioning of developments, including ancillary infrastructure, and site restoration and the quality of site restoration plans including the measures in place to safeguard or guarantee availability of finances to effectively implement those plans have been addressed.

2.12.2 The proposal would operate for a temporary period of 40 years and a condition has been attached to this recommendation requiring that on expiry of the temporary period, the battery storage facility and its ancillary equipment shall be dismantled, removed from the site and the ground fully reinstated to the satisfaction of Fife Council as Planning Authority, returning the land to its original full agricultural use after the decommissioning period during the 41st year. In the event that the site is no longer required for Battery Energy Storage, and it becomes inactive for a period of 6 months, then a decommissioning strategy including a scheme of decommissioning work and land restoration can be secured by condition. The proposal, subject to these conditions would, therefore, be acceptable and would comply with the Development Plan in this respect.

CONSULTATIONS

Archaeology Team, Planning Services Business And Employability	No objection.
Natural Heritage, Planning Services Drone Footage	No objection. Footage now available, link is https://vimeo.com/832205259
Land And Air Quality, Protective Services	No objection.
Structural Services - Flooding, Shoreline And Harbours	No objection.
Environmental Health (Public Protection)	No objection.
TDM, Planning Services	No objection.

REPRESENTATIONS

None.

CONCLUSIONS

The proposal is considered to be acceptable in meeting the terms of National Guidance, the Development Plan and relevant other guidance. The proposal would assist in improving the stability and security of electricity provision to the National Grid as it moves to greater decarbonisation of our electricity supply. The proposal would be compatible with the area in terms of land use, design and scale and will not cause any detrimental impact to neighbouring land uses and is therefore considered to be acceptable.

RECOMMENDATION

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

1. The development to which this permission relates must be commenced no later than 3 years from the date of this permission.

Reason: In order to comply with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by Section 32 of The Planning (Scotland) Act 2019.

2. BEFORE ANY WORKS COMMENCE ON SITE; full details of the external finishing colour of the containers, equipment and fence shall be submitted to and approved in writing by Fife Council as Planning Authority. FOR THE AVOIDANCE OF DOUBT; the colour of the containers and fence shall be dark green.

Reason: In the interests of visual amenity.

3. BEFORE ANY WORKS COMMENCE 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, boundary treatments and hedges to be planted, and the extent and profile of any areas of earth mounding, shall be submitted to, and approved in writing by, Fife Council as Planning Authority. This scheme of landscaping shall also include details of the future management and aftercare of the proposed landscaping and planting and shall specify that any plants which are dead, damaged, missing, diseased or fail to establish within 5 years of the date of planting shall be replaced annually. The scheme of landscaping as approved shall be implemented within the first planting season following the completion of the development and thereafter be maintained, for the lifetime of the planning permission hereby granted, in accordance with the ecological mitigation and enhancements as set out in Section 5 of the hereby approved Biodiversity Net Gain Assessment (Gavia Environmental for Epsilon Generation 20.12.22) and in the Ecology and Biodiversity Enhancement section of the hereby approved PAC Report (Murray Planning Associates December 2022).

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

4. BEFORE ANY WORKS COMMENCE ON SITE; a CEMP – Construction Environmental Management Plan (comprising a Construction Method Statement, a Management Plan, an Environmental Protection Plan and a Scheme of Works to mitigate the effects on sensitive premises/areas from dust, noise and vibration relating to construction activities on site) shall be

submitted to, and approved in writing by, Fife Council as Planning Authority. All construction works shall then be carried out in full accordance with the approved details.

Reason: In the interests of safeguarding amenity.

5. BEFORE THE DEVELOPMENT IS BROUGHT INTO USE; full details of the proposed lighting scheme shall be submitted to and approved 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, sensitive properties or adjacent sensitive habitats with regards to light spillage and glare. The lighting scheme shall include lighting mitigation and shall utilise the methods recommended in the Institute of Lighting Professional's Bats and Artificial Lighting Guidance Note (ILP, 201833) or any subsequent revision. These methods shall include using directional and or baffled lighting, variable lighting regimes, avoidance of blue-white short wavelength lights and high UV content or creation of light barriers utilising hedgerows and tree planting. Thereafter, the lighting shall be installed and maintained in accordance with the manufacturer's specification and approved details.

Reason: In the interests of safeguarding the amenity of the surrounding area and species protection.

6. Unless otherwise agreed and approved in writing by Fife Council as Planning Authority, noise emitted from the site shall not exceed:

47 dB LAeq (1 hour) from 0700 hours to 1900 hours;

42 dB LAeq (1 hour) from 1900 hours to 2300 hours; and

35 dB LAeq (5min) from 2300 hours to 0700 hours on any day,

as measured at the amenity spaces of Grantsmuir Farm or any address on Balbeggie Avenue, Thornton. WITHIN THREE MONTHS OF THE DEVELOPMENT BEING BROUGHT INTO USE; written evidence demonstrating that the aforementioned noise 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.

7. No tree works, or scrub clearance, shall occur on site from 1st March through to 31st August, inclusive, each year unless otherwise agreed in writing with this Planning Authority prior to clearance works commencing. In the event that clearance is proposed between 1st March to 31st August, inclusive, an appropriate bird survey shall be carried out by a Suitably Qualified Ecologist (SQE) within 48 hours prior to works commencing in the proposed clearance area. Confirmation of the survey and ecological permission to proceed with the clearance works shall be submitted to this Planning Authority as proof of Condition Compliance. This proof should usually be in the form of a Site Note/Site Visit Report issued by the Suitably Qualified Ecologist.

Reason: In order to avoid disturbance during bird breeding seasons.

8. The permission hereby granted shall be for a period of 40 (FORTY) years from the date of energisation of the project (such date to be notified in writing in advance to Fife Council as Planning Authority) and, on expiry of that period, the solar farm, battery storage and all ancillary equipment shall be dismantled and removed from the site within the following six months and the ground fully reinstated to the satisfaction of Fife Council as Planning Authority, taking into account the provisions of conditions 9 and 10 of the planning permission hereby granted, all

unless retained with the express prior planning application approval of Fife Council as Planning Authority.

Reason: In the interests of visual amenity; in order that the Planning Authority retains control of the site after the period of planning permission expires.

9. 12 months prior to the decommissioning of the solar farm and battery storage facility, an ecological survey, carried out by a suitably qualified ecologist, shall be submitted for the prior written approval of Fife Council as Planning Authority, identifying any ecological constraints arising from decommissioning activities, any areas where new habitats that may have established need to be retained, and where any unavoidable loss of new habitat occasioned by decommissioning activities may need to be compensated for (on or off-site).

Reason: In the interests of protecting the ecology of the site and surrounding area, including new habitats that may have established over the period of planning permission.

10. 6 months prior to the decommissioning of the solar farm and battery storage facility, a decommissioning and site restoration scheme shall be submitted for the prior written approval of Fife Council as Planning Authority, detailing how plant and equipment located within the site of the development hereby approved would be decommissioned and removed, informed by the ecological survey required by condition 14 of the planning permission hereby approved.

Reason: In the interests of visual amenity; in order that the Planning Authority retains control of the site after the development period expires and in the interests of protecting the ecology of the site and surrounding area, including new habitats that may have established over the period of planning permission.

11. UNLESS OTHERWISE AGREED IN WRITING WITH FIFE COUNCIL AS PLANNING AUTHORITY, if the solar farm and battery storage facility fails to export electricity to the grid for a continuous period of 12 months, the Company shall; (i) by no later than the date of expiration of the 12 month period, submit a scheme to Fife Council as Planning Authority setting out how the solar farm and battery energy storage facility and its ancillary equipment and associated infrastructure shall be removed from the site and the ground fully restored; and (ii) following written approval of the scheme by Fife Council as Planning Authority, implement the approved scheme within six months of the date of its approval, all to the satisfaction of Fife Council as Planning Authority.

Reason: In the interests of maintaining adequate control of the solar farm and battery storage facility should it become redundant, and to ensure that the site is restored.

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

National Planning Framework 4

PAN1/2011 - Planning and Noise

Scottish Government's Energy Storage: Planning Advice document (2013)

Historic Environment Scotland's Guidance on Managing Change in the Historic Environment:
Gardens and Designed Landscapes (2016)

Development Plan

Adopted FIFEplan (2017)

Making Fife's Places Supplementary Guidance (2018)

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

Other Guidance

Fife Council's Policy for Development and Noise (2021)

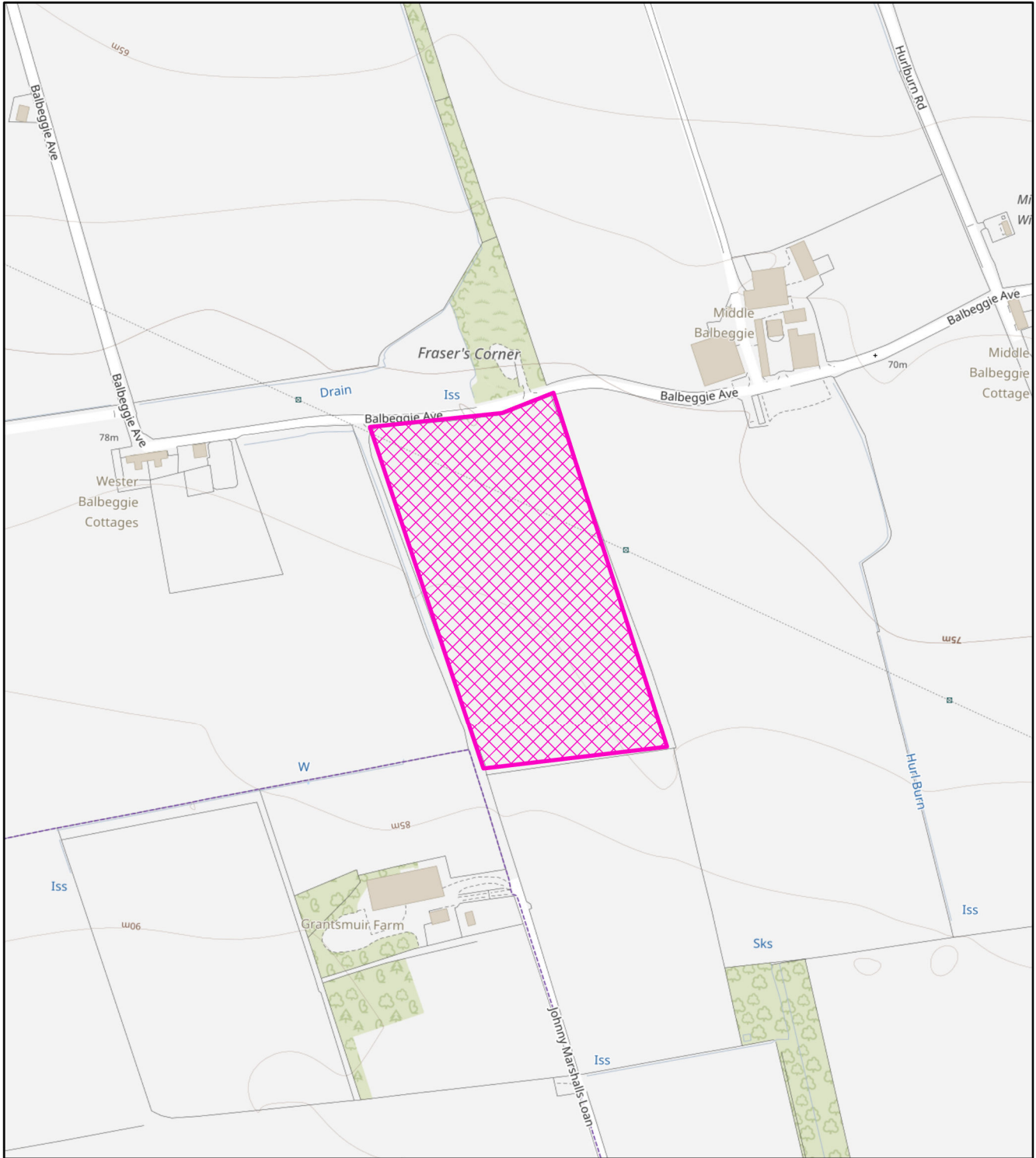
Report prepared by Martin McGroarty, Chartered Planner and Case Officer

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

Date Printed 09/06/2023

23/00701/FULL

Land 300m East of Wester Balbeggie Cottages, Wester Balbeggie Farm, Balbeggie Avenue, Balbeggie, Thornton



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Legend			
	Application Boundary		

ITEM NO: 6

APPLICATION FOR PLANNING PERMISSION IN PRINCIPLE REF: 23/00739/PPP

SITE ADDRESS: THE FARMHOUSE MASTERTON MASTERTON ROAD

PROPOSAL: PLANNING PERMISSION IN PRINCIPLE FOR RESIDENTIAL DEVELOPMENT (SECTION 42 APPLICATION FOR THE DEVELOPMENT THE SUBJECT OF PLANNING PERMISSION IN PRINCIPLE 22/00984/PPP WITHOUT COMPLYING WITH ITS CONDITIONS 1(D) AND 3)

**APPLICANT: MRS LINDA TINSON
MASTERTON FARMHOUSE MASTERTON FARM MASTERTON ROAD**

**WARD NO: W5R04
Dunfermline South**

CASE OFFICER: Brian Forsyth

DATE REGISTERED: 13/04/2023

REASONS FOR REFERRAL TO COMMITTEE

This application requires to be considered by the Committee because:

The application has attracted more than five separate individual representations contrary to the officer's recommendation.

SUMMARY RECOMMENDATION

The application is recommended for:

Conditional Approval

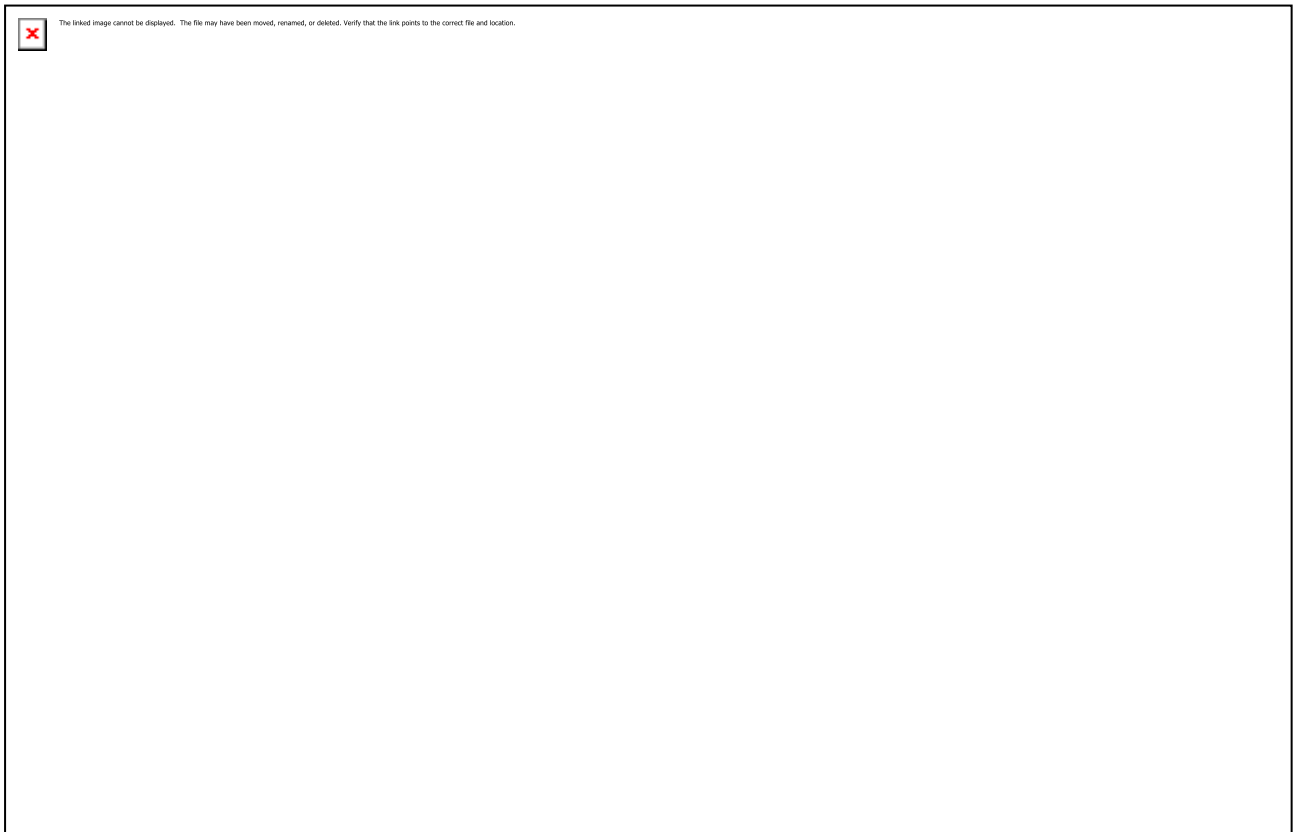
ASSESSMENT AGAINST THE DEVELOPMENT PLAN AND OTHER MATERIAL CONSIDERATIONS

1.0 BACKGROUND

1.1 The Site

1.1.1 This c.1.1 hectare site in Dunfermline is located towards the top (northern) end of the southern stretch of Masterton Road, a narrow and substandard stretch of the road without footways, leading off the western side of Skylark Road. The site is relatively flat, containing several disused and derelict agricultural buildings. There is an area of woodland within the site on its western side, within which is located a short stretch of derelict wall. Vehicular access is directly off Masterton Road, on the site's eastern side. There are small groupings of houses over Masterton Road and adjoining the site to the south. Trees surround the site on its northern and western sides, with housing beyond. Approximately 5477 square metres of the site is brownfield, approximately 5775 square metres greenfield, the latter including the abovementioned woodland. The site is located within a much larger area comprising the Battle of Inverkeithing II Inventory Battlefield.

LOCATION PLAN



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1.2 The Proposed Development

1.2.1 This is an application under section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended) ('TCP SA') seeking non-compliance with Conditions 1(d) and 3 of existing planning permission in principle 22/00984/PPP (see 1.3 below), which permission is for development of an unspecified number of dwellings on the site. These conditions provide for affordable housing, education contributions, strategic transport intervention contributions and play contributions (through a requirement of Condition 1(d) for an obligation under section 75 of the TCP SA) and for upgrading of Masterton Road from the site to its junction with Skylark Road (Condition 3). These conditions read as follows:-

" 1. A further application for approval required by conditions shall be submitted for the written permission of this planning authority, together with the requisite detailed plans which shall include:-

(d) A Section 75 agreement to be entered into by Fife Council and the relevant interested parties ensuring the provision of developer contributions for affordable housing, education, strategic transport intervention measures and play provision. FOR THE AVOIDANCE OF DOUBT, the signing of a Section 75 agreement will be required before any approval required by conditions application is submitted. The Section 75 agreement shall include details of the following:

- An education contribution towards the costs of mitigation across Dunfermline secondary schools, shared across all non-exempt housing development across the catchment area in accordance with the Fife Council Planning Obligations Framework Supplementary Guidance 2017, to be index linked against Building Cost Information Service (BCIS) standards.
- A strategic transport intervention contribution of £5332 per each dwelling located on the greenfield part of the application site.
- An on-site affordable housing provision of 25% of the total numbers of residential units proposed with the density of the affordable housing element equating to approximately 30 units per hectare. These units shall be either delivered by:
 - a) The transfer of land to Fife Council or a housing association; or
 - b) The developer building the units themselves for Fife Council or a housing association. If the funding for such units is not available then alternative unsubsidised affordable units may be provided in agreement with Fife Council as per Fife Council Affordable Housing Supplementary Guidance - September 2018.

Further details regarding these matters shall also be included within any subsequent Section 75 agreement."

" 3. PRIOR TO THE OCCUPATION OF THE FIRST DWELLING; all works done on or adjacent to existing public roads shall be constructed in accordance with the current Fife Council Transportation Development Guidelines and the SCOTS National Roads Development Guide. As part of these works, Masterton Road shall be upgraded between the site frontage and its junction with Skylark Road including the provision of kerbs, a minimum carriageway width of 5.5 metres, the provision of a 2 metre wide footway on the west side of the road and suitable carriageway patching/resurfacing, etc."

1.2.2 The applicant does not propose an alternative mechanism for securing these affordable housing and developer contributions.

1.3 Relevant Planning History

1.3.1 The relevant planning history for the application site is as follows:

- Outline planning permission (08/03145/WOPP) for a residential development was approved with conditions on 7 April 2009. This permission expired on 7 April 2014;
- Full planning permission (12/00349/FULL) for variation of condition 2(i) and 3(b) of outline planning permission (08/03145/WOPP) to extend the timescale for submission of further details and commencement of development was approved with conditions on 8 March 2012. This permission expired on 8 March 2015;

- Planning permission in principle (15/00801/PPP) for residential development (renewal of planning permission 08/03145/WOPP) was approved with conditions on 11 August 2015;
- Planning permission in principle (18/02023/PPP) for residential development (renewal of planning permission 15/00801/PPP) was approved with conditions on 30 April 2019; and
- Planning permission in principle (22/00984/PPP) for the residential development the subject of planning permission in principle 18/02023/PPP, without complying with its Condition 1(d), was approved on 14 September 2022, subject to minor variations to that condition and without agreeing to vary the condition approach to securing obligations through section 75. An application for review of this decision was submitted on 13 December 2022 but was withdrawn before it could be considered by Fife Planning Review Body.

2.0 ASSESSMENT

2.1 In determining a section 42 application, authorities may consider only the issue of the conditions to be attached to any resulting permission. Where it is considered that permission should be granted subject to different conditions or no conditions, a fresh permission is granted and all conditions attached. If it is considered that planning permission should be granted subject to the same conditions as the previous permission, the section 42 application is to be refused. The planning authority is not limited to varying those conditions in respect of which non-compliance is sought. The making, granting, or refusal of a section 42 application does not alter or effect the previous permission or its conditions.

2.2 Scottish Government Planning Circular 4/1998 The Use of Condition in Planning Permissions states that the power to impose conditions needs to be exercised in a manner which is fair, reasonable and practicable, with conditions only imposed where they are: necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise, and reasonable in all other respects. It is stated that advice therein in relation to statutory powers to impose conditions is intended to be a guide, it being stressed that the advice is not definitive.

2.3 Scottish Government Planning Circular 3/2012 Planning Obligations and Good Neighbour Agreements (Revised November 2020) states that obligations under section 75 should only be sought where they are: necessary to make the proposed development acceptable in planning terms; serve a planning purpose and, where it is possible to identify infrastructure provision requirements in advance, should relate to development plans; 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 The issue to be assessed in the case of the current application is limited to that of the conditions to be attached to any resulting permission; in particular whether any such permission should continue to be subject to the terms of Conditions 1(d) and 3 of permission 22/00984/PPP, meeting the above tests for both conditions and obligations under section 75 and being fair, reasonable and practicable in turn. This is addressed in 2.7 below.

2.5 One objection has been received from a nearby householder stating that upgrading of this stretch of Masterton Road would result in a loss of rural character, proposing alternative access arrangements and expressing concern in relation to wildlife impact. This is addressed in 2.7 below.

2.6 Nine representations in support have been received from nine individuals, none of whom it appears would be materially impacted by the proposals. The principal claims made are: the requirement for a section 75 legal agreement by condition is ultra vires; the site is brownfield and

should be exempt from contributions; the requirement for road improvements is financially prejudicial to the development; and for the small number of dwellings that would be able to be built on the site, the road improvements currently required are disproportionate. These are also addressed in 2.7 below.

2.7 Conditions to be Attached to any Resulting Permission

2.7.1 In seeking to justify non-compliance with Condition 1(d), the applicant's agent contends that its requirements in relation to affordable housing and developer contributions do not meet the 'necessary' test for conditions as the entirety of the site is brownfield, FIFEplan and supplementary guidance exempting affordable housing and developer contribution requirements for such land. In relation to the abovementioned area of woodland, the agent states: "The existence of a boundary wall on the West of the site which separates the area of trees and scrub from the main portion of the site does not mean that the portion beyond the wall is not an integral part of the overall curtilage of the steading."

Officer response: NPF4 and FIFEplan both define 'Brownfield' as: "Land which has previously been developed. The term may cover vacant or derelict land, land occupied by redundant or unused buildings and developed land within the settlement boundary where further intensification of use is considered acceptable." FIFEplan adds: "It does not include mineral workings, temporary uses, parks and gardens, sports and recreation grounds, woodlands and amenity open spaces (landscaped areas that improve an area's appearance)." In light of this exclusion of woodlands from the definition of 'Brownfield', the woodland area of the site is considered greenfield land. The approximation for the area of greenfield land in 1.1 above excludes this woodland and all other areas of the site previously developed and/or understood to be within the original curtilage. Curtilage here has been taken to be land adjoining or contiguous with the former agricultural buildings and appearing to have been ancillary or incidental to their use. As the site is not entirely brownfield, the requirements of Condition 1(d) in relation to affordable housing and developer contributions are entirely necessary to ensure development accords with relevant policy and guidance, otherwise meeting the relevant tests, and being fair, reasonable, and practicable in turn. It should be noted that there was no evidence of the separating wall referred to by the agent when the case officer visited the site on 31 May 2023, although there was a pile of stones where such a wall was expected (which stones may or may not have been part of the remains of any such wall) and the aforementioned short stretch of derelict wall within the woodland itself.

2.7.2 The agent notes that the terms of Condition 1(d) only refer to the existence of greenfield land in the context of strategic transport intervention contributions, contending that (without prejudice to the argument in 2.7.1 above) exemptions in relation to such land should not be restricted to strategic transport intervention contributions.

Officer response: It is acknowledged that the wording of that part of Condition 1(d) relating to strategic transport intervention contributions is stylistically different from those parts relating to affordable housing and other contributions; however, those other parts do also provide for a different approach to contributions in relation to greenfield land compared to brownfield land. Those other parts are sufficiently precise, otherwise meeting the relevant tests, and being fair, reasonable and practicable in turn.

2.7.3 The agent contends that the terms of Condition 1(d) do not meet the 'reasonable' test, quoting Circular 4/1998: "It is ultra vires to impose a condition in a planning permission requiring an applicant to enter into an agreement." The agent states that the Council's intention to seek a section 75 legal agreement should have been pursued prior to approval of application 22/00984/PPP, there being sufficient justification to remove the requirements of Condition 1(d) in determining that application. Commenting on the associated Report of Handling, the applicant

states: "... in rejecting the clear terms of Circular 4/1998 regarding the ultra vires nature of any condition requiring an applicant to enter into an agreement, the Report of Handling (RoH) relating to 22/00984/PPP argues that the applicant has not challenged this in the past. However, this is irrelevant. Not challenging the ultra vires nature of the condition in the past doesn't preclude the applicant doing so now. Neither does the lack of any challenge by the applicant in the past mean that the terms of the condition have been accepted by the applicant, as stated in the RoH." Commenting on the Report of Handling's reference to the Scottish Ministers themselves having imposed a condition requirement for a Section 75 in at least one case (DPEA ref. NA-ANG-09), the agent asserts that it is crucial to note that this decision was taken based on earlier findings that in relation to the actual terms of the section 75 agreement the applicant had already reached agreement in principle with the Council (ref: Scottish Ministers Notice of Intention Ref NA-ANG-009 17th Sept 2015- para 9.11 of Document 5).

Officer response: The Report of Handling explains that the approach to the timing of the signing of the section 75 legal agreement in Condition 1(d) of permission 18/02023/PPP had been carried forward from the original outline planning permission 08/03145/WOPP through subsequent renewals of permission.

The agent has been planning agent in respect of all applications for this site since submission of application 12/00349/FULL on 6 April 2012. At no time in the subsequent ten-year period between submission of that application until submission of application 22/00984/PPP, through three separate applications, did the agent seek non-compliance with or otherwise challenge the condition approach to section 75. In particular, it is clear from correspondence held by Planning Services that the agent was aware of the intended wording of Condition 1(d) of permission 18/2023/PPP, which additionally first references the extent of contributions, etc., but raised no concerns. Whilst it is accepted that the applicant has a right to challenge such conditions through seeking non-compliance, it is clear from the planning history for this site that the planning authority was entitled to assume agreement to the condition approach to section 75 adopted in determining applications for this site up to 18/2023/PPP. With such assumed agreement, the condition approach to section 75 in determining applications 18/2023/PPP and 22/00984/PPP and recommended herewith is consistent with the abovementioned approach adopted by Scottish Ministers in the case of DPEA ref. NA-ANG-09, notwithstanding Circular 4/1998, which in relation to statutory powers to impose conditions it is stated is intended to be a guide only and is not definitive.

2.7.4 The agent further contends that the Report of Handling does not address the 'enforceable' test, stating that any enforcement action requires to have a remedy to address the breach based on the terms of the condition, whereas the terms of Condition 1(d) state that the agreement must be concluded prior to submission, as opposed to registration, of the ARC, such that if the applicant were to submit the ARC without first reaching agreement under Section 75 of the Act, the Council could not impose a remedy since the ARC would already have been submitted, the terms of Condition 1(d) with respect to the requirement to enter into agreement prior to submission of the ARC therefore unenforceable.

Officer response: It would be open to the planning authority to refuse such an application on the grounds of insufficient information in relation to affordable housing and developer contributions were the agreement not submitted.

The agent's concerns in relation to the positive requirement for a section 75 legal agreement through condition and for it to have been signed prior to submission of application for approval of matters specified in conditions can be addressed by an additional negatively worded condition providing for, as an alternative, that no development takes place prior to signing of any agreement required. With or without such an additional condition, it is considered that continued

imposition of the existing Condition 1(d) is enforceable, meeting the other relevant tests, and being fair, reasonable, and practicable in turn.

2.7.5 The agent also considers it unreasonable for the terms of Condition 3 to seek upgrading of the entire stretch of Masterton Road to the junction with Skylark Road, noting that FIFEplan identifies a further development site (DUN030) to the south which would benefit from the required improvements, stating that any improvements to Masterton Road should therefore be phased to ensure that the full burden of the cost is not imposed on the applicant's development alone. In terms of 'necessity' and 'relevance to the development to be permitted', the applicant states that the requirement to create a two-metre wide footway along the entire west side of Masterton Road is unreasonable, noting that the site is already connected to Skylark Road via a pedestrian link to the north-east of the site; although the applicant accepts that such a footpath will be relevant and reasonable in relation to the development of site DUN030, it is contended that the requirement to provide such a footway should be linked to the development of site DUN030 and not imposed as an opportunistic burden on the development of the applicant's site. It is explained that as a further consideration, preliminary costings relating to the requirements of Condition 3 indicate that the works required will cost in the order of £650,000, effectively rendering development of the site unviable; over the years since the original approval, the applicant having engaged with numerous developers who have at first recognised the potential of the site, only to then withdraw when carrying out a full financial appraisal.

Officer response: Planning Services' Transportation Development Management team (TDM) states that the suggested upgrading of Masterton Road in a phased approach with site DUN030 would not be acceptable to TDM as either site in isolation requires the upgrading of the road, as per the condition, and a partial upgrade would be meaningless as there is no guarantee that the site would ever progress.

Condition 3 precludes the occupation of housing on the site prior to the specified road improvements. It is silent in relation to how the costs of such improvements are to be borne, and it is open to the applicant to explore cost-sharing in relation to site DUN030 and otherwise. Alternatively, and noting that the existing permission is not for any particular number of dwellings, the applicant may wish to downscale his intentions for development of the site, potentially demonstrating that the road safety/transportation impacts arising do not justify the currently required road improvements. Limited development of the site may also negate the need for affordable housing and developer contributions. The potential for no affordable housing, developer contributions or road improvements being required can be provided for by an additional condition and variation to the wording of existing conditions. Subject to such conditions, and taking into particular account the views of TDM, the existing wording of Condition 3 is reasonable, necessary and relevant, otherwise meeting the relevant tests, and being fair, reasonable and practicable in turn.

2.7.6 In relation to the matters raised by the objector, retention of the existing woodland and overall biodiversity enhancement can be secured by an additional condition requiring an arboricultural method statement and by variation of the wording of Condition 1(b) as relates to landscaping, etc., consistent with NPF4 policies 1, 3 and 14; FIFEplan Policies 1 and 3; Making Fife's Places Supplementary Guidance (2018) and NatureScot's Developing with Nature guidance (2023); the other matters raised not being within the scope of this application. The points raised in the other representations have been dealt with above.

CONSULTATION SUMMARY

Scottish Water	No objection. Sufficient water and wastewater capacity, no connection to Scottish Water combined sewer permitted.
TDM, Planning Services	Objects.
Structural Services - Flooding, Shoreline and Harbours	Further information requested but not required in this instance; can be addressed by terms of existing Condition varied and carried over.
Environmental Health (Public Protection)	No response received but none required.
Land And Air Quality, Protective Services	No objection subject to standard type conditions, which conditions can lawfully and reasonably be attached to any future approvals of matters specified in conditions.
Housing And Neighbourhood Services	No objection subject to existing affordable housing requirements being carried forward.
Historic Environment Scotland	No comment but not to be taken as support.
Education (Directorate)	No objection subject to existing education requirements being carried forward.

REPRESENTATIONS SUMMARY

One objection has been received from a nearby householder stating that upgrading of this stretch of Masterton Road would result in a loss of rural character, proposing alternative access arrangements, and expressing concern in relation to impact on wildlife. Retention of the existing woodland and overall biodiversity enhancement can be secured by variation of the wording of Condition 1(b) as relates to landscaping, etc., the other matters raised not being within the scope of this application.

Nine representations in support have been received from nine individuals, none of whom it appears would be materially impacted by the proposals. The principal matters raised, addressed in 2.7 above, are: requirement for a section 75 legal agreement by condition is ultra vires; site is brownfield and should be exempt from contributions; requirement for road improvements is financially prejudicial to the development; and for the small number of dwellings that would be able to be built on the site, the road improvements currently required are disproportionate.

CONCLUSIONS

Subject to additional conditions and variations of existing conditions, principally providing for: by way of alternative, relaxation of the timescale for signing of the section 75 legal agreement (new Condition 10); the need for affordable housing, developer contributions and section 75 legal agreement to be waived where policy and guidance does not require these (new Condition 11); no road improvements where limited development does not necessitate this (varied Condition 5); safeguarding of the existing woodland and biodiversity enhancement (new Condition 14); sustainable construction and minimisation of lifecycle greenhouse gases/incorporation of low and/or zero carbon generating technology (varied Condition 1(g)); SuDS verification, rollout and retention (varied Condition 1(c)); and a standard time condition in lieu of existing Condition 2; the

existing conditions of planning permission in principle 22/00984/PPP are considered to meet the relevant tests for conditions and section 75 obligations, being fair, reasonable and practicable in turn. Subject to such conditions, and in so far as within the scope of this application, it is considered the development accords with the development plan, with no material considerations of sufficient weight to justify departing therefrom.

RECOMMENDATION

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

1. A further application for approval required by conditions shall be submitted for the written permission of this planning authority, together with the requisite detailed plans which shall include:-

(a) A location plan of all the site to be developed to a scale of not less than 1:1250, showing generally the site, any existing trees, hedges, walls (or other boundary markers) layout of the 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, finished floor levels, new walls and fences, details of proposed landscape treatment (including biodiversity enhancement consistent with the adopted National Planning Framework 4 (2023) and related NatureScot guidance), and the phasing of development;

(c) Detailed plans, sections and elevations of all buildings proposed to be erected on the site, including the colour and type of materials to be used externally on walls and roofs; together with details of the proposed method of water supply and drainage, including details of a sustainable drainage scheme (SuDS) and such requirements as set out within the Fife Council Design Criteria Guidance on Flooding and Surface Water Management Plan Requirements (2022);

(d) A Section 75 agreement to be entered into by Fife Council and the relevant interested parties ensuring the provision of developer contributions for affordable housing, education, strategic transport intervention measures and play provision. FOR THE AVOIDANCE OF DOUBT, the signing of a Section 75 agreement will be required before any approval required by conditions application is submitted. The Section 75 agreement shall include details of the following:

- An education contribution towards the costs of mitigation across Dunfermline secondary schools, shared across all non-exempt housing development across the catchment area in accordance with the Fife Council Planning Obligations Framework Supplementary Guidance 2017, to be index linked against Building Cost Information Service (BCIS) standards.

- A strategic transport intervention contribution of £5332 per each dwelling located on the greenfield part of the application site.

- An on-site affordable housing provision of 25% of the total numbers of residential units proposed with the density of the affordable housing element equating to approximately 30 units per hectare. These units shall be either delivered by:

a) The transfer of land to Fife Council or a housing association; or

b) The developer building the units themselves for Fife Council or a housing association.

If the funding for such units is not available then alternative unsubsidised affordable units may be provided in agreement with Fife Council as per Fife Council Affordable Housing Supplementary Guidance - September 2018.

Further details regarding these matters shall also be included within any subsequent Section 75 agreement.

(e) A comprehensive design statement addressing form, materials, landscape fit and orientation prepared by a qualified architect or landscape architect in support of the proposals;

(f) A supporting statement demonstrating the development's compliance with Making Fife's Places Planning Supplementary Guidance (2018) and the requirements of Condition 1(b) above in relation to biodiversity enhancement;

(g) A supporting statement demonstrating the development's compliance with the minimisation of lifecycle greenhouse gas emissions requirement of the adopted National Planning Framework 4 (2023); and the low and/or zero carbon generating technology and sustainable construction requirements of the adopted FIFEplan Fife Local Development Plan (2017) and Low Carbon Fife Supplementary Guidance (2019);

(h) A bat survey, carried out within 18 months of any future approval required by conditions application, including details of any required mitigation measures as per the Bat Conservation Trust guidelines;

(i) Detailed drawings illustrating the development's compliance with Fife Council's Minimum Distance Between Windows and Daylight and Sunlight customer guidelines;

(j) A programme of archaeological works in accordance with a detailed written scheme of investigation;

(k) Detailed drawings that show any proposed garages having minimum internal dimensions of 7m x 3m (otherwise they will be classed as storage only) and which shall either be located 0.5 metres or over six metres from the road boundary all in accordance with the current Fife Council Transportation Development Guidelines; and

(l) A detailed plan to a scale of not less than 1:500 showing the greenfield and brownfield portion of the application site.

Reason: To comply with Section 59 of The Town and Country Planning (Scotland) Act 1997 (as amended).

2. The development to which this permission relates must be commenced no later than 5 years from the date of this permission.

Reason: In order to comply with the provisions of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by Section 32 of The Planning (Scotland) Act 2019.

3. PRIOR TO THE OCCUPATION OF THE FIRST DWELLING, AND UNLESS OTHERWISE AGREED IN ADVANCE, IN WRITING; all works done on or adjacent to existing public roads shall be constructed in accordance with the current Fife Council Transportation Development Guidelines and the SCOTS National Roads Development Guide. As part of these works,

Masterton Road shall be upgraded between the site frontage and its junction with Skylark Road including the provision of kerbs, a minimum carriageway width of 5.5 metres, the provision of a 2 metre wide footway on the west side of the road and suitable carriageway patching/resurfacing, etc.

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

4. All roads and associated works serving the development shall be designed in accordance with the current Fife Council Transportation Development Guidelines and the SCOTS National Roads Development Guide.

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

5. PRIOR TO THE OCCUPATION OF THE FIRST DWELLING, AND UNLESS OTHERWISE AGREED IN ADVANCE, IN WRITING; a 2 metre wide footway shall be provided along the total Masterton Road frontage of the site in accordance with the current Fife Council Transportation Development Guidelines (August 2018 - Appendix G) and the SCOTS National Roads Development Guide. The northern end of the footway shall tie in with the proposed footway on the opposite side of Masterton Road (13/00409/FULL).

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

6. PRIOR TO THE OCCUPATION OF EACH DWELLING; all access driveways shall be constructed at a gradient not exceeding 1 in 10 (10%) and shall have appropriate vertical curves to ensure adequate ground clearance for vehicles. The first two metre length of the driveway to the rear of the public footway shall be constructed in a paved material (not concrete slabs).

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

7. PRIOR TO THE OCCUPATION OF THE FIRST DWELLING; there shall be provided within the curtilage of the site a turning area for vehicles suitable for use by the largest size of vehicles expected to visit or be used by occupants of the premises. The turning area shall be formed outwith the parking areas and shall be retained throughout the lifetime of the development.

Reason: In the interests of road safety; to ensure that all vehicles taking access to and egress from the site can do so in a forward gear.

8. PRIOR TO THE OCCUPATION OF THE FIRST DWELLING; visibility splays shall be provided and maintained clear of all obstructions above the adjacent road channel levels at all junctions of roads, all 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 interests of road safety; to ensure the provision of adequate visibility at road junctions, etc.

9. PRIOR TO THE OCCUPATION OF THE FIRST DWELLING, details including plans showing the phasing of off-street parking on the site shall have been submitted for approval in writing by

the planning authority as an additional requirement of the further application referred to in Condition 1 above. These shall show off-street parking being provided in accordance with the current Fife Council Transportation Development Guidelines. The parking spaces shall thereafter be retained throughout the lifetime of the development.

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

10. Notwithstanding the terms of Condition 1 above; the signing of the section 75 agreement referred to in 1(d) therein may be delayed until after submission of the first application for approval of matters specified in conditions referred to therein, in which case the requirements of Condition 1(d) in relation to the timing of the signing of the said agreement shall be deemed not to be a requirement of Condition 1 (details for approvals of matters specified in condition); however, in this event, and PRIOR TO THE COMMENCEMENT OF THE DEVELOPMENT HEREBY APPROVED, the said agreement shall have been signed.

Reason: In the interests of good planning; to provide for flexibility in the timing of the signing of the section 75.

11. Notwithstanding Conditions 1 and 10 above, where the planning authority has agreed in writing that, in terms of the development plan and related guidance, no affordable housing and developer contributions are required, the requirements of those conditions in relation to same, including signing of a section 75 legal agreement, shall be deemed not to be a requirement of this permission.

Reason: In the interests of good planning; to provide for these requirements being waived in the event of limited development of the site.

12. PRIOR TO THE OCCUPATION OF THE FIRST DWELLING, confirmation that the SuDS approved pursuant to Condition 1 above has been constructed in line with current best practice shall have been submitted to Fife Council as planning authority. The required confirmation shall comprise the submission of a completed and signed Appendix 6 of Fife Council's Design Criteria Guidance on Flooding and Surface Water Management Plan Requirements.

Reason: To ensure the approved SuDS infrastructure has been constructed in accordance with the approved plans and in accordance with current best practice.

13. The SuDS and drainage infrastructure approved pursuant to Condition 1 above shall be constructed/installed contemporaneously with the build out of the development hereby approved and shall be fully operational prior to the first of the dwellings hereby approved being brought into use; unless otherwise agreed in advance, in writing. This SuDS and drainage infrastructure shall thereafter be retained and maintained for the lifetime of the development hereby approved.

Reason: To ensure the effective management of surface water and to ensure that the required drainage works are carried out and operational at the required stage of the development.

14. NO WORKS SHALL COMMENCE ON SITE IN CONNECTION WITH THE DEVELOPMENT HEREBY APPROVED (including demolition works, tree works, fires, soil moving, temporary access construction and/or widening or any operations involving the use of motorised vehicles or construction machinery) until a detailed Arboricultural Method Statement (AMS) in accordance

with BS5837:2012 Trees in Relation to Design, Demolition and Construction - Recommendations has been submitted to and approved by the planning authority as an additional requirement of the further application required by Condition 1 above and protective fencing erected as required by the AMS.

The AMS shall include full details of the following:

- a) Timing and phasing of arboricultural works in relation to the approved development;
- b) Detailed tree felling and pruning specification in accordance with BS3998:2010 Recommendations for Tree Works;
- c) Details of a tree protection scheme in accordance with BS5837:2012 which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site which are shown to be retained in the approved plans and trees which are the subject of any Tree Preservation Order;
- d) Details of any construction works required within the root protection area as defined by BS5837:2012 or otherwise protected in the approved tree protection scheme;
- e) Details of the location of any underground services and methods of installation which make provision for protection and the long-term retention of the trees. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) or any subsequent legislation amending revoking or re-enacting that Order; no services shall be dug or laid into the ground other than in accordance with the approved details;
- f) Details of any changes in ground level, including existing and proposed spot levels required within the root protection area as defined by BS5837:2012 or otherwise protected in the approved tree protection scheme;
- g) Details of the arrangements for the implementation, supervision and monitoring of works required to comply with the AMS.

Reason: To ensure the continued well-being of the existing woodland trees in the interests of the amenity and environmental quality of the locality.

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.

Development Plan

Adopted National Planning Framework 4 (2023)
Adopted FIFEplan Fife Local Development Plan (2017)
Making Fife's Places Supplementary Guidance (2018)
Affordable Housing Supplementary Guidance September 2018
Low Carbon Fife Supplementary Guidance (2019)

Other

Fife Council Planning Obligations Framework Guidance 2017
Scottish Government Planning Circular 4/1998: The Use of Conditions in Planning Permissions (1998)
Scottish Government Planning Circular 3/2012 Planning Obligations and Good Neighbour Agreements (Revised November 2020)

Fife Council Design Criteria Guidance on Flooding and Surface Water Management Plan Requirements (2022)
Historic Scotland Managing Change in the Historic Environment series

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